



Commonwealth of Australia



**ASIC**

Australian Securities &  
Investments Commission

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# ASIC Gazette

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### Notices under the Corporations Act 2001

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

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

**REQUIREMENTS FOR ISSUERS OF FINANCIAL PRODUCTS  
WHO LODGE OPT-IN NOTICES**

A person (“the issuer”) who lodges a notice with ASIC in accordance with paragraph 1438(3)(b) of the Act (an “opt-in notice”) in relation to a financial product or class of financial products must:

- (a) take all reasonable steps to ensure that within 7 days after it lodges the opt-in notice, each notifiable person who the issuer should reasonably expect is likely, within 90 days after the new product disclosure provisions (as defined in subsection 1438(2) of the Act) first apply to the financial product or class of financial products, to be required under section 1012A, 1012B, 1012C or 1012IA of the Act to give a Product Disclosure Statement in relation to the financial product or a financial product of that class is informed in writing:
  - (i) of the name of the issuer, of the financial product or class of financial product in respect of which the opt-in notice has been lodged, that the opt-in notice has been lodged, and when those new financial product disclosure provisions will apply in respect of that product or class of products; and
  - (ii) that the notifiable person may have obligations under those new product disclosure provisions such as the obligation to give a Product Disclosure Statement to persons to whom the product or a product in the class of products is offered or recommended;
- (b) on the request of any person, make available to that person a document that sets out the matters described at paragraph (a)(i) and (ii) free of charge and as soon as practicable, and in any event within 5 days of receiving the request; and
- (c) if the issuer makes available on the Internet information relating to the issue by the issuer of any financial product - display with reasonable prominence at the same Internet address the matters described at paragraph (a)(i) and (ii).

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

**Interpretation**

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

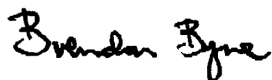
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- (a) a seller of the financial product if the sale takes place in circumstances described in subsection 1012C(5), (6) or (8) of the Act;
- (b) any financial services licensee;
- (c) any regulated principal (as defined in section 1430 of the Act);
- (d) any authorised representative of a financial services licensee;
- (e) any representative of a regulated principal (within the meaning of section 1436 of the Act);
- (f) any person who is not required to hold an Australian financial services licence because the person is covered by:
  - (i) paragraph 911A(2)(j) of the Act;
  - (ii) an exemption in regulations made for the purposes of paragraph 911A(2)(k) of the Act; or
  - (iii) an exemption specified by ASIC for the purposes of paragraph 911A(2)(l) of the Act;
- (g) the provider of a custodial arrangement within the meaning of section 1012IA of the Act.

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

Dated this 15th day of February 2002



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