



Commonwealth of Australia



ASIC

Australian Securities &
Investments Commission

Commonwealth of Australia Gazette

No. ASIC 39A/03, Wednesday, 1 October 2003

Published by ASIC

ASIC Gazette

Contents

Notices under the Corporations Act 2001

03/0823

03/0824

03/0825

03/0826

RIGHTS OF REVIEW

Persons affected by certain decisions made by ASIC under the Corporations Act and the other legislation administered by ASIC may have rights of review. ASIC has published **Practice Note 57 [PN57] Notification of rights of review** and Information Sheet [INFO 1100] **ASIC decisions – your rights** to assist you to determine whether you have a right of review. You can obtain a copy of these documents from the ASIC Digest, the ASIC website at www.asic.gov.au or from the Administrative Law Co-ordinator in the ASIC office with which you have been dealing.

ISSN 1445-6060 (Online version)
ISSN 1445-6079 (CD-ROM version)

Available from www.asic.gov.au
Email gazette.publisher@asic.gov.au

© Commonwealth of Australia, 2003

This work is copyright. Apart from any use permitted under the *Copyright Act 1968*, all rights are reserved. Requests for authorisation to reproduce, publish or communicate this work should be made to: Gazette Publisher, Australian Securities and Investment Commission, GPO Box 5179AA, Melbourne Vic 3001

03 / 0823

Australian Securities and Investments Commission
Corporations Act 2001 — Paragraphs 911A(2)(l) and 992B(1)(a) — Exemption

1. Under paragraph 992B(1)(a) of the *Corporations Act 2001* (the Act), the Australian Securities and Investments Commission (ASIC) exempts each foreign ADI which holds an Australian financial services licence from:
 - (a) the following provisions of the Act:
 - (i) section 988B;
 - (ii) paragraph 988D(a);
 - (iii) section 988E; and
 - (iv) section 989C; and
 - (b) regulation 7.8.12 of the *Corporations Regulations 2001*.
2. Under paragraph 992B(1)(a) of the Act, ASIC exempts each foreign ADI which holds an Australian financial services licence from section 989B of the Act on the following conditions and for so long as those conditions are met:
 - (a) the foreign ADI must lodge with ASIC, at least once in every calendar year and at intervals of not more than 15 months:
 - (i) a copy of its balance-sheet made up to the end of its last financial year; and
 - (ii) a copy of its cash flow statement for its last financial year; and
 - (iii) a copy of its profit and loss statement for its last financial year;
in such form and containing such particulars and including copies of such documents as the foreign ADI is required to prepare by the law for the time being applicable to that foreign ADI in its place of origin; and
 - (b) together with copies of the documents in paragraph (a), the foreign ADI must lodge a statement in writing verifying that the copies are true copies of the documents so required; and
 - (c) the foreign ADI must ensure that the documents referred to in subparagraphs (a)(i) to (a)(iii) are audited in accordance with the requirements for the time being applicable to that foreign ADI in its place of origin; and must lodge a copy of a document setting out the views of that auditor about those documents.

Note: Where the foreign ADI is subject to subsection 601CK(1) of the Act, compliance with that subsection will also result in the conditions set out in subparagraphs 2(a) and 2(b) being satisfied.

3. Under paragraph 911A(2)(l) of the Act, ASIC exempts each foreign ADI from the requirement to hold an Australian financial services licence for the provision of a financial service where all of the following apply:
- (a) the service consists only of either or both of the following:
 - (i) dealing in derivatives;
 - (ii) dealing in foreign exchange contracts; and
 - (b) the service does not involve the making of a market for derivatives or foreign exchange contracts; and
 - (c) the dealing is entered into for the purpose of managing a financial risk that arises in the ordinary course of the foreign ADI's banking business; and
 - (d) the dealing is entered into on the foreign ADI's own behalf; and
 - (e) the counterparty for the dealing is a wholesale client; and
 - (f) the foreign ADI does not hold an Australian financial services licence covering the provision of the service.

Commencement

4. This instrument takes effect on gazettal.

Interpretation

5. In this instrument:

foreign ADI has the meaning given by section 5 of the *Banking Act 1959*;

foreign exchange contract has the meaning given by section 761A of the Act;
and

wholesale client has the meaning given by section 761G of the Act.

Dated this 26th day of September 2003



Signed by Stephen Yen, PSM
as a delegate of the Australian Securities and Investments Commission

03 / 0824

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

1. Under paragraph 911A(2)(l) of the *Corporations Act 2001* (the *Act*), the Australian Securities and Investments Commission exempts a person from the requirement to hold an Australian financial services licence for the provision of a financial service where all of the following apply:
 - (a) the service is provided to wholesale clients only; and
 - (b) but for section 911D of the *Act*, the person would not be carrying on a financial services business in this jurisdiction; and
 - (c) the person does not hold an Australian financial services licence covering the provision of the service.

Commencement

2. This instrument takes effect on gazettal.

Interpretation

3. In this instrument, *wholesale client* has the meaning given by section 761G of the *Act*.

Dated this 26th day of September 2003



Signed by Stephen Yen, PSM
as a delegate of the Australian Securities and Investments Commission

03/0825

**Australian Securities and Investments Commission
Corporations Act 2001 — Paragraph 911A(2)(1) — Exemption**

1. Under paragraph 911A(2)(1) of the *Corporations Act 2001* (the *Act*), the Australian Securities and Investments Commission exempts a person (the *foreign financial institution*) from the requirement to hold an Australian financial services licence for the provision of a financial service where all of the following apply:
 - (a) but for section 911D of the Act, the foreign financial institution would not be carrying on a financial services business in this jurisdiction; and
 - (b) another person (the *local person*) holds a financial product (the *foreign financial product*) issued by the foreign financial institution or a related body corporate; and
 - (c) when the local person acquired the foreign financial product they were not in this jurisdiction; and
 - (d) the financial service relates to the foreign financial product; and
 - (e) the foreign financial institution does not hold an Australian financial services licence covering the provision of the service.

Commencement

2. This instrument takes effect on gazettal.

Dated this 26th day of September 2003



Signed by Stephen Yen, PSM
as a delegate of the Australian Securities and Investments Commission

03/0826

**Australian Securities and Investments Commission
Corporations Act 2001 — Paragraph 992B(1)(a) — Exemption**

1. Under paragraph 992B(1)(a) of the *Corporations Act 2001* (the *Act*), the Australian Securities and Investments Commission exempts a holder of an Australian financial services licence from Regulation 7.8.19 of the *Corporations Regulations 2001* in relation to each instruction to deal in financial products received by the holder to which both of the following apply:
 - (a) the instruction is from or on behalf of a wholesale client who is not in this jurisdiction; and
 - (b) the instruction is for a dealing through a financial market that is not operated in this jurisdiction.

Interpretation

2. In this instrument, *wholesale client* has the meaning given by section 761G of the Act.

Dated this 26th day of September 2003

Stephen Yen

Signed by Stephen Yen, PSM
as a delegate of the Australian Securities and Investments Commission