

[PF 96]

Pro Forma 96

Sponsor deed poll

Policy Statement 87, Policy Statement 136

Reissued 17/12/2004

Pro Forma 96 [PF 96] applies to bodies or organisations wishing to be a sponsor of charities for the purpose of obtaining exemption from the fundraising, managed investment, debenture and licensing provisions of the Corporations Act. This deed poll is one of the prerequisites for approval by ASIC of a sponsor. See Pro Forma 97 [PF 97]; Policy Statement 87 [PS 87]; Policy Statement 136 [PS 136]; Class Orders [CO 02/151], [CO 02/184]; and 1994 ASC Digest at MR 200.

This deed is made [date] by [name] (“the Sponsor”).

Recitals

- (a) The Sponsor has applied to the Australian Securities and Investments Commission (“ASIC”) for approval to be granted in accordance with ASIC’s Policy Statement 87 [PS 87].
- (b) ASIC may revoke its approval so granted by giving written notice to the Sponsor of its decision to revoke and the revocation shall come into effect 21 days after the date of the notice.
- (c) The Sponsor has agreed to indemnify certain persons against liability which arises from claims made in connection with certain undertakings, schemes or common enterprises promoted by each such person, as herein provided.

Operative provisions

Concept of sponsorship

1. In this Deed:

a person or body is a “sponsored body” in the time between its registration under clause 3 and when its registration is cancelled under clause 5;

“sponsored scheme” is an undertaking, scheme or common enterprise in respect of which a sponsored body does either or both of the following:

- (a) offers debentures for issue;

- (b) offers to issue or arrange the issue of, issues, or makes a recommendation to acquire, interests in a managed investment scheme; and

“sponsored financial products” are interests in a managed investment scheme or debentures issued by a person or body when that person or body was a sponsored body and those financial products were issued in relation to a sponsored scheme.

Governing law

- 2. The governing law is that of [*state or territory*].

Registration of schemes and promoters

- 3. Subject to clause 5, the Sponsor shall keep a written register of persons whom, and bodies which, the Sponsor wishes to be the subject of exemptions granted by ASIC under paragraphs 283GA(1)(a), 601QA(1)(a), 741(1)(a), 911A(2)(1), 992B(1)(a) and 1020F(1)(a) of the *Corporations Act 2001* in connection with this deed poll, and enter in that register:
 - (a) the names and addresses of each such person and body;
 - (b) in relation to each such person and body, the name of, or a statement identifying, each relevant sponsored scheme; and
 - (c) the date on which each entry was made.

Only charitable schemes to be registered

- 4. The Sponsor shall not register a person or body unless the person or body is, or is a trustee of a fund which is:
 - (a) exempt from income tax by virtue of sections 50-5 or 50-30 of the *Income Tax Assessment Act 1997* or provisions which correspond to them; or
 - (b) a person, body or fund to whom a gift is an allowable deduction for the purposes of calculating the taxable income of a person making the gift by virtue of section 30-15 Item 1 or 2 of the *Income Tax Assessment Act 1997* or provisions which correspond to them; or
 - (c) otherwise recognised in law as being constituted for religious, educational, community or other charitable purposes.

Cancellation of registration

- 5. The Sponsor may cancel the registration of a person or body by writing in the register mentioned in clause 3:

- (a) that the registration of the person or body is cancelled; and
- (b) the date on which the cancellation occurred;

in a manner which ensures that both registration and cancellation details are and remain legible.

ASC direction to remove name from register

- 6. The Sponsor will, as soon as practicable after receiving a written direction from ASIC to cancel the registration of a specified sponsored body, cancel the registration forthwith and shall not again register that sponsored body without written approval from ASIC.

Indemnification of sponsored schemes

- 7. Subject to clause 8, the Sponsor indemnifies each and every person or body which has at any time been registered under clause 3 against any liability incurred by that person or body at a time when the person or body was a sponsored body, and which arises out of a claim by a holder of the relevant sponsored securities or by the holder's personal representative.

Limitation of liability

- 8. The Sponsor's liability under this deed is limited to the outstanding balance of money subscribed in respect of the sponsored financial products plus any interest or income accrued in respect of the sponsored financial products under the sponsored scheme less any payments made by the sponsored body in respect of the sponsored financial products under the sponsored scheme.

Access to register

- 9. The Sponsor shall:
 - (a) keep ASIC informed of the location of the register;
 - (b) allow any person to have reasonable access to the register; and
 - (c) allow ASIC to inspect the register and provide a copy of the register to ASIC on request by ASIC.

Effect of revocation on efficacy of deed

- 10. This deed remains in force notwithstanding that:
 - (a) ASIC may have revoked the exemption referred to in clause 3;

- (b) ASIC may have given written notice of its decision to revoke its approval granted to the Sponsor or that the approval has been revoked;
- (c) there is a breach of a term of this deed; or
- (d) the deed has been revoked by the Sponsor.