



ASIC

Australian Securities & Investments Commission

REPORT 39

Overview of decisions on relief applications from financial service providers (August to December 2004)

May 2005

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May 2005

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About this report

1 ASIC is vested with a number of powers under the *Corporations Act 2001* (the Act) to exempt a person or class of persons from particular provisions and to modify the application of particular provisions to a person or class of persons. This report deals with the use of our exemption and modification powers under the managed investment provisions of Chapter 5C and the financial services provisions of Chapter 7 of the Act.

2 The purpose of the report is to improve the level of transparency and the quality of information available about decisions we make when we are asked to exercise our discretionary powers to grant relief from provisions of the Act.

3 The report covers the period from 15 August 2004 to 31 December 2004. During this period we decided 915 applications concerning Chapter 5C, Chapter 7 and related provisions of the Act. We granted relief in relation to 791 applications and refused relief in relation to 124 applications.

4 This report does *not* provide details of every single decision made in that period. It is intended to provide examples of decisions that demonstrate how we have applied our policy in practice. Our general policy is to only consider granting relief from the requirements of Chapter 5C and Chapter 7 to address atypical or unforeseen circumstances and unintended consequences of those provisions.

5 In this report we have outlined matters in which we refused to exercise our discretionary powers as well as matters in which we granted relief. Prospective applicants for relief may gain a better insight into the factors we take into account in deciding whether to exercise our discretion to grant relief. We have also included some examples of limited situations in which we have been prepared to take a no-action position when instances of non-compliance have been brought to our attention.

6 The appendix to this report details the relief instruments we have executed for matters referred to in the report. Class orders are available from our website via www.asic.gov.au/co. Instruments are published in the ASIC Gazette, which is also available via www.asic.gov.au/co. The information releases referred to throughout the report are available via www.asic.gov.au/mr.

7 Applications for relief from the provisions of Chapter 5C and Chapter 7 are assessed by the Applications & Advice (FSR) division of ASIC's Regulation directorate. Applications must be in writing and should address the requirements set out in Policy Statement 51 *Applications for relief* [PS 51]. Relief applications can be submitted electronically to **fsr.applications.manager@asic.gov.au**. More information on applying for relief is available at **www.asic.gov.au/fsrrelief**.

8 Throughout this report, references to particular sections, subsections and paragraphs of the law are references to the *Corporations Act 2001* and references to particular regulations are references to the *Corporations Regulations 2001*.

Section 1: Licensing relief

1.1 This section outlines significant decisions on whether to exercise our power under s911A(2)(1) to exempt a person or class of persons from the requirement to hold an Australian financial services (AFS) licence.

Non-cash payment facilities

Relief granted for joint issuer facility

1.2 In accordance with our policy outlined in Information Release [IR 04-07] *ASIC guidelines for interim relief for low value non-cash payment facilities*, we granted an interim exemption for the operation of a low value non-cash payment facility that involved a pre-paid gift card system jointly operated by two issuers rather than a single issuer. We considered that it was appropriate to grant relief because, apart from the fact that there was more than one issuer, the applicants satisfied all the criteria that must be met to obtain relief. It was a condition of the exemption that the issuers provide, in the disclosure document given to potential customers, information about the respective roles and obligations of each issuer and whether they were joint or several obligations.

No-action position for unlicensed foreign provider

1.3 We issued an interim no-action letter to a US-registered company for its failure to hold an AFS licence for the operation of an online payments service that was a non-cash payment facility. Our no-action position applied until the earlier of 10 March 2005 or the date the applicant obtained an AFS licence. The applicant was ineligible for licensing and product disclosure relief under the guidelines in [IR 04-07] because the total credit held by some of its clients exceeded \$1000, but the applicant otherwise met our requirements for relief. We considered that an interim no-action position was preferable to an interim exemption, noting that the entity was taking steps to obtain its AFS licence. Our no-action position was granted on condition that:

- the total credit (stored value) of 95% of all facilities issued by the applicant and held by Australian resident clients did not exceed \$1000 at any one time;
- the total credit of all facilities for all Australian resident clients did not exceed \$10,000,000; and
- the applicant's system met all applicable requirements imposed by APRA, including a trust or guarantee that covers all balances above \$5 held to the credit of Australian residents.

Charitable organisation providing cheque facility requires licence

1.4 We refused to extend the relief granted in Class Order [CO 02/184] *Charitable investment schemes—fundraising* to allow a charitable organisation to provide non-cash payment (cheque) facilities that were connected with a debenture facility without an AFS licence. We were not persuaded that it would be in the best interests of consumer protection to grant the relief. We did not consider that the organisation's circumstances could be distinguished from other providers of non-cash payment facilities who must hold an AFS licence. We were prepared to take a no-action position for a limited period regarding breaches of the Act immediately following our decision.

Extension of relief for mobile telephone-related facility

1.5 We agreed to vary existing interim relief granted to a telecommunications provider for the provision of a non-cash payment facility. The change to the terms of the relief permitted payments to be authorised through devices other than mobile telephones, increased the range of transactions that could be charged to mobile customers' pre-paid accounts and allowed mobile customers to order optional services such as ringtones for their mobile telephone through the facility. We varied the terms of the relief on the basis that the changes did not appear to be detrimental to consumers and did not alter the nature or operation of the facility.

Relief granted for provision of clearing and settlement facilities to retail clients

1.6 We granted an exemption to an authorised deposit-taking institution (ADI) that acted as an intermediary providing clearing and settlement facilities between its clients' accounts and its clients' customers' accounts. The applicant had the benefit of an exemption under s911A(2)(g) for the provision of financial services to its wholesale clients. However, two of the applicant's customers were retail clients under s761G because they were 'small businesses'. We exempted the applicant for its provision of non-cash payment facilities and basic deposit products to its two retail clients. Although those two customers were technically retail clients, we were satisfied that they did not need the level of consumer protection that retail clients would ordinarily require because of their particular skills and knowledge. Therefore we considered that relief was warranted in circumstances where:

- the financial products being provided were not particularly complex;
- the applicant would not be holding client funds; and

- the applicant was regulated by APRA.

We granted relief on condition that the applicant:

- inform each retail client that they would be treated like wholesale clients; and
- provide ASIC with any information we requested about its financial services within 20 business days of the request.

We imposed some additional conditions on the applicant's dealings with one of its retail clients on the basis that this client needed greater protection than the other retail client, which was in the business of providing financial services.

Employee share schemes

1.7 We granted exemptions for financial services provided in employee share schemes that were not eligible for the relief conferred by Class Order [CO 03/184] *Employee share schemes* for reasons including that:

- the right to receive a certain number of shares on a future date under the scheme could constitute a derivative; and
- the scheme involved a contribution plan under which each employee's contributions were kept in separate accounts in their name and returned to the employee (together with accrued interest) if the employee discontinued their involvement in the plan.

We considered that it was consistent with our policy in Policy Statement 49 *Employee share schemes* [PS 49] to grant the relief.

1.8 We refused to grant an exemption for the operation of a deferred employee share plan because we considered that the plan was eligible for the relief contained in [CO 03/184]. We confirmed that an on-market acquisition of shares falls within [CO 03/184], and that the First and Second Exemption in [CO 03/184] will exempt the issuer from the requirement to hold an AFS licence in circumstances where disclosure is not required because shares in the issuer have been listed for more than 12 months, so long as the conditions of exemption are met.

1.9 We refused to grant relief for the operation of an option incentive scheme that was to be offered to consultants of a medical research company on the basis that the offerees were not employees of the company and the elements of mutual interdependence that underpin our policy in [PS 49] were not present.

1.10 We granted an exemption for the operation of an employee share scheme to a foreign unlisted company for the 2005 round of offers, on the basis that a complying prospectus for the offer was lodged with ASIC. A small number of Australian employees were eligible to participate in the scheme and we considered that the regulatory benefits of the company holding an AFS licence would be marginal.

Foreign financial services providers

1.11 We refused to exempt an overseas company that sought to expand its derivatives trading business into the Australian market. We considered that it would not be appropriate to grant relief because the applicant could operate in the Australian market without ASIC providing relief. It was possible for the applicant's Australian subsidiary to apply for a variation of its AFS licence so that it was authorised to conduct the applicant's derivatives trading activities.

1.12 We exempted a French investment bank that provided a range of financial services to Australian wholesale clients on the basis that the applicable foreign regulatory regime (which involved multiple regulators) was sufficiently equivalent to the Australian regulatory regime.

Other licensing relief

Trust administration business requires licence

1.13 We refused to exempt a trustee company that was conducting a trust administration business. We considered that Parliament intended to regulate service providers that both possess or control client assets and provide administrative functions in relation to those assets under Chapter 7 of the Act. Therefore it was appropriate to require the trustee company to be licensed for the provision of custodial/depository services. We were not persuaded that the state laws governing the trustee company provided sufficient consumer protection in the absence of regulation under Chapter 7.

Licence required for professional indemnity insurance scheme

1.14 We refused to exempt the operator of a professional indemnity insurance scheme. We did not accept the applicant's argument that it should be exempt because it was a non-profit organisation that only provided limited financial services. We considered that, as the applicant was issuing financial products to its customers, holding and investing its customers' assets, it ought to be treated in the same manner as other operators of mutual risk products, who are required to hold an AFS licence.

Foreign collective investment schemes

1.15 We executed Class Order [CO 04/1031] *Foreign collective investments schemes—amendment* to amend Class Order [CO 04/526] *Foreign collective investment schemes* so that the operators of foreign collective investment schemes regulated by the Jersey Financial Services Commission were not required to hold an AFS licence. This decision was made on the basis that the Jersey Financial Services Commission's regulation of collective investment schemes was sufficiently equivalent to the regulation of registered managed investment schemes under the Act.

Licence required for assessment of insurance broker tenders

1.16 We refused to exempt an entity whose activities involved risk management consultancy and the assessment of insurance broker tenders. We considered that the risk management consultancy activities fell within an exemption under the Act. We decided not to grant an exemption for the assessment of broker tenders because the selection of an insurance broker necessarily involves assessing the needs of the client. Therefore it was appropriate for the applicant to hold an AFS licence for those particular activities.

No-action position where licence issued after FSR transition period

1.17 We issued a no-action letter to a subsidiary of a licensed stockbroking firm that needed an AFS licence because it was providing custodial services to the stockbroking firm in relation to unquoted securities. The applicant had submitted an AFS licence application, but the licence was not granted until after the FSR transition period. The no-action letter covered the period between the end of the FSR transition period and the date the licence was granted.

No-action position while additional licence authorisation sought

1.18 We issued a no-action letter to a licensee that was making a market in derivatives and foreign exchange contracts without the appropriate licence authorisation. The licensee's external auditors detected the breach in a compliance plan audit. The licensee then promptly made an application to ASIC to vary its licence so that the licence included the appropriate authorisation. Our no-action position covered the period beginning 11 March 2004 and ending on the date ASIC determined the licence variation application.

Insurance referrals not regulated

1.19 We refused to issue a no-action letter to an organisation that referred community organisations to a third party for the purpose of discussing their insurance needs. We took the view that the organisation was merely providing factual information about the third party, rather than providing financial product advice about it. Therefore the conduct was not regulated under Chapter 7 of the Act and consequently no relief was required.

Exemption for financial services provided solely in relation to timeshare scheme interests

1.20 We exempted the operator of a timeshare scheme that was marketing timeshare interests that became available because members defaulted on their payment obligations or wished to exit the timeshare scheme. The operator already had the benefit of an exemption from the requirement to register the scheme under Chapter 5C. Our decision to grant an exemption to the operator was consistent with our policy (as set out in Policy Statement 167 *Licensing: Discretionary powers and transition* [PS 167]) to exempt the operators of timeshare schemes that are not required to be registered if the only financial services business they carry on is dealing in or advising on those timeshare interests.

Licence required for operation of death benefit funds

1.21 We refused to exempt the trustee of two funds that paid benefits upon the death of members with a view to covering funeral and incidental expenses. The Federal Court had ruled that the funds were not ‘funeral expenses policies’ under reg 7.1.07D and therefore were a financial product. As a result, the trustee needed a licence for the financial services involved in receiving membership contribution fees, holding assets on trust and paying benefits to members’ nominees. We refused to grant an exemption because, given the Federal Court’s decision, we did not consider that it would be appropriate to make a decision that would have the effect of facilitating the sale of the insurance policies without an AFS licence. However, we recognised that the trustee would need to carry out its obligations to existing policyholders. On this basis we were prepared to take a no-action position for the trustee’s failure to hold an AFS licence on condition that the trustee:

- became and remained a member of an external dispute resolution scheme;
 - did not take on any new members;
 - did not take any action that would increase members’ contribution fees;
- and

- did not provide financial product advice.

Licence not required for state law society public purpose fund

1.22 We varied Class Order [CO 03/1095] *Statutory deposit accounts and public purpose funds* to include an interim exemption for a state law society in its operation of a public purpose fund. The relief was granted on condition that the law society displayed, either on its website or at its principal place of business, a prominent notice that it was not licensed by ASIC under the Act. We considered that the public purpose fund posed a relatively low consumer risk due to scrutiny at a state/territory government level and that it was already sufficiently regulated by state legislation. Class Order [CO 03/1095] grants an interim exemption to several state and territory law societies for the operation of their public purpose funds and statutory accounts. The class order relief has been granted on the basis that the Federal Government is currently reviewing the regulation of mutual discretionary funds.

Ignorance of FSR provisions not excused

1.23 We refused to issue a no-action letter to the responsible entity of an agricultural scheme that operated the scheme without an AFS licence and claimed to be unaware of the legislative requirements imposed under Chapter 7. We considered that the two-year FSR transition period afforded the responsible entity sufficient time to inform itself of the new requirements. Therefore it was inappropriate to grant relief after the transition period had ended.

Managed discretionary account (MDA) services

1.24 We refused to issue a no-action letter to the operator of an MDA service who lodged a licence variation application only days before the end of the nine-month transition period for operators of MDAs. We considered that we had given MDA operators sufficient time to seek a variation to their licence and, throughout the transition period, had indicated the time by which applications had to be lodged in order for them to be processed in time.

Licensing information releases and class orders

1.25 The following information releases and class orders relate to the licensing relief granted during the period of this report.

Information releases

[IR 04-41] *ASIC proposes ongoing licensing relief for securitisation special purpose vehicles.*

[IR 04-55] *ASIC issues licensing relief for wholesale foreign financial service providers regulated by the German BaFin.*

Class orders

[CO 04/1313] *Germany BaFin regulated financial service providers.*

[CO 04/1526] *Securitisation special purpose vehicles.*

Section 2: Disclosure relief

2.1 This section identifies the types of applications we have decided that relate to Chapter 7 requirements to provide disclosure documents such as Product Disclosure Statements (PDSs), Financial Services Guides (FSGs) and Statements of Advice (SOAs).

Relief relating to PDSs

Non-cash payment facilities

2.2 We granted an interim exemption from the requirement to provide a PDS to the issuers of non-cash payment facilities referred to in paragraphs 1.2 and 1.5.

2.3 In the matter outlined in paragraph 1.4, we also refused to grant relief permitting the applicant to provide non-cash payment facilities without giving a PDS.

2.4 In the matter outlined in paragraph 1.6, we also granted the applicant an interim exemption from the PDS requirement.

Relief from listing requirements for PDSs of exchange traded funds

2.5 We granted relief to an issuer of interests in exchange-traded funds (ETFs) so that the PDS may refer to the ability to trade the interests on the Australian Stock Exchange (ASX) without meeting the requirements of s1013H and s1016D. The relief required the issuer to make an application to the ASX for the quotation of the interests within seven days from the date of issue, rather than within seven days from the date of the PDS (as required by s1013H and s1016D). Our decision is consistent with relief we previously granted from Chapter 6D provisions for ETFs before the requirements of Part 7.9 applied to them.

Relief extending period for trading on financial market

2.6 We granted relief to the responsible entity of a registered managed investment scheme extending by two weeks the period within which interests in the scheme had to be traded on a financial market under s1016D. The relief enabled the applicant to comply with conditions that ASIC had imposed on the removal of an interim stop order on the PDS. The relevant conditions required the applicant to provide a supplementary PDS (SPDS) and allow members who had invested in the scheme a period of one month from the date of the SPDS to request withdrawals. The responsible entity's compliance with these requirements necessarily meant that it would take

longer to have the interests listed on the relevant financial market and, without relief, s1016D would have rendered the issue of interests void because they were not able to be traded on a financial market within three months of the date of the original PDS.

Refusal to extend time to make application for ASX quotation

2.7 In a transaction that involved the stapling of shares in a company to interests in a registered managed investment scheme that were to be listed on the ASX as stapled securities, we refused to grant relief from the s1016D and s1013H provisions that require the issuer to apply for quotation of the financial products on a financial market (in this case the ASX) within seven days of the date of the PDS. The applicant wanted relief so that it could delay its quotation application until there was certainty as to the number of stapled securities (and therefore certainty as to the number of interests in the scheme) that would be quoted. We did not accept the applicant's argument that the use of a wide estimate of the number of stapled securities that would be quoted in its application could mislead or confuse the market because, according to the ASX, wide estimates are common in quotation applications. In the same matter we refused to grant relief from the s1019A and s1019B cooling-off provisions on the basis that it was not necessary because reg 7.9.64(h) already excluded the interests in the scheme from those provisions.

Relief to facilitate registration and stapling of prescribed interest schemes

2.8 We granted relief to facilitate the registration of two prescribed interest schemes, which would ultimately lead to the stapling of interests in four registered managed investment schemes. The relief allowed the issuer to use a PDS, rather than a prospectus, before the schemes became registered. We considered that the relief was appropriate because, if the issuer had to provide a prospectus before the schemes were registered and then provide a PDS after the schemes were registered, it would incur significant costs without any corresponding investor benefit.

Relief to allow transaction-specific PDS

2.9 We granted relief that allowed an issuer to use a transaction-specific PDS for the issue of options over interests in two registered managed investment schemes that were stapled to shares in a company. We considered that it was appropriate to grant the relief because s713 allowed a transaction-specific prospectus to be used for the issue of options over the shares to which the interests were stapled. As the stapled securities had been continuously quoted on the ASX since 2002, investors would be able to

obtain sufficient information to make an informed decision about the nature and risks of the options and the underlying interests in the schemes.

No PDS required for exchange of scheme interests and on-sale of interests issued upon exchange

2.10 We granted relief so that an issuer did not have to provide a PDS for the issue of stapled interests in two registered managed investment schemes upon the exchange of interests in another registered scheme. The exchangeable interests had been issued pursuant to a PDS. We considered that the retail clients acquiring the stapled interests would have the protection Parliament intended them to have because, under the terms of issue of the exchangeable interests, they received substantial disclosure about the stapled interests. The relief is consistent with our previous decisions that a PDS was not required for the issue of financial products upon the conversion of options that were issued with disclosure.

2.11 In the same matter, we granted relief so that a PDS was not required for the sale of the stapled interests within 12 months of acquisition, where a PDS had been provided for the exchangeable interests. We considered that the relief was consistent with Category 3 of Class Order [CO 04/671] *Disclosure for on-sale of securities and other financial products*, which does not require a PDS to be provided for the on-sale within 12 months of acquisition of financial products issued pursuant to options or convertible securities for which disclosure was given.

No PDS required for issue of financial products where offers made outside Australia

2.12 We exempted the issuers of interests in certain limited partnerships from the requirement to provide a PDS for the issue of interests in the partnerships offered outside Australia to European investors. We decided to grant relief because it would be somewhat anomalous if the issuers had to give a PDS solely for the issue of the interests where all the investors were outside Australia. It was a condition of the relief that the offers complied with the law applicable to the overseas jurisdiction in which they were received.

2.13 We granted relief from the PDS requirements in circumstances where offers in a managed investment scheme were only to be made to persons resident in New Zealand, but the interests would be taken to be issued in Australia because the register of interests was located in Australia.

2.14 Our decisions in the matters outlined in paragraphs 2.12 and 2.13 are consistent with our view that the law is intended to regulate offers that are received in Australia and targeted at Australian investors.

On-sale relief granted where s1012DA notice not lodged within time

2.15 We granted relief so that institutional investors who had acquired stapled securities in a placement could on-sell their stapled securities without providing a PDS, even though the issuer had inadvertently failed to comply with the requirement under s1012DA to notify the ASX within five business days of the issue that all material information had been released to the market. We decided it was appropriate to grant the relief because the issuer's breach of s1012DA was inadvertent, the issuer did not appear to have withheld material information from the market and it had immediately notified the ASX and its investors upon discovering the breach. If we had not granted relief, the investors who purchased stapled securities in the placement would have been required to provide a PDS if they wished to trade those stapled securities. We issued a no-action letter for the on-sale of stapled securities issued in the placement that had occurred before the applicant sought relief.

Relief to permit on-sale of quoted securities without PDS where s340 order in place

2.16 We granted relief from s1012DA requirements so that a PDS was not required for the on-sale of stapled securities that were issued without disclosure where ASIC had given an order under s340 in the preceding 12 months. The s340 order allowed the issuers to use a different comparative period to that required by accounting standards for the purposes of the half-yearly results. Although the s1012DA PDS exemption under the Act does not apply where a s340 order has been made, we considered that relief was appropriate because the s340 order did not have the effect of reducing the quality or level of information provided to the market. We considered that this decision was analogous with our approach taken in Class Order [CO 04/672] *Extension of on-sales exemptions*.

Dispensation with 12-month listing requirement for on-sale of stapled securities without PDS

2.17 We granted relief so that the s1012DA PDS exemption applied to the on-sale of stapled securities that had only been quoted on the ASX for five, rather than the required 12, months. The stapled securities consisted of interests in two registered managed investment schemes and shares in a company, each of which had been quoted on the ASX for a number of years preceding the stapled security arrangement. We gave the relief on the basis that there was no significant difference between the stapled securities and the sum of the interests and shares prior to the stapling arrangement.

Employee share schemes

2.18 In the matters referred to in paragraph 1.7, we also granted exemptions from Part 7.9.

2.19 In the matter referred to in paragraph 1.8, we also refused to grant an exemption from Part 7.9.

No PDS required on conversion of units in foreign trust

2.20 We granted relief from the PDS requirements for the issue of Australian stapled securities in circumstances where those stapled securities were issued upon conversion of units in a New Zealand trust. We granted the relief on the condition that the level of disclosure made in the offer document for the units in the New Zealand trust was of a standard equivalent to s710 of the Act and that the offer document for the units in the New Zealand trust was made available to the operators of all Australian markets on which the Australian stapled securities were listed.

Limited relaxation of requirement to provide contact details of issuer

2.21 We granted relief to allow a financial product issuer to retain and use its old contact details on its existing stock of PDSs for a limited period of time. We gave the relief on the basis that the issuer had recently been taken over by another entity and intended to change its name by the end of 2004, at which point it would reprint its entire stock of PDSs (with the correct contact details).

Minor changes to PDS permitted after lodgement

2.22 We granted relief to allow minor typographical errors about the level of secured borrowings to be corrected in a PDS prior to issue but after lodgement of the PDS with ASIC. The relief is analogous to existing pro forma relief for prospectuses.

PDS required for residual superannuation interests in wound up fund

2.23 We refused to grant relief from the PDS requirement and other ongoing disclosure provisions for superannuation interests that consisted of members' residual rights to amounts in insurance and expense reserves that had been retained as fund assets after payment to members had been made in accordance with an actuarial wind-up plan. We did not accept the applicant's argument that the information to be provided by a successor superannuation fund would provide sufficient alternative disclosure.

No-action letter for failure to provide PDS

2.24 We issued no-action letters to trustees of certain superannuation funds who failed to give a PDS to a small number of new members who joined the relevant funds. Given that the funds were in the process of winding up pursuant to successor fund arrangements, the cost of production of the PDSs would be excessive compared to the benefit that members would receive. We imposed a condition that required the trustees to provide the new members with information that complied with the former Superannuation Industry (Supervision) Regulations.

No-action letter for undated PDS

2.25 We issued a no-action letter to an issuer that had inadvertently breached the requirement in s1013G to date the PDS. We noted that the PDS version number specified the month and year that it was printed and that this would assist the issuer to determine whether its clients had received an up-to-date PDS (which is the policy intent behind s1013G). We imposed conditions on our no-action position that required the issuer to:

- notify existing policyholders of the date of the PDS;
- put a sticker showing the date of the PDS on all remaining stock; and
- review its internal compliance controls with a view to preventing further breaches of s1013G.

Relief relating to FSGs**Refusal to permit combined FSG/expert report**

2.26 We refused to allow an FSG to be combined with an independent accountant's expert report where the FSG appeared at or near the end of the expert report. We are only prepared to grant relief that allows FSGs to be included in expert reports if the FSG appears at or near the front of the report. This is because one of the key objectives of the FSG provisions is to ensure that retail clients receive the information contained in the FSG *before* a financial service is provided.

Limited interim FSG exemption granted to trust administration business

2.27 We exempted a trustee company from the requirement to provide an FSG to a beneficiary under a continuing or inter vivos trust or to a donor of an enduring power of attorney. The exemption applied where the beneficiary or donor did not have, or had lost, legal capacity and the trustee company was the beneficiary's or donor's legal representative. We decided that relief

was appropriate because no regulatory benefit would flow from the trustee effectively giving itself an FSG (as the legal representative of the beneficiary or donor). We only granted the relief on an interim basis (until the end of 2004) because Treasury was in the process of making regulations that provide some relief to trust administration businesses. We refused to extend the FSG exemption to cover circumstances where the trustee company provided financial services in administering charitable and testamentary trusts and acted as a financial manager.

Alternative method of giving FSG permitted

2.28 We granted relief that allowed an FSG/expert report that was combined with an information memorandum to be sent to the address shown in the register of shareholders rather than the address nominated by the retail client as required by the Act. The information memorandum was to be sent to shareholders for the purposes of obtaining their approval of a restructure effected by a scheme of arrangement. There was certainty that the client would receive the FSG because the advice and the FSG would be received simultaneously in the same document. We considered that this relief was consistent with our policy not to limit the range of third party documents in which combined FSGs and expert reports could be included.

FSG required for general advice in expert report

2.29 We refused to issue a no-action letter to a number of entities that did not wish to provide an FSG for general advice included in expert reports that were provided in offer documents and bidder/target statements. We have provided relief to allow the FSG to be included as part of the expert report accompanying a disclosure document. It would be inconsistent with our current policy to issue a no-action letter where no FSG was provided.

Relief relating to SOAs

SOA exemption not needed for independent expert report to shareholders of public company

2.30 We refused to exempt the provider of an independent expert report, which was to be included in a public company's explanatory memorandum, from the requirement to give an SOA. In our view, no relief was required because the provider of the independent expert report did not provide personal advice to the company shareholders and therefore no obligation to provide an SOA arose.

Further market-related advice SOA exemption limited to participants in licensed markets

2.31 We refused to extend the SOA exemption for further market-related advice to persons who were not participants in a licensed market. We noted that there were already alternative means of providing SOAs for further market-related advice in time-critical situations (e.g. Statements of Additional Advice) and took the view that these means provided some degree of competitive neutrality between market participants and non-participants.

Other disclosure relief

No disclosure exemption for insurance provided with credit cards

2.32 We refused to grant an exemption from the requirement to provide a PDS and an FSG for transit accident, merchandise protection and extended warranty insurance provided to credit card holders. We did not accept the applicants' argument that they should be exempted because the provision of the insurance was only a small component of their business activities. We took the view that the insurance policies constituted a separate and distinct financial product and were not merely an incidental part of the credit card facility. We noted that the applicants could augment their existing monitoring and supervision systems to meet the disclosure requirements. We indicated that we would be prepared to consider allowing a PDS and a FSG to be combined.

Periodic statement reporting periods for superannuation funds

2.33 We extended the 12-month reporting period that ordinarily applies to periodic statements for an allocated pension sub-plan so that it covered the period from 18 June 2004 to 30 June 2005, to align it with the financial year of the superannuation entity. We granted the relief under reg 7.9.32(2)(a)(ii) on the condition that members of the sub-plan were informed of the change in reporting period.

No relief from cooling-off requirements for liquid scheme

2.34 We refused to grant relief from the cooling-off provisions to a property trust that would be classified as a liquid scheme. We considered that, although there is an exemption from the cooling-off provisions for non-liquid schemes and property trusts are usually classified as non-liquid schemes, there were no unforeseen or unintended consequences resulting from the application of the cooling-off requirements that justified relief in this case.

Disclosure class orders and information releases

2.35 The following information releases and class orders relate to the disclosure relief granted during the period of this report.

Information releases

[IR 04-46] *ASIC provides relief for financial services guides given in time critical situations.*

[IR 04-50] *ASIC announces transitional position on dollar disclosure.*

[IR 04-54] *ASIC provides relief for 'in-use' notice requirements for employer-sponsored superannuation.*

[IR 04-57] *ASIC consults on delivery of superannuation product disclosure for investment strategy choice.*

[IR 04-61] *ASIC provides guidance on statements of advice.*

[IR 04-67] *ASIC issues dollar disclosure policy.*

[IR 04-75] *ASIC refines relief allowing Statements of Additional Advice.*

[IR 04-78] *ASIC grants relief for secondary financial service providers.*

Class orders

[CO 04/1030] *In-use notices for employer-sponsored superannuation.*

[CO 04/1055] *Information in a financial services guide given in a time critical situation.*

[CO 04/1430] *Dollar disclosure: Unknown facts or circumstances.*

[CO 04/1431] *Dollar disclosure: Costs of derivatives, foreign exchange contracts, general insurance products and life risk insurance products.*

[CO 04/1432] *Dollar disclosure: Interest payable on deposit products.*

[CO 04/1433] *Dollar disclosure: Non-monetary benefits and interests.*

[CO 04/1434] *Dollar disclosure: Transitional relief.*

[CO 04/1435] *Dollar disclosure: Amounts denominated in a foreign currency.*

[CO 04/1556] *Statements of additional advice.*

[CO 04/1571] *Secondary services: General financial services guide relief.*

[CO 04/1572] *Secondary Services: Financial Services Guide relief for experts.*

[CO 04/1573] *Secondary Services: Financial Services Guide relief for arrangers acting under an intermediary authorisation.*

Section 3: Managed investments relief

3.1 This section sets out some of the circumstances in which we have exercised (and refused to exercise) our discretionary powers under s601QA to grant relief from the provisions of Chapter 5C.

Registration requirement

Facilities for the sale of shares and other financial products

3.2 We granted relief, for the avoidance of doubt, covering the operation of short-term share sale facilities provided in the context of corporate restructures. Share sale facilities that involve batching orders or averaging sale prices may constitute a managed investment scheme. We decided it was appropriate to grant relief because there is doubt whether such an arrangement is a managed investment scheme and, in any event, it would be disproportionately burdensome to require the person operating the share sale facility to register it as a managed investment scheme.

Prescribed interest schemes

3.3 We were not prepared to extend the transition period for the *Managed Investments Act 1998* ('the MIA transition period') until 30 June 2010 for a number of non-transitioning prescribed interest schemes where the schemes' trustee was in liquidation and the manager was unable to certify the matters set out in [IR 03-05] *ASIC grants further extension of relief for non-transitioning managed investment schemes*, including whether the schemes were viable or solvent. However, we extended the transition period for three months to give the manager and the trustee of the schemes the opportunity to clarify outstanding issues as to the solvency and viability of the schemes and to decide whether the trustee would be replaced.

3.4 We extended the MIA transition period until 30 June 2005 for a prescribed interest scheme that appeared to have met all the criteria set out in [IR 03-05] except the requirement to obtain an unqualified audit report. The interim extension was intended to allow sufficient time for an unqualified audit report to be obtained and for proceedings between the trustee and the manager to be resolved. We imposed a condition on the extension that the manager or trustee report to ASIC at quarterly intervals on the progress made in these matters.

3.5 We extended the MIA transition period until 1 July 2010 for a timeshare prescribed interest scheme that met all the criteria set out in [IR 03-05]. We confirmed that our policy set out in Policy Statement 135

Managed investments: Transitional issues [PS 135] and [IR 03-05] applies to non-transitioning timeshare schemes.

3.6 We refused to grant relief that would allow a prescribed interest scheme that had been operating unlawfully for a significant period of time to continue to operate without becoming registered. The applicant had indicated an intention to register the schemes. As there was no impediment to registration of the schemes and the applicant had not demonstrated that any commercial benefits would flow from a delay in registration, we considered that there was no basis to grant relief.

3.7 We refused to issue a no-action letter to the trustee of a prescribed interest scheme that was unsure whether, in its role as trustee, it was operating an unregistered managed investment scheme. The application did not fall within the scope of our policy and we were not satisfied that the request demonstrated any special circumstances that would justify a departure from that policy.

Management rights schemes

3.8 We gave relief, on several occasions, that allowed a management rights scheme to be operated without being registered under Chapter 5C where the relief previously available to the scheme under Class Order [CO 02/245] *Closed schemes* no longer applied because more than 20 people joined the scheme over a 12-month period. We granted relief on similar conditions to the relief in Class Order [CO 02/305] *Management rights schemes*. The key difference between the [CO 02/245] relief to which the applicants were previously entitled and the relief granted is that the exemption from provisions of Part 7.9 in the relief granted is less extensive.

3.9 We refused to grant relief from the registration requirement to the operator of a management rights scheme in circumstances where the scheme had been operating in contravention of the Act for several years and had been operated inconsistently with the requirements of our policy set out in Policy Statement 140 *Management rights schemes* [PS 140].

Foreign collective investment schemes

3.10 Class Order [CO 04/1031] *Foreign collective investments schemes—amendment*, which amends Class Order [CO 04/526] *Foreign collective investment schemes* and is referred to in paragraph 1.15, exempts foreign collective investment schemes regulated by the Jersey Financial Services Commission from the obligation to be registered as managed investment schemes in Australia.

The equal treatment requirement

Relief to allow differential treatment of foreign members

3.11 We exempted the responsible entity of a registered managed investment scheme from the equal treatment requirement in s601FC(1)(d) for a proposed transaction that would involve interests in the scheme becoming stapled to shares in a company. The relief allowed the responsible entity to treat certain members with registered addresses outside Australia ('foreign members') differently. The relief applied in certain circumstances where the responsible entity had received legal advice that it could not allow foreign members to redeem their interests for cash or to acquire shares in the company, or where the responsible entity reasonably considered that it would be in the best interests of certain foreign members to redeem their interests. We gave this relief on the basis that it was consistent with the exemption from s601FC(1)(d) we granted in Class Order [CO 98/52] *Managed investment schemes—relief from the consideration to acquire constitutional requirement* that allowed the responsible entity to exclude foreign members from certain pro rata issues of discounted interests in the scheme.

Note: After the period covered by the report, we replaced Class Order [CO 98/52] with Class Order [CO 05/26] *Constitutional provisions about the consideration to acquire interests*.

Deferral of underwriter decision on rights issue allocation not permitted

3.12 We refused to exempt a responsible entity from the equal treatment requirement in s601FC(1)(d) to allow it to treat the underwriter (which was a member of the scheme) differently from other institutional investors in the scheme in a pro rata issue of interests at a discount. The responsible entity proposed that institutional investors other than the underwriter would have to decide whether or not to acquire the discounted interests offered to them within 14 days of the date of the offer, while the underwriter would be entitled to defer its decision whether to acquire 25% of its entitlement until the retail offer period ended on a later date. We did not accept the applicant's argument that we ought to grant relief to enable the underwriter to better manage its exposure. We considered that it was inappropriate to allow the responsible entity to treat the underwriter (in its capacity as a member) more favourably than other institutional members (due to the existence of the underwriting arrangement) because underwriting inherently involves agreeing to take on the risk that an unknown number of interests may not be acquired by existing members.

Other managed investments relief

Relief from illiquid withdrawal provisions

3.13 In a proposed transaction that involved the stapling of shares in a company to interests in a registered managed investment scheme, we granted relief from the provisions of Part 5C.6 of the Act (which governs withdrawals of interests from schemes that are not liquid) so that scheme members who did not wish to hold stapled securities could each redeem up to 30,000 interests at a set price. We considered that, as the withdrawal proceeds were funded by the company's acquisition of scheme interests rather than the realisation of scheme assets, it would be permissible, and not unfair to scheme members, to dispense with the requirements of Part 5C.6.

3.14 We granted relief from Part 5C.6 in a case where, under the terms on which certain hybrid trust units were offered to investors, those interests were liable to be redeemed in exchange for the issue of quoted stapled securities (i.e. not funded by the realisation of scheme assets). Redemptions funded by cash (i.e. funded by the realisation of scheme assets) might have been triggered by a request from holders holding a certain percentage of interests, but in those circumstances the responsible entity was obliged to redeem all interests on issue. In either of these circumstances, we took the view that remaining members would not be caught in a scheme with assets that could not be easily realised in order to fund withdrawal requests. Therefore it was appropriate to grant relief because the risks that the protections provided by Part 5C.6 were intended to address were not present in the circumstances.

Underwriting of rights issue by responsible entity and associate

3.15 We granted relief so that an associate of the responsible entity of a registered managed investment scheme could sub-underwrite a pro rata issue of interests in the scheme at a discount to the market price. ASIC generally will only allow associates of the responsible entity to underwrite discounted issues of interests in exceptional cases. We were persuaded that it was appropriate to grant relief because the associate sub-underwriter was to hold the scheme interests for the benefit of a statutory life insurance fund and would not obtain a personal benefit from the transaction. We also allowed the responsible entity itself to underwrite the issue jointly with another underwriter that was not an associate. We allowed the responsible entity to act as a joint underwriter because it would hold the interests for the benefit of members of another scheme (of which it was also the responsible entity) and therefore would not personally benefit from the transaction.

Audit of compliance plans

3.16 We refused to grant relief so that the compliance plans of certain registered managed investment schemes would not have to be audited under s601HG. Although the schemes had only been registered for 14 days of the financial year ending 30 June 2004 and no interests in the scheme were issued in that financial year, we were not willing to grant the exemption. The requirement for an audit of the compliance plan for every financial year is a fundamental obligation and, even if no transactions took place in the relevant financial year, the audit still provides vital information as to whether there are appropriate compliance systems in place and whether the compliance plan meets the requirements of Part 5C.4.

3.17 We refused to grant relief from the compliance plan audit requirement for an agricultural managed investment scheme whose responsible entity was subject to a deed of company arrangement and who was contemplating winding up the scheme. We consider that the requirement for a compliance plan audit is fundamental to the legislative regime.

3.18 We refused to issue a no-action letter to a responsible entity regarding its failure to ensure that the scheme's compliance plan was audited and its failure to seek ASIC's consent to the resignation of the compliance plan auditor for another scheme. We refused the application on the basis that the responsible entity had the capacity to seek relief from these compliance plan audit provisions, if it was of the opinion that it was not necessary for it to comply, rather than risk being in breach.

Responsible entity not permitted to vote

3.19 We refused to allow the responsible entity of a number of registered managed investment schemes to exercise voting rights, on behalf of members of other schemes (of which it was also the responsible entity) who held interests in the first mentioned schemes, in meetings held to decide whether certain schemes should merge. We considered that s253E was intended to prevent the responsible entity voting in circumstances where it had a clear conflict of interests. There was a substantial disinterested majority that would conduct the vote for each of the schemes and therefore we did not consider that it would be appropriate to grant the relief that the applicant sought.

Managed investments information releases and class orders

3.20 The following information releases and class orders relate to the managed investments relief granted during the period of this report.

Information releases

[IR 04-44] *ASIC reminds responsible entities to lodge compliance plan audit reports on time.*

[IR 04-49] *ASIC seeks comments on relief for managed investment scheme constitutions.*

[IR 04-76] *ASIC extends transitional relief for certain managed investment schemes.*

[IR 04-77] *ASIC extends interim relief for managed investment scheme constitutions.*

[IR 04-79] *ASIC helps managed investment schemes move smoothly to new accounting standards.*

Class orders

[CO 04/1575] *Managed investment schemes: unit pricing.*

Section 4: Conduct relief

4.1 This section outlines some of our decisions on whether to grant relief from certain conduct obligations that Chapter 7 imposes on persons who provide financial services in Australia.

Sub-authorisation unavailable to non-corporate authorised representatives

4.2 We refused to grant relief that would permit non-corporate authorised representatives of an AFS licensee to be treated like corporate authorised representatives so that the non-corporate authorised representatives could sub-authorise individuals. Many of the licensee's authorised representatives were structured as partnerships, trusts and sole traders rather than corporations. We noted that the compliance burdens imposed on non-corporate authorised representatives were greater than those applicable to corporate authorised representatives. However, in the absence of further information and consultation, we were not convinced that it would be appropriate to expand legislative provisions that were only applicable to corporate authorised representatives.

Class order relief permits payment into cash common fund

4.3 We provided class order relief that allows AFS licensees to pay client money into a cash common fund. We considered that it was appropriate to grant this relief because it provides licensees with more flexibility to deal with client money. In our view, the relief does not compromise consumer protection, as cash common funds operate in a similar way to cash management trusts (which were one of the existing types of accounts into which client money could be paid) and are subject to additional state government regulation. For further information, see Class Order [CO 04/1063] *Section 981B money in cash common funds*.

Section 1017E requirements

4.4 On a number of occasions we granted relief from s1017E to allow money received as payment for interests in two registered managed investment schemes that were stapled to be paid into a single account. We considered that relief may be necessary because each of the schemes in which interests were acquired had a different responsible entity and each responsible entity may technically have been required to ensure that application money was paid into its own trust account. We decided to grant relief because, as the interests in the two schemes could not be traded separately from one another, the market perceived the interests of the two schemes as a single product. The relief enabled investors to pay for the

interests in the two schemes with a single cheque rather than two separate cheques. We considered that, as all investors in one scheme were also investors in the other scheme, there would be no detriment to their interests if the responsible entities issuing the interests in the two schemes were not keeping a separate trust account.

4.5 We refused to extend the period in s1017E for which application money can be held with an ADI, prior to either the issue of a financial product or the return of the funds, from one month to three months. The applicant submitted that relief should be granted because the relevant financial products were only issued quarterly. However, we were not persuaded that we should allow a departure from the requirement that Parliament imposed.

Licensee allowed to act on own behalf for limited purpose

4.6 We granted relief to an AFS licensee from the s991E requirement to inform and obtain the consent of a non-licensee client, where the licensee acts on its own behalf in a transaction. The licensee acts on its own behalf when it engages in on-market purchases of shares during a five-day acquisition period for the purposes of an employee share scheme. During this acquisition period, an existing client of the licensee may place orders to sell. The matching of the licensee's buy order (acting on its own behalf) with its client's sell order, during the acquisition period, would require the licensee to inform the selling client and obtain the client's consent before proceeding with the transaction. This could take a significant amount of time, and the client may delay its consent with a view to taking advantage of favourable movements in the market. We granted the relief on condition that the licensee informed its affected clients, at the time it received sell orders, that it might act on its own behalf during the acquisition period and that the licensee made a market announcement at the start of the acquisition period.

Insider trading query did not justify no-action letter

4.7 We refused to issue a no-action letter for certain activities that arose due to a licensee's internal restructure of trading operations and businesses and that may breach the insider trading provisions. Under the Act, the Chinese wall defence appears to only extend to the 'trading' offence and not to the 'procuring' offence. Therefore the Chinese wall defence would not be available to the applicant in the event that there was a breach. We were not prepared to grant relief because there was a risk that a no-action letter could inadvertently excuse objectionable trades against which ASIC may wish to take action. We considered that the anomaly in the legislation would be more appropriately remedied by legislative reform.

4.8 We also refused to issue a no-action letter to a bank regarding a potential breach of the insider trading provisions that could arise from a transaction involving a derivative, on the basis that the conduct had not yet occurred and it appeared that the bank was in a position to take any appropriate steps to avoid a breach of the Act. The circumstances of the transaction also raised broader policy issues that we considered would be more appropriately dealt with by the legislature.

Change to balance date and lodgement deadline of foreign AFS licensees

4.9 On several occasions, we allowed AFS licensees that are based overseas to have a 31 December financial year end and to lodge reports within three months of that financial year end for the purposes of Division 6 of Part 7.8 of the Act. This enabled the licensees to align their financial reporting periods with the applicable reporting periods in their home jurisdiction and avoid unnecessary, costly duplication in financial reporting.

Relief for managed investment scheme interest sale facility

4.10 We granted an exemption from the unsolicited offer provisions of Division 5A of Part 7.9 of the Act for the offer of a cash sale or exchange facility in a proposed transaction that would involve interests in a managed investment scheme becoming stapled to shares in a company. We considered that it was appropriate to grant relief because the level of disclosure that the members of the scheme were to receive would be equivalent to that received by shareholders of the company. We took into account the fact that the offer of the facility for the shares in the company was an 'excluded offer' for Division 5A purposes because the company would effect the transaction through a scheme of arrangement and that, if a scheme of arrangement had been available for the managed investment scheme, the offer of the facility for the scheme interests would also have been an 'excluded offer'.

4.11 We refused to grant an exemption from Division 5A of Part 7.9 where an issuer of shares proposed to conduct a share sale facility to enable shareholders to sell their shares before the company listed on the ASX. We did not consider that it was appropriate to grant relief because the consideration paid for the shares would not be referable to a market price and would not be objectively determined. As a result there was a risk that, if relief were granted, the price at which the shares were sold through the proposed facility could be substantially lower than their market value.

4.12 We refused to exempt a company, which operated a business that made unsolicited offers to purchase shares from shareholders of suspended and delisted companies, from the requirement under Division 5A of Part 7.9 to keep offers open for a minimum period of one month. We considered that, if we were to grant relief, there could be significant potential consumer detriment because shareholders might feel pressured to accept the offer.

Employee share schemes

4.13 We also granted relief from the Part 7.8 hawking prohibition in the matters referred to in paragraphs 1.2 and 1.5.

4.14 We also refused to grant an exemption from Part 7.8 for the operation of the deferred employee share plan referred to in paragraph 1.4.

Conduct-related information releases and class orders

4.15 The following information releases and class orders concern the conduct-related relief granted during the period of this report.

Information releases

[IR 04-42] *ASIC issues conflict management policy.*

[IR 04-43] *ASIC issues report card on financial services licensees.*

[IR 04-45] *Operators of managed discretionary account services—apply for your licence authorisation.*

[IR 04-48] *ASIC releases version 6 of eLicensing and update of PF 209.*

[IR 04-53] *ASIC provides guidance on breach notification requirements of AFS licensees.*

Class orders

[CO 04/1063] *Section 981B money in cash common funds.*

[CO 04/1204] *Time-sharing schemes—extension of time until 30 June 2005 to belong to an ASIC approved Industry Supervisory Body.*

Section 5: Other relief

5.1 This section outlines decisions we have made that do not fall within any of the above mentioned categories and that may be significant to other participants in the financial services industry.

Timeshare industry supervisory body application rejected

5.2 An applicant that sought approval as the industry supervisory body for the timeshare industry failed to meet our criteria for approval under Summary Policy Statement 160 *Time-sharing schemes* [PS 160]. However, we extended the interim relief that exempts certain timesharing schemes from the requirement to register as a managed investment scheme, even though they are not members of an industry supervisory body or an external complaints resolution scheme, until 30 June 2005.

Note: After the period covered by this report, we further extended the interim relief until 30 March 2006. See Class Order [CO 05/403] *Time-sharing schemes – extension of time until 31 March 2006 to belong to an ASIC approved Industry Supervisory Body*.

Relief not required for activities beyond the scope of Chapter 7

5.3 We refused to issue a no-action letter to the operator of a barter exchange facility for breaches of provisions of Chapter 7 because, in our view, the barter exchange facility was likely to fall within an exclusion from the definition of ‘financial product’ and therefore the relief sought was not needed.

5.4 We refused to grant relief to a financial consultant who referred clients to financiers concerning debt finance restructuring because the arrangement did not appear to involve the provision of financial products or financial services. To the extent that the consultant might have been providing a financial service, we took the view that it was likely that their conduct would fall within the ‘mere referral’ exemption.

Demutualisation disclosure relief

5.5 We granted relief to a friendly society from the de-mutualisation disclosure regime in Part 5 of Schedule 4 of the Act so it could amend its constitution. We decided that we could grant relief without placing consumer protection at risk because the constitutional changes would not affect the mutual structure of the friendly society and, as there was sufficient time to allow appropriate disclosure to be made to members, the holding of a meeting on short notice would not be detrimental to the society’s members.

Interests in schemes that do not require registration are financial products

5.6 We refused to make a declaration that interests in a timeshare scheme that was not required to be registered as a managed investment scheme were not financial products. The fact that the schemes do not have to be registered does not of itself mean that interests in the scheme are not financial products. We considered that it would be inconsistent with our policy for the regulation of timeshare schemes to grant relief.

The requirement to hold fraud and professional indemnity insurance

5.7 We refused to remove the requirement to maintain adequate professional indemnity and fraud insurance from an AFS licence belonging to a licensee that had not yet commenced fundraising activities and had no funds under management. Professional indemnity and fraud insurance is designed to protect members from any loss caused by breaches of duties by the responsible entity or fraud or dishonesty by its employees, even if those breaches pre-date the scheme's fundraising activities or the acceptance of members into the scheme. Therefore we were not prepared to dispense with this licence condition.

German-regulated deposit-taking institution approved as an eligible provider

5.8 Under paragraph [PS 166.165(e)] of Policy Statement 166 *Licensing: financial requirements* [PS 166] ASIC may approve a foreign deposit-taking institution as an eligible provider if it is satisfied that the institution is prudentially regulated to appropriate standards under the Basel guidelines. We approved a deposit-taking institution that was regulated in Germany by the Bundesbank and the Federal Financial Supervisory Authority as an eligible provider on this basis.

Change to IDPS class order

5.9 We amended Class Order [CO 02/294] *Investor directed portfolio services* so that IDPS operators were allowed to issue a supplementary IDPS Guide after (rather than at the same time as) they provided the IDPS Guide to their clients. We considered that this was appropriate because, under the Act, supplementary FSGs and supplementary PDSs may be given at the same time as or after the original FSG or PDS is given to the client.

Information releases on other relief

5.10 We issued one information release that relates to other relief granted during the period of this report.

[IR 04-69] *ASIC clarifies relief to assist charities raise funds.*

Appendix: ASIC relief instruments

This appendix details the relief instruments we have executed for matters that are referred to in the report. The class orders listed in this table are available from our website via www.asic.gov.au/co. Instruments are published in the ASIC Gazette, which is also available via www.asic.gov.au/co.

Note that references to particular sections, subsections and paragraphs of the law are references to the *Corporations Act 2001* and references to particular regulations are references to the Corporations Regulations 2001.

Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
1.2, 2.2, 4.13	Tecient Card Solutions Limited ARBN 107 723 624 Credit Union Services Corporation (Australia) Limited ACN 087 822 455	[04/1273]	11/10/2004	s 911A(2)(II), 926A(2)(c), 951B(1)(a), 992B(1)(a) and 1020F(1)(a) <i>This instrument grants relief to joint issuers of a low value non-cash payment facility in accordance with ASIC Information Release [IR 04-07].</i>	30/6/2005
1.5, 2.2	Telstra Corporation Ltd ACN 051 775 556	[04/1492]	26/11/2004	s911A(2)(I), 992B(1)(a) and 1020F(1)(a) <i>This instrument varies existing interim relief to a telecommunications provider in relation to a non-cash payment facility</i>	30/6/2005
1.6, 2.4	CreditLink Services Limited ACN 087 822 464	[04/1480]	25/11/2004	s911A(2)(I) and 1020F(1)(a) <i>This instrument grants interim conditional relief from the requirement to hold an AFS licence and the Part 7.9 disclosure requirements for dealing and providing advice in the provision of facilities for making non-cash payments and related deposit products to certain named retail clients</i>	30/6/2005

OVERVIEW OF DECISIONS ON RELIEF APPLICATIONS FROM FINANCIAL SERVICE PROVIDERS

Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
1.7, 2.18	Marriott International Inc.	[04/1343]	28/10/2004	s911A(2)(l), 992B(1)(a) and 1020F(1)(a) <i>This instrument grants relief in similar terms to Class Order [CO 03/184], for the avoidance of doubt, for an unsecured contractual right to shares that may be a derivative. The relief only covers those aspects of the employee share scheme not covered by [CO 03/184]</i>	N/A
1.7, 2.18	Rio Tinto Limited ACN 004 458 404	[04/991]	9/8/2004	s741(1)(a), 911A(2)(l), 992B(1)(a) and 1020F(1)(a) <i>This instrument grants disclosure, licensing and hawking relief in relation to an employee share scheme that involves a contribution plan, but does not involve the issuer or any associated body corporate offering an employee of the issuer a loan or similar financial assistance in connection with the acquisition of financial products to which the offer relates</i>	N/A
1.10	Spencer Stuart Management Consultants N.V.	[04/1567]	17/12/2004	s911A(2)(l) <i>This instrument grants an exemption for an interim period from the requirement to hold an AFS licence in relation to a global employee share scheme conducted by an unlisted foreign entity</i>	N/A
1.12	Banque AIG	[04/1005]	12/8/2004	s911A(2)(l) <i>This instrument varies previous interim relief so as to grant permanent conditional relief from the requirement to hold an AFS licence to a foreign company incorporated in France</i>	N/A
1.15, 3.10	Foreign collective investment schemes—amendment	[CO 04/1031]	20/8/2004	s601QA(1)(a), 911A(2)(l) <i>This class order varies Class Order [CO 04/526] (Foreign collective investment schemes) to extend registration and licensing relief to schemes regulated in Jersey</i>	N/A

OVERVIEW OF DECISIONS ON RELIEF APPLICATIONS FROM FINANCIAL SERVICE PROVIDERS

Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
1.20	Shearwater Country Club Resort (Tasmania) Limited	[04/1107]	7/9/2004	s601QA(1)(a) and 911A(2)(l) <i>This instrument varies existing relief from the requirement to register a managed investment scheme so that it also exempts a person conducting a financial services business of dealing in, or advising about, interests in the scheme from the requirement to hold an AFS licence</i>	N/A
1.22	Law societies: statutory deposit accounts and public purpose funds—amendment	[CO 04/955]	2/8/2004	s911A(2)(l) <i>This class order varies Class Order [CO 03/1095] to exempt the Law Society of Western Australia Inc from the requirement to hold an AFS licence in relation to its public purpose fund</i>	30/6/2005
1.25	German BaFin regulated financial service providers	[CO 04/1313]	21/10/2004	s911A(2)(l) <i>This class order grants relief from the requirement to hold an AFS licence for wholesale financial services providers regulated by the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) of Germany. This relief is provided under ASIC Policy Statement 176 Licensing: Discretionary powers—wholesale foreign financial services providers [PS 176]</i>	N/A
1.25	Securitisation special purpose vehicles	[CO 04/1526]	23/12/2004	s911A(2)(l) <i>This class order grants conditional relief from the requirement to hold an AFS licence for certain securitisation special purpose vehicles. It revokes interim relief under Class Order [CO 03/1098] from 1 July 2005.</i>	N/A

OVERVIEW OF DECISIONS ON RELIEF APPLICATIONS FROM FINANCIAL SERVICE PROVIDERS

Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
2.5	Growth Equities Corporation Ltd ABN 400 570 723 GEC Asian Value Fund ARSN 095 369 010 GEC Australian Healthcare Fund ARSN 095 369 207 GEC Global Fund ARSN 093 196 475 GEC Eurogrowth Fund ARSN 095 369 181	[04/1225]	5/10/2004	s1020F(1)(c) <i>This instrument modifies s1013H and 1016D to allow the issuer of exchange traded funds to make an application for quotation to the ASX within 7 days from the date of issue rather than 7 days from the date of the PDS</i>	N/A
2.6	LinQ Capital Limited ABN 66 098 197 258 LinQ Resources Fund ARSN 108 168 190	[04/1522]	8/12/2004	s1020F(1)(c) <i>This instrument extends the 3-month time period in s1016D and 1016E to ensure that investors have 30 days to exercise a right of withdrawal upon receipt of corrective disclosures</i>	N/A
2.8	James Fielding Funds Mangement Limited ACN 067 417 663 Tower Trust (SA) Limited ACN 007 870 644 The Davey Financial Management Pender Place Shopping Centre Trust	[04/1126]	14/9/2004	s601QA(1)(b) and 1020F(1)(a) of the Act and s1069(3), 1084(6) and 1454(2) of the old Corporations Law <i>This instrument grants relief to permit the manager and trustee of a prescribed interest scheme to convene a meeting of interest-holders in the scheme to consider a stapling proposal</i>	N/A

OVERVIEW OF DECISIONS ON RELIEF APPLICATIONS FROM FINANCIAL SERVICE PROVIDERS

Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
2.9	Macquarie Airports Management Limited ACN 075 295 760 Macquarie Airports Holdings (Bermuda) Limited, Macquarie Airports Trust (1) ARSN 099 597 921 Macquarie Airports Trust (2) ARSN 099 597 896	[04/1446]	16/11/2004	s1020F(1)(c) <i>This instrument grants relief from s1013FA to allow a transaction-specific PDS to be used for the issue of options over interests in two registered managed investment schemes that, together with shares in a company, are stapled securities</i>	N/A
2.10, 2.11	AMPCI Macquarie Infrastructure Management No 1 Limited ACN 108 013 672 Diversified Utility and Energy Trust No 1 ARSN 109 363 037 AMPCI Macquarie Infrastructure Management No 2 Limited ACN 108 014 062 Diversified Utility and Energy Trust No 2 ARSN 109 363 135	[04/1442]	9/11/2004	s1020F(1)(a) and 1020F(1)(c) <i>This instrument grants relief from the requirement to provide a PDS on the issue and on-sale of stapled interests</i>	N/A
2.12	Macquarie Bank Limited ACN 008 583 542	[04/1266]	21/9/2004	s1020F(1)(a) <i>This instrument grants relief from s1012B(3)(a)(iii) so that a PDS is not required for the overseas issue of interests in limited partnerships</i>	N/A
2.13	BT Funds Management No 2 Limited ACN 000 727 659	[04/1356]	29/10/2004	s1020F(1)(a) <i>This instrument grants relief from s1012B(3)(a)(iii) where all interests are issued to persons outside Australia, pursuant to offers received outside Australia</i>	N/A

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Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
2.15	Abacus Group Holdings Limited ACN 080 604 619 Abacus Trust ARSN 096 572 128	[04/1096]	3/9/2004	s741(1)(b) and 1020F(1)(c) <i>This instrument grants relief to allow entities to rely, for the purposes of the on-sale provisions, on a s1012DA notice that was not lodged with the ASX within the prescribed timeframe</i>	N/A
2.16	Prime Infrastructure Management Limited ACN 100 364 234 Babcock & Brown Investor Services Limited ACN 099 717 638 Prime Infrastructure Trust ARSN 100 375 479	[04/1509]	2/12/2004	s741(1)(b) and 1020F(1)(c) <i>This instrument grants relief to permit entities to issue notices under s708A(5)(d) and 1012DA(5)(d) to enable stapled securities issued pursuant to the underwriting of a distribution reinvestment plan to be freely tradeable</i>	N/A
2.17	Westfield Holdings Limited ACN 001 671 496 Westfield Trust ARSN 090 849 746 Westfield America Management Limited ACN 072 780 619 Westfield America Trust ARSN 092 058 449	[04/1548]	13/12/2004	s741(1) and 1020F(1) <i>This instrument grants relief to enable stapled securities to be on-sold within the first 12 months of listing on the ASX</i>	N/A

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Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
2.20	Prime Infrastructure Management Limited ACN 100 364 234 Babcock & Brown Investor Services Limited ACN 099 717 Prime Infrastructure Trust ARSN 100 375 479	[04/1158]	14/9/2004	s741(1) and 1020F(1) <i>This instrument grants relief from requirement to provide disclosure in accordance with s1012B, 1012C and 707(3) & (4)</i>	N/A
2.21	Mercantile Mutual Insurance (Australia) Limited ACN 000 456 799 QBE Insurance (Australia) Limited ACN 003 191 035 QBE Insurance Group Limited ACN 008 485 014	[04/1267]	30/9/2004	s1020F(1)(c) <i>This instrument modifies s1013D(1) where the contact details of the joint product issuers are identical</i>	N/A
2.22	Rubicon Asset Management Limited ACN 095 433 720 Rubicon America Trust ARSN 110 606 687	[04/1400]	9/11/2004	s1020F(1) <i>This instrument grants relief to allow changes to a PDS that has already been lodged with ASIC</i>	N/A
2.27	Perpetual Trustee Company Limited ACN 000 001 007	[04/1449]	16/11/2004	s951B(1)(a) <i>This instrument grants interim relief from the requirement to provide an FSG in certain circumstances</i>	31/12/2004

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Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
2.28	UBS AG ACN 088 129 613 The News Corporation Limited ACN 007 910 330	[04/1133]	10/9/2004	s951B(1)(a) and 951B(1)(c) <i>This instrument modifies s941D(1) and grants an exemption from s942A(1) and 940C(1)(a), to enable a combined expert report and FSG to be included in an information memorandum associated with a proposed scheme of arrangement</i>	N/A
2.35	In-use notices for employer-sponsored superannuation	[CO 04/1030]	14/10/2004	s1020F(1)(c) <i>This class order modifies s1015D to allow flexibility in the provision to ASIC of 'in-use' information with respect to PDSs and supplementary PDSs given for superannuation products issued by certain standard employer-sponsored superannuation funds</i>	N/A
2.35	Information in a financial services guide given in a time-critical situation	[CO 04/1055]	30/8/2004	s951B(1)(c) <i>This class order grants relief so that an FSG given to a retail client in a time-critical situation under s941D may be up-to-date as at the time a statement is provided to the retail client before the financial service</i>	N/A
2.35	Dollar disclosure: Unknown facts or circumstances	[CO 04/1430]	8/12/2004	Regs 7.7.11, 7.7.12, 7.7.13A and 7.9.15B <i>This class order grants relief from the obligation for information to be disclosed as an amount in dollars in an SOA or a PDS where the amount depends on unknown facts or circumstances</i>	N/A
2.35	Dollar disclosure: Costs of derivatives, foreign exchange contracts, general insurance products and life risk insurance products	[CO 04/1431]	8/12/2004	s1020F(1)(a) <i>This class order grants relief from the obligation to disclose the costs associated with acquiring derivatives, foreign exchange contracts, general insurance products and life risk insurance products as amounts in dollars in PDSs</i>	N/A

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Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
2.35	Dollar disclosure: interest payable on deposit products	[CO 04/1432]	8/12/2004	Reg 7.9.15B(1) <i>This class order grants relief from the obligation to disclose the amount of interest payable to a holder of a deposit product as an amount in dollars in a PDS</i>	N/A
2.35	Dollar disclosure: non-monetary benefits and interests	[CO 04/1433]	8/12/2004	s951B(1)(a) and 1020F(1)(a) <i>This class order grants relief from the obligation to disclose non-monetary benefits and interests as amounts in dollars in SOAs and PDSs</i>	N/A
2.35	Dollar disclosure: Transitional relief	[CO 04/1434]	8/12/2004	s951B(1)(a) and 1020F(1) <i>This class order grants certain transitional relief from the obligation to disclose various costs, fees, charges, expenses, benefits and interests as amounts in dollars. The class order also provides conditional relief from the obligation to include certain information in a periodic statement prepared before 1 July 2005</i> <i>The class order revokes Class Order [CO 04/1176]</i>	1/7/2005
2.35	Dollar disclosure: Amounts denominated in a foreign currency	[CO 04/1435]	8/12/2004	s951B(1)(a) and 1020F(1)(a) <i>This class order grants relief from the obligation to disclose as an amount in dollars (i.e. Australian currency) any amount that is denominated in a foreign currency. The relief applies to SOAs, PDSs and periodic statements</i>	N/A
2.35	Statements of additional advice	[CO 04/1556]	21/12/2004	s951B(1)(c) <i>This class order allows an SOAA to be provided to a retail client instead of an SOA in certain circumstances. An SOAA incorporates by reference information required under Part 7.7 from another document that has previously been provided to the client. The class order revokes Class Order [CO 04/576]</i>	N/A

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Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
2.35	Secondary services: general financial services guide relief	[CO 04/1571]	22/12/2004	s951B(1)(a) <i>This class order grants secondary financial service providers relief, commencing on 1 July 2005, from the consequences of failing to provide an FSG to a retail client to whom the secondary service provider provides a financial service via an intermediary</i> <i>The class order grants secondary service providers transitional relief, until 30 June 2005, from the consequences of failing to provide an FSG to a retail client to whom a secondary service is provided where the secondary service provider posts its FSG on its website (if it has one) and makes its FSG available on request</i>	N/A 30/6/2005
2.35	Secondary services: Financial Services Guide relief for experts	[CO 04/1572]	22/12/2004	s951B(1)(a) <i>This class order grants relief to allow an expert's FSG to be included as a separate and clearly identifiable part of an expert report that is prepared for inclusion in a third party's disclosure document (e.g. a prospectus or PDS) where certain conditions are met</i>	N/A
2.35	Secondary services: Financial Services Guide relief for arrangers acting under an intermediary authorisation	[CO 04/1573]	22/12/2004	s951B(1)(a) <i>This class order grants relief to allow a person arranging for the issue of a financial product by a product provider under an intermediary authorisation (as referred to in s911A(2)(b) of the Act) to include their FSG as a separate and clearly identifiable part of the product provider's PDS where certain conditions are met</i>	N/A

OVERVIEW OF DECISIONS ON RELIEF APPLICATIONS FROM FINANCIAL SERVICE PROVIDERS

Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
3.2	DB Real Estate Australia Limited ACN 006 036 442 Deutsche Asset Management (Australia) Limited ACN 076 098 596 Merrill Lynch Equities (Australia) Limited ACN 006 276 795 DB RREEF Funds Management Limited ACN 060 920 783 Deutsche Diversified Trust ARSN 089 324 541 Deutsche Industrial Trust ARSN 090 879 137 Deutsche Office Trust ARSN 090 768 531 DB RREEF Operations Trust ARSN 110 521 223 ASX Perpetual Registrars Limited ACN 083 214 537	[04/1131]	30/8/2004	s601QA(1)(a) and 1020F(1)(a) <i>This instrument grants relief from s1019F, Part 7.9 and Chapter 5C to enable a sale facility to be offered to scheme members as part of a restructure involving the stapling of interests in four registered schemes</i>	N/A
3.2	Santos Limited ACN 007 550 923 Merrill Lynch International (Australia) Ltd ACN 002 892 846 Computershare Investor Services Pty Limited ACN 078 279 277	[04/1039]	20/8/2004	s601QA(1)(a) and 1020F(1)(a) <i>This instrument grants relief from s1019F, Part 7.9 and Chapter 5C to enable a share sale facility to be offered to holders of reset convertible preference securities</i>	30/9/2004

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Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
3.4	Schoolhouse Project South East Vineyards Limited ACN 081 749 206 Sandhurst Trustees Limited ACN 004 030 737 Schoolhouse Trust	[04/1207]	30/9/2004	s601QA(1)(b) of the Act and s1084(6) and 1454(2) of the old Corporations Law <i>This instrument revokes ASIC Instrument [00/1393]. It grants relief from the requirement to register the Schoolhouse Trust as a managed investment scheme until 20 June 2005</i>	30/6/2005
3.4	Coonawarra Vineyard Project Viniculture Projects Limited ACN 075 583 765 Sandhurst Trustees Limited ACN 004 030 737	[04/1208]	30/9/2004	s601QA(1)(b) of the Act and s1084(6) and 1454(2) of the old Corporations Law <i>This instrument revokes ASIC Instrument [00/1393]. It grants relief from the requirement to register the Schoolhouse Trust as a managed investment scheme until 20 June 2005</i>	30/6/2005
3.5	The Marine Cove Resort Club Trust Holiday Concepts Management Ltd ACN 006 353 180	[04/1474]	22/11/2004	s601QA(1)(b) of the Act and s1084(6) and 1454(2) of the old Corporations Law <i>This instrument revokes ASIC Instrument [99/978]. It grants relief from the requirement to register the Coonawarra Vineyard Project as a managed investment scheme until 20 June 2005</i>	30/6/2010
3.8	Chelmsgold Pty Ltd ACN 080 075 805	[04/1205]	1/10/2004	s601QA(1)(a), 911A(2)(l), 992B(1)(a) and 1020F(1)(a) <i>This instrument grants relief in similar terms to Class Order [CO 02/305] to Chelmsgold Pty Ltd and any person who operates a management rights scheme at Kellys Beach Resort</i>	N/A

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Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
3.11	GPT Management Limited ACN 000 335 473 General Property Trust ARSN 090 110 357	[04/1284]	7/10/2004	s601QA(1)(a) <i>This instrument exempts the responsible entity from s601FC(1)(d) to the extent it would prevent the responsible entity from requiring certain foreign members to dispose of their interests</i>	N/A
3.13	GPT Management Limited ACN 000 335 473 General Property Trust ARSN 090 110 357	[04/1282]	7/10/2004	s601QA(1)(b) <i>This instrument modifies various provisions of Chapter 5C to allow a cash-out facility for members of the Trust who do not wish to hold stapled securities</i>	N/A
3.14	Multiplex Funds Management Limited ACN 105 371 917 Multiplex SITES Trust ARSN 111 903 747	[04/1513]	29/11/2004	s601QA(1)(b) <i>This instrument grants relief to allow redemption/withdrawal of units on terms other than those set out in Pt 5C.6 of the Act</i>	N/A
3.15	AMP Capital Investors Limited ACN 001 777 591 Powers Trust ARSN 105 094 442	[04/1419]	9/11/2004	s601QA(1) <i>This instrument grants relief to enable shortfall interests offered in a rights issue to be issued to third parties including an associate of the responsible entity as underwriter or sub-underwriter where that associate is acting in a fiduciary capacity</i>	N/A
3.20	Managed investment schemes: unit pricing	[CO 04/1575]	22/12/2005	s601QA(1)(b) <i>This class order allows responsible entities to make amendments to constitutions of managed investment schemes without a special resolution of members. Amendments can be made so specified references to accounting standards in constitutions are to accounting standards in force immediately prior to 1 January 2005 and are not affected by the transition for financial reporting purposes to Australian equivalents of International Financial Reporting Standards</i>	N/A

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Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
4.3	Section 981B money in cash common funds	[CO 04/1063]	27/8/2004	s992B(1)(c) <i>This class order modifies s981B permitting money to be paid into a cash common fund</i>	N/A
4.4	AMPCI Macquarie Infrastructure Management No 1 Limited ACN 108 013 672 Diversified Utility and Energy Trust No 1 ARSN 109 363 037 AMPCI Macquarie Infrastructure Management No 2 Limited ACN 108 014 062 Diversified Utility and Energy Trust No 2 ARSN 109 363 135	[04/1423]	9/11/2004	s1020F(1)(c) <i>This instrument grants relief to modify s1017E in the context of stapled interests in registered managed investment schemes</i>	N/A
4.4	ConnectEast Management Limited ACN 071 292 647 ConnectEast Investment Trust ARSN 110 713 481 ConnectEast Holding Trust ARSN 110 713 614	[04/1110]	9/9/2004	s1020F(1)(c) <i>This instrument grants relief to modify s1017E in the context of stapled interests in registered managed investment schemes</i>	N/A
4.6	Commonwealth Securities Limited ACN 067 254 399 Commonwealth Bank of Australia ACN 123 123 124	[04/1316]	13/10/2004	s992B(1)(c) <i>This instrument grants relief from the requirement to obtain client consent in accordance with s991E to a dealer, as on-market purchasing broker for the bank's ordinary shares during a 5-day period under an employee share scheme</i>	N/A

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Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
4.9	NRGenerating Holdings (No2) GMBH ARBN 094 284 723 Flinders Labuan (No1) Ltd ARBN 094 284 812 Flinders Laubuan (No2) Ltd ARBN 094 284 769 holder of an AFSL number 24355 and trading as Flinders Power Partnership	[04/1052]	24/8/2004	s992B(1)(c) <i>This instrument modifies s989A(a) and 989D(1)(a) to enable foreign AFS licensees to align their balance dates with the reporting periods in their home jurisdiction</i>	N/A
4.9	The Partnership of Australian Power Partners BV ARBN 075 477 208 National Power Australia Investments Limited ARBN 075 257 537 CISL (Hazelwood) Pty Limited ACN 074 747 185 Hazelwood Investment Company Pty Ltd ACN 075 041 360 Hazelwood Pacific Pty Limited ACN 074 351 376	[04/1416]	15/11/2004	s992B(1)(c) <i>This instrument modifies s989A(a) and 989D(1)(a) to enable foreign AFS licensees to align their balance dates with the reporting periods in their home jurisdiction</i>	N/A

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Report para no.	Class order title or entity name	Instrument no.	Date executed	Power exercised and nature of relief	Expiry date (if applicable)
4.10	Lend Lease Corporation Limited ACN 000 226 228 GPT Management Limited ACN 000 335 473 ABN AMRO Equities Australia Limited ACN 002 768 701 Macquarie Securities (Australia) Ltd ACN 002 832 126 ASX Perpetual Registrars Limited ACN 083 214 537	[04/1346]	14/10/2004	s601QA(1)(a), 655A(1)(a), 673(1)(a) and 1020F(1)(a) <i>This instrument grants relief from Division 5A of Part 7.9, the Part 7.9 disclosure requirements, Chapter 5C, s606 and 671B of the Act for the operation of a share sale facility</i>	N/A
4.3, 4.15	Section 981B money in cash common funds	[CO 04/1063]	27/8/2004	s992B(1)(c) <i>This class order modifies s981B so that AFS licensees can pay client money into a cash common fund</i>	N/A
4.15, 5.2	Time-sharing schemes—extension of time until 30 June 2005 to belong to an ASIC approved Industry Supervisory Body	[CO 04/1204]	30/9/2004	s601QA(1) <i>This class order provides an extension of time until 30 June 2005 for timesharing schemes which are members of the Australian Timeshare and Holiday Ownership Council Limited to become members of an ASIC-approved Industry Supervisory Body by varying underlying relief instruments applicable to those schemes</i>	30/6/2005
5.5	Friendly Society Medical Association Limited ACN 088 347 602	[04/1438]	16/11/2004	s30(2) of Schedule 4 of the Act <i>This instrument exempts the company from compliance with clauses 29(1), 31, 32 and 33 of Schedule 4 of the Act in relation to constitutional amendments on the basis that they will not result in a modification of the mutual structure of the company and members will be appropriately and comprehensively informed as to the nature and effect of the constitutional amendments</i>	N/A

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