

[CO 04/1573]

Secondary Services: Financial Services Guide relief for arrangers acting under an intermediary authorisation

Issued 22/12/2004

Class Order [CO/04 1573] gives relief to allow the FSG for an person arranging for the issue of a financial product by a product provider under an intermediary authorisation (as referred to in paragraph 911A(2)(b) of the Act) to be included as a separate and clearly identifiable part of the product provider's PDS where certain conditions are met.

Australian Securities and Investments Commission
Corporations Act 2001 — Paragraph 951B(1)(a) — Exemption

1. The Australian Securities and Investments Commission grants this exemption under paragraph 951B(1)(a) of the *Corporations Act 2001* (the *Act*).

Exemption

2. A person (the *intermediary*) who is a financial services licensee or an authorised representative of such a licensee does not have to comply with subsections 941A(1) or 941B(1) to the extent that a Financial Service Guide (the *intermediary FSG*) that the intermediary must give in relation to the provision of the financial service referred to in paragraph 3:
 - (a) must be given in the way required by section 940C; and
 - (b) must be given at the time required by subsection 941D(1); and
 - (c) must have a title in accordance with subsection 942A(1); and
 - (d) must not be combined with a Product Disclosure Statement (*PDS*) in contravention of subsection 942DA(3).

Where relief applies

3. The exemption in paragraph 2 applies where the intermediary provides a financial service consisting of arranging for the issue

of a financial product under an intermediary authorisation and all of the following are satisfied:

- (a) the intermediary FSG forms a separate and clearly identifiable part of the PDS for the financial product;
- (b) the expression “Financial Services Guide” appears at or near the front of the part of the PDS that is the intermediary FSG;
- (c) the intermediary FSG clearly and prominently discloses the identity of:
 - (i) the person that is to issue the product under the intermediary authorisation; and
 - (ii) the intermediary; and
 - (iii) where the intermediary is an authorised representative—the licensee on whose behalf the intermediary acts in relation to the intermediary authorisation;
- (d) the intermediary FSG clearly and prominently discloses the nature of the relationship between the product provider and:
 - (i) the intermediary; and
 - (ii) where the intermediary is an authorised representative—the licensee on whose behalf the intermediary acts in relation to the intermediary authorisation.

Interpretation

4. In this instrument:

- (a) references to provisions are references to provisions of the Act; and
- (b) *authorised representative* has the meaning given by section 761A;

Financial Services Guide has the meaning given by section 761A; and

intermediary authorisation means an arrangement between a person (the *product provider*) who is the issuer of a financial product and a financial services licensee under which:

- (a) the financial services licensee, or their authorised representatives, may make offers to people to arrange for the issue, variation or disposal of financial products by the product provider; and
- (b) the product provider is to issue, vary or dispose of financial products in accordance with such offers, if they are accepted;

provided that the offer pursuant to which the issue, variation or disposal is made was covered by the financial services licensee's Australian financial services licence.

Dated this 22nd day of December 2004

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