ASIC
Australian Securities & Investments Commission

REPORT 303

Overview of decisions on relief applications (February to May 2012)

September 2012

About this report

This is a report for participants in the capital markets and financial services industry who are prospective applicants for relief.

This report outlines some of ASIC's decisions on relief applications during the period 1 February 2012 to 31 May 2012. It summarises examples of situations where we have exercised, or refused to exercise, our exemption and modification powers from the financial reporting, managed investment, takeovers, fundraising or financial services provisions of the *Corporations Act 2001*, the *National Consumer Credit Protection Act 2009* or the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009.*

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Disclaimer

This report does not constitute legal, financial or other professional advice. We encourage you to seek your own professional advice, including finding out how the *Corporations Act 2001*, the *National Consumer Credit Protection Act 2009* or the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009*, and other applicable laws apply to you. It is your responsibility to determine your obligations and to obtain any necessary professional advice.

Contents

Overview

1 ASIC has powers under the *Corporations Act 2001* (Corporations Act) to exempt a person or a 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 provisions of the following chapters of the Corporations Act: Chs 2D (officers and employees), 2J (transaction offering share capital), 2L (debentures), 2M (financial reporting and audit), 5C (managed investment schemes), 6 (takeovers), 6A (compulsory acquisitions and buy-outs), 6C (information about ownership of listed companies and managed investment schemes), 6D (fundraising) and 7 (financial services).

2 ASIC has powers to give relief under the provisions of Chs 2 (licensing) and 3 (responsible lending) of the *National Consumer Credit Protection Act 2009* (National Credit Act) and from all or specified provisions of the National Credit Code, which is in Sch 1 of the National Credit Act. ASIC also has powers to give relief from the registration provisions under Sch 2 of the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* (Transitional Act).

3 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 Corporations Act, the National Credit Act and the Transitional Act.

4 This report covers the period beginning 1 February 2012 and ending 31 May 2012. During this period, we received 992 applications. We granted relief in relation to 517 applications and refused relief in relation to 66 applications; 141 applications were withdrawn. The remaining 268 applications were decided outside of this period.

5 This report does not provide details of every single decision made in the period. It is intended to provide examples of decisions that demonstrate how we have applied our policy in practice. We use our discretion to vary or set aside certain requirements of the law where the burden of complying with the law significantly detracts from its overall benefit, or where we can facilitate business without harming other stakeholders.

6 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.

7 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 available via www.asic.gov.au/gazettes, or under 'Credit relief' on our website (for credit instruments). The information and media releases referred to throughout the report are available via www.asic.gov.au/mr.

A Licensing relief

Key points

This section outlines some of our decisions on whether to grant relief under Ch 7, including under s911A(2) and 926A(2) from the requirement to hold an Australian financial services (AFS) licence. It also outlines the publications we issued which relate to licensing relief.

Employee options

Relief for exchange of employee options after a merger

8 We granted licensing relief in relation to the proposed exchange of employee options over shares in one foreign company for new options in another foreign company as a result of a merger of those two companies. This included relief from the need to hold an AFS licence for the provision of financial product advice, dealing in a financial product and providing a custodial or depository service.

9 We considered that granting relief was consistent with our policy of facilitating appropriate employee participation in equity ownership of companies. We were also mindful of the difficulties facing foreign issuers making offers to relatively few Australian employees under a multinational employee scheme.

10 Relief was granted based on the conditions in Class Order [CO 03/184] *Employee share schemes* with amendments for:

- employees being employed by a different company at the time the offers were made; and
- employees being required to exchange their existing options for new options rather than being issued the new options for nil consideration.

11 We also imposed a condition that a copy of the merger documentation be made available to the employees.

No-action letters

Response to a notice issued under s1274(11)

12 We refused to issue a no-action letter for the failure of an AFS licensee to lodge financial statements with ASIC. The request was made on the basis of company records being unavailable and the licensee requesting more time to

gather this information. The financial statements had not been lodged for a period of four years.

Adjusted surplus liquid funds requirements

13 We issued a conditional no-action letter to an entity to enable it to continue entering into wholesale over-the-counter (OTC) derivatives with counterparties, despite being in breach of the adjusted surplus liquid funds requirements of its AFS licence. The breach was caused only by the reclassification of a long-term debt facility to a current liability in accordance with accounting standards.

14 We gave this conditional no-action letter because the entity was confident in its ability to refinance the debt facility, and its capacity to deal in OTC derivatives was crucial for its ability to manage the volatile price of its commodity in the physical market. It also followed consideration of the role of financial resource requirements for AFS licensees more generally.

Publications

15 We issued the following publications in relation to licensing relief during the period of this report.

Class order

Class Order [CO 12/340] *Proposed licensed trustee companies*

16 The purpose of [CO 12/340] is to ensure that the provisions dealing with limits on control of licensed trustee companies in Pt 5D.5 of the Corporations Act, including the statutory voting power limit, also apply to 'proposed licensed trustee companies'. A 'proposed licensed trustee company' is a company that wishes to be included in the list of trustee companies in Sch 8AA of the Corporations Regulations 2001 and is proposing to make an application to ASIC for an AFS licence covering the provision of traditional trustee company services.

17 The changes resulting from [CO 12/340], in relation to a proposed licensed trustee company, will enable the Minister to properly consider:

- whether the company should be added to the list in Sch 8AA, given the matters of which the Minister must be satisfied; and
- an application by a person under s601VBA of the Corporations Act to exceed the statutory voting power limit in relation to the company (see s601VAA).

Consultation papers

CP 175 *Carbon markets: Training and financial requirements*

18 CP 175 was for persons likely to require an AFS licence to provide financial services in relation to the carbon pricing mechanism established under the Clean Energy Legislative Package (including the Carbon Farming Initiative) as well as other carbon markets.

19 CP 175 invited feedback on our proposals for applying our current policies on training for financial product advisers and on financial requirements for those persons.

CP 177 *Electricity derivative market participants: Financial requirements*

20 CP 177 set out our proposals on financial requirements for electricity derivative market participants that issue OTC derivatives to manage their financial risk.

21 CP 177 sought feedback on these proposals from electricity derivative market participants, their advisers, counterparties and other interested parties.

Regulatory guides

RG 146 *Licensing: Training of financial product advisers*

22 RG 146 sets out our minimum standards for the training of all advisers providing financial product advice to retail clients.

23 Following the response to our consultation in CP 175 (see paragraphs 18–19), RG 146 has been updated with guidance on specialist knowledge requirements for advisers providing financial product advice to retail clients on emissions units. This new content will help advisers ensure they are fully trained and competent to provide financial product advice to retail clients on these products. Our response to submissions on CP 175 is detailed in Report 283 *Response to submissions on CP 175 Carbon markets: Training and financial requirements* (REP 283), outlined in paragraphs 26–29.

RG 236 *Do I need a licence to participate in carbon markets?*

24 RG 236 has been released to help entities and individuals understand whether they require an AFS licence to provide financial product advice and other financial services in relation to carbon markets and emissions units. For those entities and individuals that do require an AFS licence, RG 236 details the next steps and where more information can be found.

25 RG 236 was later updated to reflect legislation made after the regulatory guide was first released, and to provide further guidance on when advice provided to liable entities may constitute financial product advice.

Reports

REP 283 *Response to submissions on CP 175 Carbon markets: Training and financial requirements*

26 REP 283 highlights the key issues that arose out of the submissions received on CP 175 and details our responses in relation to those issues. Respondents to CP 175 were very supportive of our proposal to categorise regulated emissions units as Tier 1 products.

27 All submissions on the proposed financial resource requirements agreed with our proposed approach of applying the current requirements of Regulatory Guide 166 *Licensing: Financial requirements* (RG 166) to carbon market participants unchanged. This would ensure that AFS licensees providing financial services in relation to emissions units will have a robust financial basis for their businesses.

28 Following our consultation, we have determined that no specific updates are required to RG 166 and that AFS licensees providing financial services for regulated emissions units should meet the current requirements of RG 166.

29 We received five written responses to CP 175, which addressed the following issues:

- the specialist knowledge that advisers should apply in relation to regulated emission units, and whether regulated emissions units should be characterised as Tier 1 products for the purposes of the training requirements;
- the transitional arrangements that should apply to advisers providing advice in relation to regulated emissions units, to allow them to complete training;
- financial requirements for AFS licensees providing financial services in relation to regulated emissions units; and
- general transitional arrangements for the licensing of persons intending to provide financial services in relation to regulated emissions units.

B Disclosure relief

Key points

This section outlines some of the applications we have decided that relate to the Ch 6D requirements to provide prospectuses and other disclosure documents and the Ch 7 requirements to provide Product Disclosure Statements (PDSs) and Financial Services Guides (FSGs). It also outlines the publications we issued which relate to disclosure relief.

Prospectus relief

Relief granted for exchange of employee options after merger

30 We granted prospectus relief in relation to the proposed exchange of employee options following a merger of two foreign companies: see paragraphs 8–11.

31 Relief was granted based on the conditions in [CO 03/184], with the amendments referred to in paragraph 10.

On-sale disclosure relief

Relief granted for on-sale relating to convertible notes issued without disclosure

32 We granted relief from the on-sale provisions in s707(3) and 707(4) in relation to the issue of convertible notes to be issued to wholesale investors without disclosure. The convertible notes would convert into continuously quoted securities in another company in the same corporate group as the company issuing the convertible notes. The company issuing the convertible notes is an indirect subsidiary of the company issuing the continuously quoted securities. Relief was granted on the basis that the relief sought was broadly consistent with relief provided under Class Order [CO 10/322] *On-sale relief for convertible notes issued to wholesale investors.*

33 Relief was granted on conditions similar to those set out in [CO 10/322], with the additional requirement that both the issuer of the continuously quoted securities and the issuer of the convertible notes would take responsibility for the ‘cleansing notice’ and subsequent disclosure required to be made to the market.

Investor directed portfolio service (IDPS) relief

Refused relief to operate an IDPS in which discretionary trading can be conducted

34 We refused an application for relief from Pts 6D.2 and 6D.3 of the Corporations Act to facilitate the operation of an IDPS with discretionary trading on behalf of investors by external investment managers. Relief was refused because:

- as outlined in Regulatory Guide 148 *Investor directed portfolio services* (RG 148), a fundamental feature of an IDPS is that the investor has the sole discretion to make all investment decisions (see RG 148.12 and RG 148.13). Therefore, the arrangement proposed by the applicant fell outside of our existing policy for granting relief in respect of an IDPS and we were not satisfied in the circumstances that our existing policy required change or reversal; and
- the proposed arrangement could have been lawfully offered via a managed discretionary account service or a registered managed investment scheme. We were concerned that if relief were granted, the consumer protections that exist under these alternative structures would not be available to clients.

Publications

35 We issued the following publications in relation to disclosure relief during the period of this report.

Class orders

Class Order [CO 12/543] *Variation to Class Order [CO 10/321]*

36 [CO 12/543] amends Class Order [CO 10/321] *Offer of vanilla bonds* by notionally inserting s713A of the Corporations Act to:

- update the reference to ASIC's former FIDO website to ASIC's MoneySmart website; and
- extend the minimum subscription requirement of at least $50 million until 12 November 2012.

37 These amendments have been made in view of the release of the Australian Government discussion paper on developing the retail corporate bond market, and the replacement of the former FIDO website with the new consumer website MoneySmart.

Class Order [CO 12/1482] *When debentures can be called secured notes*

38 [CO 12/1482] introduces a new 'secured notes' category, for the purposes of s283BH of the Corporations Act, where security has been provided over intangible property, subject to various conditions.

39 The class order provides issuers who offer debentures with sufficient first ranking security, and that do not satisfy the higher 'debenture' or 'mortgage debenture' naming tests, with an alternative to 'unsecured notes' for the purposes of s283BH, provided they meet the terms of the class order. Where the terms of the class order are met, a debenture will be able to be called a 'secured note'.

40 The key objective of the class order is to strike an appropriate balance between assisting issuers avoid a label that their product is unsecured where there is sufficient security in place and ensuring that investors are aware of the risk of loss and readily understand the underlying security.

Consultation paper

CP 174 *Hedge funds: Improving disclosure—Further consultation*

41 CP 174 released for consultation draft regulatory guidance with new disclosure benchmarks and principles for hedge funds, to improve investor awareness of the risks associated with these products.

42 The guidance, contained in CP 174, set out the specific features and risks of hedge funds that should be addressed in a PDS for these products. CP 174 sought further feedback on our proposals to improve disclosure for hedge funds following industry response to Consultation Paper 147 *Hedge funds: Improving disclosure for retail investors* (CP 147).

Regulatory guides

RG 45 *Mortgage schemes: Improving disclosure for retail investors*

43 Following the response to our consultation in Consultation Paper 151 *Debt securities: Modifying the naming provisions and advertising requirements* (CP 151), RG 45 has been updated to improve awareness of the risks of investing in mortgage schemes. Our response to submissions on CP 151 is detailed in Report 276 *Response to submissions on CP 151 Debt securities: Modifying the naming provisions and advertising requirements* (REP 276), outlined in paragraphs 52–54.

44 RG 45 sets out our benchmarks and disclosure principles for improved disclosure to retail investors to help them understand and assess unlisted mortgage schemes, while maintaining the flexibility of the public fundraising process. RG 45 also sets out the standards we expect responsible

entities and publishers to meet when advertising unlisted and listed mortgage schemes that are offered to retail investors.

RG 46 *Unlisted property schemes: Improving disclosure for retail investors*

45 RG 46 is a guide for responsible entities, compliance committees, compliance plan auditors and others involved with the issue of interests in unlisted property schemes. It sets out principles for improved disclosure to retail investors to help them compare risks and returns across investments in the unlisted property sector.

46 RG 46 has been revised as we were concerned there was insufficient consistency or comparability in the form of disclosure applied by responsible entities and, as a result, important information was not being adequately disclosed to investors. Following the response to our consultation in Consultation Paper 163 *Unlisted property schemes: Update to RG 46* (CP 163), we have updated the existing disclosure principles and introduced disclosure benchmarks based on industry feedback. Our response to submissions on CP 163 is detailed in Report 280 *Response to submissions on CP 163 Unlisted property schemes: Update to RG 46* (REP 280), outlined in paragraphs 58–60.

RG 69 *Debentures and notes: Improving disclosure for retail investors*

47 RG 69 is for issuers and others involved with the issue of mortgage debentures, debentures, secured notes, and unsecured notes or unsecured deposit notes. While RG 69 provides guidance on how debentures and notes may be described, it also sets out our guidelines for disclosure to retail investors to help them understand and assess unlisted debentures and notes, while maintaining the flexibility of the public fundraising process.

48 Following the response to our consultation in CP 151, RG 69 has been updated to provide guidance on how debentures and notes may be described following the release of [CO 12/1482]. Our response to submissions on CP 151 is detailed in Report 276 *Response to submissions on CP 151 Debt securities: Modifying the naming provisions and advertising requirements* (REP 276), outlined in paragraphs 52–54.

RG 156 *Advertising of debentures and notes to retail investors*

49 RG 156 sets out the standards we expect to be met when advertising debentures and notes to retail investors, and when handling telephone inquiries about these products.

50 Following the response to our consultation in CP 151, RG 156 has been updated to reflect the advertising requirements applying to secured notes. Our response to submissions on CP 151 is detailed in REP 276, outlined in paragraphs 52–54.

RG 234 *Advertising financial products and advice services: Good practice guidance*

51 Following the response to our consultation in Consultation Paper 167 *Advertising financial products and advice services* (CP 167), we issued RG 234 for promoters of financial products and financial advice services, and publishers of advertising for these products and services. RG 234 contains good practice guidance to help promoters comply with their legal obligations not to make false or misleading statements or engage in misleading or deceptive conduct. Our response to submissions on CP 167 is detailed in Report 278 *Response to submissions on CP 167 Advertising financial products and advice services* (REP 278), outlined in paragraphs 55–56.

Reports

REP 276 *Response to submissions on CP 151 Debt securities: Modifying the naming provisions and advertising requirements*

52 REP 276 highlights the key issues that arose out of the submissions received on CP 151. In CP 151, we sought feedback on:

- a proposed modification of the debenture provisions of s283BH of the Corporations Act to introduce a new category, 'notes', for certain debt securities that must currently be described as 'unsecured notes'; and
- a proposal to revise our advertising standards in RG 156 and RG 45 relating to the standard concerning investors losing some or all of their principal investment.

53 We received 12 responses to CP 151 from relevant industry bodies, law firms and consumer groups. Overall, responses were supportive of the objectives behind the proposals in CP 151, although in some instances respondents asked ASIC to consider alternative proposals to achieve the same objective.

54 The most contentious issues raised by respondents related to:

- our proposal to modify the debenture naming requirements, and whether we should allow the use of the term 'secured notes', instead of the terms 'notes' or 'debentures'; and
- our proposal to revise the debt instrument advertising standards, and what alternative standard would achieve an appropriate outcome.

REP 278 *Response to submissions on CP 167 Advertising financial products and advice services*

55 REP 278 highlights the key issues that arose out of the submissions received on CP 167 and details our responses in relation to those issues. The matters we sought feedback on in CP 167 included:

- our proposal to apply the proposed guidance to publishers as well as promoters of financial products and financial advice services, to all types of financial products, and to both general and financial product advice;
- the key issues to be addressed in our guidance;
- our proposals about guidance in relation to specific advertising content; and
- our proposals to apply our guidance to advertising communicated through any medium.

56 We received 37 submissions from financial services providers and industry associations, law firms, consumer groups, and media, advertising and publishing stakeholders. Generally, respondents were supportive of the need for guidance in relation to misleading or deceptive advertising of financial products and advice services. However, some concerns were raised with particular aspects of the proposed guidance, and we revised our guidance to take many of these into account.

57 The main issues raised by respondents related to:

- the purpose of our proposed guidance;
- the relationship between advertising and disclosure;
- scalability;
- the application of our proposed guidance to publishers;
- the audience;
- ratings;
- media-specific issues; and
- internet advertising.

REP 280 *Response to submissions on CP 163 Unlisted property schemes: Update to RG 46*

58 REP 280 highlights the key issues that arose out of the submissions received on CP 163 and details our response to those issues. The matters we sought feedback on in CP 163 included:

- whether we had identified the relevant disclosure benchmarks for areas of potential risk for retail investors investing in unlisted property schemes;
- our proposal for the commencement date for responsible entities to disclose against these benchmarks to be 1 July 2012;
- specific additional information that should be disclosed in relation to the benchmarks; and
- revised guidance about ‘clear, concise and effective disclosure’.

59 We received 11 responses to CP 163, in which the main issues raised related to:

- the timing of implementation;
- for the gearing ratio and the interest cover ratio, reference to individual assets;
- distributions and the definition of realised income;
- what is considered a development and/or construction scheme; and
- the need for further guidance on clear, concise and effective disclosure.

60 REP 280 outlines how we took these issues raised in consultation into account in our update to RG 46.

REP 285 *Response to submissions on CP 141 Mortgage schemes: Strengthening the disclosure benchmarks*

61 REP 285 highlights the key issues that arose out of the submissions received on Consultation Paper 141 *Mortgage schemes: Strengthening the disclosure benchmarks* (CP 141) and details our responses to those issues. The matters we sought feedback on in CP 141 included:

- our proposals to revise our disclosure benchmarks for responsible entities of unlisted disclosure schemes by specifying additional information responsible entities should provide in relation to each benchmark;
- our proposals to provide additional guidance on compliance with the 'if not, why not' benchmarks; and
- our proposal to clarify what disclosures are required from feeder funds.

62 We received eight written responses to CP 141 from a variety of sources, including responsible entities of mortgage schemes, a consumer agency, an investor ratings provider, an industry body and law firms representing responsible entities of mortgage schemes. The main issues raised by respondents related to:

- whether the benchmarks should be updated;
- whether the 12-month estimates were useful, given that they rely on assumptions outside the responsible entity's control—other submissions sought clarification on disclosure of the estimates and expressed concerns about director liability;
- whether the introduction of an 'as is' basis for the valuation of property development loans was inconsistent with industry norms and would be inappropriate and costly for property development;
- the inconsistency between the definition of a 'liquid' scheme in the Corporations Act and our proposed Benchmark 8 on withdrawal arrangements; and
- difficulties faced by feeder funds in obtaining disclosure from the underlying funds when the responsible entities are unrelated.

63 Following the consultation process, we consider that a case remains for updating the benchmarks and creating additional disclosure principles.

C Managed investment relief

Key points

This section sets out some of the circumstances in which we have granted relief in relation to managed investment schemes, including relief under s601QA from the provisions of Ch 5C. It also outlines the publications we issued which relate to managed investment relief.

Relief for registered schemes

Relief to facilitate the operation of an escrow account

64 We granted relief from Ch 5C and certain provisions of Ch 7 for the operation of an escrow arrangement, which formed part of the structure of a trust scheme. It was considered that the escrow arrangement may meet the requirements for a managed investment scheme under the Corporations Act. As a result, the arrangement would be required to be registered under Ch 5C. An AFS licence would also be required for the provision of financial services associated with the operation of the escrow arrangement and the financial product disclosure required to be provided.

65 Relief was granted on the basis that the regulatory detriment was considered to be outweighed by the commercial benefit to the parties.

Relief from s601KB to allow 'in-specie' withdrawal from an illiquid trust

66 We granted relief from s601KB of the Corporations Act to facilitate withdrawal offers involving payments in the form of interests in another registered scheme.

67 The transaction involved setting up a new registered scheme for the purpose of facilitating withdrawal offers in two related registered schemes. The illiquid assets of the two related schemes would be transferred into the new scheme in exchange for interests in that scheme. Redemptions from the two related schemes would then be paid in cash and interests in the new (illiquid) registered scheme. The new scheme's investment objective was to achieve an orderly realisation of its assets within five years from commencement.

68 In granting relief we considered whether the scheme investors would still have the protection intended by Parliament, including the relevant protections under Ch 5C.6 of the Corporations Act. We also considered the commercial benefits to the parties to the scheme: see Regulatory Guide 136

Managed investments: Discretionary powers and closely related schemes (RG 136) at RG 136.12.

69 We also considered the effect of relief on the particular situation in which it would operate, and we raised concerns regarding possible conflicts in the responsible entity's ability to discharge its obligations to act in the best interests of the funds' existing and new members.

70 Accordingly, we granted relief subject to the conditions that:

- no interests in the new registered scheme would be issued other than to the two related schemes in return for the illiquid assets (i.e. no new investors would be accepted);
- all available cash would be distributed to investors; and
- the new scheme would be wound up in five years.

Refused relief from the financial resource requirements under s912AA(5)(a)(iii) (as notionally inserted by Class Order [CO 11/1140] *Financial requirements for responsible entities*)

71 We refused an application for an exemption from s912AA(5)(a) (as notionally inserted by [CO 11/1140]), which imposes revised minimum standards on all responsible entities to have available adequate financial resources to provide the financial services covered under their AFS licence (financial resource requirements). Relief was sought by a responsible entity that was authorised to operate managed investment schemes. The responsible entity was operating a dormant managed investment scheme, and did not derive revenue from acting as a responsible entity.

72 Relief was refused because the financial resource requirements apply to AFS licensees as a consequence of being authorised to operate managed investment schemes. We considered that to grant relief solely because the AFS licensee is operating a dormant managed investment scheme would be inconsistent with the intention of Parliament that the financial resource requirements apply to AFS licensees at all times.

73 We will also not generally give relief when there is a lawful and effective way of doing a thing without relief: see Regulatory Guide 51 *Applications for relief* (RG 51) at RG 51.55. We were not satisfied that the applicant had demonstrated that the alternatives available to it were unduly burdensome.

74 Accordingly, we considered the applicant failed to demonstrate that granting relief would result in a net regulatory benefit or that the regulatory detriment that would flow from such a relief would be minimal and clearly outweighed by a significant commercial benefit.

Underwriting

Relief from the related party underwriting requirements under Class Order [CO 05/26] *Constitutional provisions about the consideration to acquire interests*

75 We granted relief modifying s601GAA(12A) (as notionally inserted into the Corporations Act by [CO 05/26]) for the responsible entity of a registered scheme forming part of a listed stapled group. The relief allowed the responsible entity to determine the issue price of stapled securities for a rights issue underwritten by the responsible entity's associate, which did not hold an AFS licence.

76 The listed stapled group undertook a pro-rata renounceable rights issue to raise $15 million to acquire the assets and hotel operating business of its largest tenant and for working capital purposes.

77 The responsible entity could not rely on [CO 05/26] as the associate underwriter did not hold an AFS licence. As such, relief was required to enable the stapled securities issued under the rights issue to be offered at a 20% discount to the amount that would otherwise apply under the constitution of the registered scheme.

78 We granted relief in these particular circumstances because:

- the responsible entity sought, and members approved, the associate's underwriting of the rights issue under item 7 of s611. In addition, the material terms of the underwriting agreement and its potential impact on control of the listed stapled group was disclosed to members; and
- the associate of the responsible entity had not previously underwritten an issue of financial products in Australia and was not seeking to pursue any future underwriting mandates.

Deregistration

Relief from certain compliance obligations for a registered scheme

79 We granted relief from Pts 5C.4 and 5C.5 (except s601JF and 601JG) for the period from an application for deregistration of a registered scheme being made to the date the notice of deregistration is given by ASIC. The relief was requested in relation to the implementation of a trust scheme.

80 Relief was granted for the following reasons:

- the members of the registered scheme at the time of application for deregistration (and implementation) would all be wholesale clients, that

this was not intended to change, and was unlikely to change until deregistration of the scheme;

- compliance with the requirements of Pts 5C.4 and 5C.5 was considered to be disproportionately burdensome in the circumstances; and
- relief was not considered to compromise the protection intended by Parliament under Pts 5C.4 and 5C.5.

81 Relief was consistent with our policy stated in RG 136.

Replacement of responsible entity

Withdrawal of application for relief to enable replacement of responsible entity without a members' meeting

82 We considered an application for relief from s601FL to facilitate the retirement of the responsible entity of a registered IDPS and replace it with another responsible entity without holding a members' meeting under s601FL.

83 Section 601FL requires the members of a registered scheme to pass an extraordinary resolution (i.e. a resolution that is passed by at least 50% of the total votes cast by members entitled to vote on the resolution) to change the responsible entity of an unlisted scheme.

84 We considered the application was not within existing policy for granting relief because:

- the current and proposed responsible entity are not related bodies corporate;
- s601FL(1) affords member protection by requiring an extraordinary resolution to change the responsible entity of a registered scheme and we were not satisfied that the responsible entity had demonstrated that it was not possible to achieve an extraordinary resolution due to insufficient or lack of interest by members in voting on the resolution; and
- the commercial benefits that would flow from granting relief did not appear to outweigh the regulatory detriment in removing the legislative protections under s601FL(1).

85 Accordingly, we were minded to refuse the application, although the application was subsequently withdrawn.

IDPS relief

Refused relief to operate an investor director portfolio service in which discretionary trading can be conducted

86 In the matter referred to in paragraph 34, we also refused an application for relief from Pts 7.8 and 7.9 of the Corporations Act to operate an IDPS, in the form of Class Order [CO 02/294] *Investor directed portfolio services*, with an amended definition of an IDPS to facilitate discretionary trading on behalf of investors by external investment managers. Relief was refused for the same reasons as outlined in paragraph 34.

Publications

87 We issued the following publications in relation to managed investment relief during the period of this report.

Class orders

Class Order [CO 12/158] *Variation of Class Order [CO 10/333] Funded representative proceedings and funded proof of debt arrangements*

88 [CO 12/158] further enables the temporary operation of a litigation funding scheme and a proof of debt funding scheme that is characterised as a managed investment scheme under the Corporations Act without compliance with the requirements of the Act until 30 September 2012.

89 [CO 12/158] also extends the transitional relief from the requirements in the Corporations Act for a litigation funding arrangement and a proof of debt funding arrangement that is otherwise characterised as a financial product until 30 September 2012.

90 This is to allow additional time for the Australian Government to implement the legislative reform for litigation funding schemes and proof of debt schemes.

Class Order [CO 12/415] *In-use notices for employer sponsored superannuation*

91 [CO 12/415] has substantially the same operative effect as the original Class Order [CO 04/1030] *In-use notices for employer sponsored superannuation*. [CO 12/415] provides an alternative to lodging multiple in-use notices under s1015D(2) of the Corporations Act for certain standard employer-sponsored superannuation funds. It remains open to responsible persons not wishing to utilise the class order to notify ASIC under the existing in-use provisions.

92 The class order permits the lodgement of a single in-use notice in relation to the common part used by each PDS for standard employer-sponsored superannuation products. Issuers using this new procedure will also be required to provide ASIC with a list of those superannuation products that have used that common part. This list must be updated on a monthly basis.

93 Instead of lodging an in-use notice with ASIC in relation to every PDS that is in use, the class order allows the lodgement of one primary notice in circumstances where a number of PDSs share the same common part.

Class Order [CO 12/416] *In-use notices for employer sponsored superannuation (retrospective)* [expired 2/5/2012]

94 [CO 12/416] retrospectively reinstates the effect of [CO 04/1030] from the date it became unenforceable (1 October 2006) until the commencement of [CO 12/415].

Class Order [CO 12/417] *Information in a Financial Services Guide given in a time-critical situation*

95 [CO 12/417] prospectively reinstates the effect of Class Order [CO 04/1055] *Information in a Financial Services Guide given in a time critical situation*. This effect is that information in an FSG given in a time-critical situation need only be up to date as at the time the earlier statement of key information was given to a retail client. In other words, an FSG given after the provision of a financial service in a time-critical case will be the same as an FSG that is given before the provision of a financial service in normal cases.

Class Order [CO 12/418] *Information in a Financial Services Guide given in a time-critical situation (retrospective)* [expired 2/5/2012]

96 [CO 12/418] retrospectively reinstates the effect of [CO 04/1055] from the date it became unenforceable (1 October 2006) until the commencement of [CO 12/417].

Consultation paper

CP 176 *Review of ASIC policy on platforms: Update to RG 148*

97 CP 176 set out our proposals for revising our guidance on platforms in RG 148 and accompanying class order relief. The proposals were based on our previous consultation with, and recent review of, the platforms sector.

98 CP 176 sought feedback on our proposals from:

- platform operators, including operators of IDPSs and responsible entities of IDPS-like schemes;
- dealer groups and their associate adviser networks;
- industry associations,

- financial consumer and investor advocacy groups; and
- other interested parties, including product issuers such as fund managers, custodians and trustees of superannuation master trusts.

Report

REP 282 *Regulation of exchange traded funds*

99 REP 282 explains how exchange traded funds (ETFs) are regulated in Australia and how proposed international principles for regulating ETFs may apply in the Australian context.

100 REP 282 also outlines some circumstances in which we have given limited case-by-case relief on application by the responsible entity of an ETF.

D Mergers and acquisitions relief

Key points

This section outlines some of the circumstances in which we have granted or refused relief from the provisions of Chs 2J, 6, 6A and 6C under s259C, 655A, 669 and 673 respectively. It also outlines the publications we issued which relate to mergers and acquisitions relief.

Buy-back relief

Relief to facilitate an unusual buy-back

101 We provided relief to an ASX-listed company that wished to make a non-cash consideration buy-back offer to its shareholders, excluding some of its foreign shareholders. The consideration offered in the buy-back was shares in an unlisted UK company. The only shareholders who were not made an offer under the buy-back were US-based holders, who together held only 1.5% of the company's shares, and a large proportion of shareholders were based in Europe.

102 While we considered it would not be fair to the majority of shareholders if the small number of US-based shareholders could alone decide whether or not the buy-back offer would be made, we were also of the view the buy-back was selective in nature as it appeared to be primarily aimed at the European shareholders of the company. Accordingly, our relief removed the selective buy-back voting restriction so that all shareholders of the company could vote on the resolution to approve the offer, but left in place the requirement for approval by special resolution.

Share buy-back relief for unlisted private company

103 We granted relief to enable an unlisted private company to undertake a tender-style share buy-back without having to seek shareholder approval at a meeting under s257D(1). Relief was granted because we were satisfied that shareholders had enough information to assess the value of their shareholdings before tendering their shares—in this case, the company had provided quarterly valuations on a net tangible asset basis to its shareholders over the last 10 years.

Relevant interest

Acquisition of relevant interest in securities through offers of unlisted instalment warrants

104 We granted relief to modify s609 for two entities that had mechanical roles in the offer of unlisted instalment warrants over ASX-listed securities so that neither would obtain a relevant interest in those securities. Relief was provided to an entity that was both instalment issuer and creditor, which had limited power to dispose of the interests in order to enforce the terms of the trust or in the case of default. Relief was also provided to the security trustee, which held legal title but was not a bare trustee. In both cases the relief was granted on the basis of the analogous relief we provide to warrant issuers and trustees in relation to listed warrants in Class Order [CO 02/925] *Call warrant takeovers relief* and Class Order [CO 02/927] *Warrant trustee takeovers relief*—namely, the limited nature of the power and the immateriality of the information that disclosure would provide to the market as described in Regulatory Guide 143 *Takeovers provisions: Warrants* (RG 143).

Publications

105 We issued the following publications in relation to mergers and acquisitions relief and self-acquisition relief during the period of this report.

Regulatory guides

RG 71 *Downstream acquisitions*

106 Following our consultation in Consultation Paper 170 *Downstream acquisitions: Update to RG 71* (CP 170), we updated our guidance on when we will grant relief to permit a downstream acquisition that does not satisfy the exemption in item 14 of s611 (item 14) of the Corporations Act). Our response to submissions on CP 170 is detailed in Report 286 *Response to submissions on CP 170 Downstream acquisitions: Update to RG 71* (REP 286), outlined in paragraphs 114–116.

107 Before this update, RG 71 was drafted to reflect the predecessor provision to item 14, which was more limited than the current exemption in item 14. However, the principles relevant to when we will grant relief to permit a downstream acquisition that does not satisfy the exemption in item 14 have not significantly changed in the intervening period.

RG 233 *Indirect self-acquisition: Relief for investment funds*

108 Following our consultation in Consultation Paper 137 *Indirect self-acquisition by investment funds: Further consultation* (CP 137) and

Consultation Paper 162 *Indirect self-acquisition by investment funds—Employee share schemes* (CP 162), we issued RG 233 in relation to indirect self-acquisitions by investment funds, similar entities and controlled entities of listed companies engaged in index arbitrage and client-driven activities involving baskets of securities. Our response to submissions on CP 137 and CP 162 is detailed in Report 275 *Response to submissions on CP 137 Indirect self-acquisition by investment funds: Further consultation and CP 162 Indirect self-acquisition by investment funds—Employee share schemes* (REP 275), outlined in paragraphs 110–111.

109 RG 233 explains the conditional relief we may grant under s259C(2) from the indirect self-acquisition provisions in s259C for these entities.

Reports

REP 275 *Response to submissions on CP 137 Indirect self-acquisition by investment funds: Further consultation and CP 162 Indirect self-acquisition by investment funds—Employee share schemes*

110 REP 275 highlights the key issues that arose out of the submissions received on CP 137 and CP 162, and details our responses to those issues.

111 CP 137 sought feedback on our proposals relating to:

- sunsetting case-by-case relief;
- controlled trustees and responsible entities;
- investment-linked statutory funds and related managed investment schemes;
- index arbitrage; and
- disclosure of interests in the company's shares by its controlled entities.

112 CP 162 sought feedback on our proposals relating to:

- the formulation of a standard relief condition outlined in Consultation Paper 1 *Indirect self acquisition by investment funds* (CP 1); and
- the treatment of interests acquired by the company or its controlled entities under employee share schemes.

113 We received seven written submissions in response to CP 137, and three written submissions in response to CP 162. After considering these submissions, we decided that we will generally grant case-by-case relief from s259C for investment funds and similar entities without a sunset clause. We also decided that we will not impose an additional condition on the level of holdings in the investment fund by controlled entities, and amended the method of calculating the limit of the controller's voting shares which controlled entities may exercise control over.

REP 286 *Response to submissions on CP 170 Downstream acquisitions: Update to RG 71*

114 REP 286 highlights the key issues that arose out of the submissions received on CP 170, which consulted on our proposals to update and revise our guidance in RG 71, and our responses to those issues.

115 In CP 170, we sought feedback on matters including our proposals to:

- update our guidance on the exemption in item 16 of s611;
- provide guidance on the factors we will take into account when granting relief, including the key concepts of 'control purpose' and 'substantial assets'; and
- provide guidance on relief conditions, including an independent expert's valuation to determine fair value in a downstream bid, standstill and voting conditions, and a potential sell-down condition.

116 We received five written submissions in response to CP 170, with the main comments relating to our approach to the exemption in item 14 of s611, our relief for downstream acquisitions, the factors relevant to our decision on whether or not to grant relief, and the conditions of relief.

E Conduct relief

Key points

This section outlines some of our decisions to grant relief from certain conduct obligations imposed by Chs 2C, 2D, 2G, 2M, 5C and 7.

Financial reporting relief

Relief granted from the requirement to synchronise the financial year of a controlled registered scheme

117 We granted conditional relief from the s323D(3) requirement for a corporate group required to prepare consolidated financial statements to ensure that the financial years of all the consolidated entities are synchronised within 12 months. The corporate group held most of the interests in a registered scheme, which were acquired under a hedging contract. The companies in the corporate group had a financial year end of 31 March and the scheme had a financial year end of 30 June.

118 The applicants submitted that synchronisation would result in substantial costs that would outweigh any benefits that would arise from synchronisation. The applicants had taken reasonable steps to get the registered scheme to change its financial year, but synchronisation had not occurred because the applicants did not control the responsible entity of the scheme. The applicants held the interest in the scheme for hedging purposes only, had no real economic interest in the scheme and no control over the scheme's operations. The applicants were required to consolidate the scheme in the applicants' consolidated financial statements because of the broad scope of the consolidation rules under the Australian accounting standards.

119 We considered that relief from the synchronisation requirement should be granted because, in light of the circumstances in which the applicants were caught by the requirement to prepare consolidated financial statements in respect of the scheme, complying with the synchronisation requirement would result in unreasonable burdens. We were satisfied that the applicants had taken all reasonable steps to achieve synchronisation. Further, we considered that granting relief would be unlikely to cause detriment to any users of the accounts.

120 We granted relief on the following conditions:

- the applicants prepare consolidated financial statements as if the financial year of the scheme were synchronised with the financial year of the applicants;

- for each financial year that the applicants rely on this relief, the directors of the applicants must include a brief statement in the annual financial reports explaining the effect of the relief; and
- the applicants must not hold all of the interests in the scheme.

Deeds of cross guarantee

Variation of a deed of cross guarantee

121 We granted relief based on Class Order [CO 98/1418] *Wholly-owned entities* in circumstances where the holding company under the deed of cross guarantee proposed the disposal of 50% of the issued shares in several wholly owned group entities to form a new joint venture with a third party. Our relief enabled the joint venture subsidiaries to be released from their obligations under the deed of cross guarantee via the disposal certification and notice mechanisms in clause 4.2(c) of the deed even though:

- the temporary acquirer was an associate of the holding company; and
- the disposal was not of 100% of the holding company's interests in the subsidiaries.

122 In granting relief we considered whether the interests of creditors of the subsidiaries and of the other group companies would be adversely affected. In addition, the terms of relief required the trustee under the deed to hold the opinion that the variation would not result in a breach of its fiduciary duties to creditors.

Relief varying a definition in [CO 98/1418]

123 We granted relief modifying the definition of 'wholly owned entities' in [CO 98/1418] to enable certain wholly owned entities within a corporate group to continue to be a party to an existing deed of cross guarantee with their Australian parent entity, and be relieved from the requirement to prepare and lodge audited financial statements under Ch 2M.

124 Before a recent corporate group restructure, all the entities that are party to the deed were all wholly owned by the Australian parent entity. However, as part of the restructure, the Australian parent entity had transferred its majority interest in one of its wholly owned subsidiaries to a newly established company (sister company) within the wider corporate group. As a result, a number of entities that are party to the deed ceased to be wholly owned by the Australian parent entity, which is required to prepare and lodge audited consolidated financial statements for the group of companies that are parties to the deed.

125 We granted conditional relief in these particular circumstances because:

- the entities that had ceased to be wholly owned by the Australian parent entity continue to be indirectly wholly owned by the overseas parent entity;
- the Australian parent entity and the sister company are wholly owned by the overseas parent entity;
- the entities that had ceased to be wholly owned by the Australian parent entity are dormant and had no external creditors and shareholders; and
- we were satisfied that the commercial benefit of granting the relief outweighed the regulatory detriment.

126 Relief was conditional on all the entities the subject of the relief remaining wholly owned subsidiaries of the overseas parent entity, either directly or indirectly, and remaining dormant. Relief was also conditional on the overseas parent entity and the sister company acknowledging the existence of the deed and giving an undertaking not to challenge its validity.

Register of members

Refused no-action letter for use of register of members by a stockbroker for soliciting

127 We refused a no-action letter in relation to potential breaches of s177(1AA), which prohibits a person who is authorised under the Corporations Act to assume or use the term ‘stockbroker’ or ‘sharebroker’ from using information obtained from a company’s register of members for the purpose of ‘soliciting’ a member of a company.

128 The no-action letter was sought in relation to the use of shareholder details to contact shareholders of a company for the purposes of offering them a complimentary research report prepared by the applicant. We refused the application as this practice would be directly inconsistent with the underlying policy of this relatively recent amendment to the Corporations Act.

Financial services providers

Refused relief for approval of alternative compensation arrangements

129 We refused an application to approve alternative compensation arrangements under s912B(2)(b). Instead of holding professional indemnity insurance, the applicant proposed to set aside $1,500 each year to cover potential financial losses to the licensees in carrying out its financial services business. The applicant had submitted that it was unable to find a professional indemnity insurance policy that would provide adequate compensation.

130 Our policy objective in administering the compensation requirements, as stated in Regulatory Guide 126 *Compensation and insurance arrangements for AFS licensees* (RG 126), is to reduce the risk that a retail client's losses (due to breaches of Ch 7 for which a licensee is responsible) cannot be compensated by a licensee because of a lack of financial resources. We considered that the applicant's suggested alternative arrangement would not support our policy objective.

Refused application for a no-action letter for breach of base level financial requirements

131 We refused an application for a no-action letter for the breach by an AFS licensee of its AFS licence requirement to have assets exceeding liabilities. For approximately three and a half years, the licensee had for relied on a bank guarantee of a specified sum in order to calculate its adjusted assets and thereby comply with its base level financial requirements. It became apparent in 2012 that the bank guarantee the licensee had been relying on was unlikely to satisfy the criteria of an 'eligible undertaking' in RG 166. The licensee therefore could not, during the relevant three-and-a-half-year period, use the guarantee amount in calculating its adjusted assets and had breached its base level financial requirements.

132 We refused the application in accordance with our policy in Regulatory Guide 108 *No-action letters* (RG 108), because we considered that in these circumstances providing a no-action letter would not serve a clear regulatory purpose.

No-action letter to entity issuing a non-cash payment facility

133 We granted a no-action letter to an entity in relation to past and transitional conduct of dealing in a non-cash payment (NCP) facility without holding an AFS licence. The facility is an online account that allows users to transfer funds to other account holders. The NCP facility shares many features with those described in Class Order [CO 05/736] *Low value non-cash payment facilities*.

134 We issued the no-action letter because we were satisfied that:

- it would serve a regulatory purpose to allow the small number of existing facilities to operate while the entity changed its systems to comply with [CO 05/736];
- the associated consumer detriment was minimal, given the simple nature of the NCP facility and the small amount of funds involved; and
- it would be a significant compliance burden to take other action while the entity was working towards full compliance with [CO 05/736].

F Credit relief

Key points

This section outlines our update to Regulatory Guide 204 *Applying for and varying a credit licence* (RG 204).

Publications

135 We issued the following publication in relation to credit relief during the period of this report.

Regulatory guide

RG 204 *Applying for and varying a credit licence*

136 We have updated RG 204 with guidance for people wanting to apply for a credit licence. RG 204 was first issued in December 2009 for guidance to prospective credit licensees on the implementation of the National Credit Act.

137 RG 204 explains how to apply for a credit licence using the online application and how to apply for a variation of a credit licence if your business changes after you are granted a licence. RG 204 also provides a roadmap to other guidance that is useful for credit licensees and applicants for credit licences.

G Other relief

Key points

This section outlines a decision we have made that does not fall within any of the categories mentioned in previous sections and that may be significant to other participants in the financial services and capital markets industries.

Relief granted

Approval to be an eligible provider under [CO 11/1140]

138 We granted approval to a parent entity to be an eligible provider under the [CO 11/1140] for the purpose of assisting the responsible entities in meeting their financial requirements. The parent entity sought confirmation from ASIC that it was an entity of financial substance under RG 166.197(g).

139 The approval was given because all four of the parent entity's base level financial requirements in RG 166.23 were satisfied, the minimum net tangible assets under RG 166.67 and liquidity requirements under RG 166.72 were met, and the parent entity was a registered non-operating holding company (NOHC) with the Australian Prudential Regulation Authority (APRA). The parent entity's NOHC status and the related prudential requirements effectively imposed similarly strict financial requirements to the standards imposed on Australian authorised deposit-taking institution for the purposes of capital adequacy and liquidity.

140 Our approval was conditional on the parent entity ensuring that the circumstances above were maintained for as long as the parent was still an eligible provider to the responsible entities.

Appendix: ASIC relief instruments

This table lists the relief instruments we have executed for matters that are referred to in this report and that are publicly available. The instruments are published in the *ASIC Gazette*, which is available via www.asic.gov.au/gazettes, except for credit instruments (marked with asterisks), which are published on our website under 'Credit relief'.

Table 1: ASIC relief instruments

Report para no.	Entity name	Instrument no. (Gazette no. if applicable)	Date executed	Power exercised and nature of relief	Expiry date
8–11, 30–31	Glencore International plc	12-0628 (in A044/12)	16/05/12	s741(1)(a), 911A(2)(l), 992B(1)(a) and 1020F(1)(a), Corporations Act Relief from licensing and disclosure obligations in relation to the exchange of employee options after the merger of two foreign companies.	
32–33	Macquarie Group Limited	12-0288 (in A021/12)	7/03/12	s741(1)(b), Corporations Act Relief from prospectus requirements in relation to the on-sale of continuously quoted securities to be issued on conversion of convertible notes issued to wholesale investors without disclosure, where the issuer of the convertible notes is an indirect subsidiary of the issuer of the continuously quoted securities.	

Report para no.	Entity name	Instrument no. (Gazette no. if applicable)	Date executed	Power exercised and nature of relief	Expiry date
64–65	Charter Hall Escrow Agent Pty Limited ACN 111 041 564, Charter Hall Funds Management Limited ACN 082 991 786 in its capacity as responsible entity of the Charter Hall Property Trust ARSN 113 339 147, Public Sector Pension Investment Board (incorporated in Canada as a Crown Corporation under the *Public Sector Pension Investment Board Act* (Canada)), Reco Ambrosia Pte Ltd (incorporated in Singapore, and an affiliate of the Government of Singapore Investment Corporation (Realty) Pte Ltd), Charter Hall Office Management Ltd ACN 006765206 as responsible entity for the Charter Hall Office REIT ARSN 093 016 838	12-0317 (in A023/12)	14/03/2012	s601QA(1)(a), 911A(2)(l), 926A(2)(a), 951B(1)(a) and 1020F(1)(a), Corporations Act Relief from Ch 5C and Ch 7 for the operation of an escrow account in relation to a trust scheme.	
66–70	APN Funds Management Limited ACN 080 674 479 in its capacity as responsible entity of the APN Property for Income Fund ARSN 090 467 208 and APN Property for Income Fund 2 ARSN 113 296 110	12-0523 (in A042/12)	24/04/12	s601QA(1)(b), Corporations Act Relief modifying s601KB(1) and 601KB(3) to enable the responsible entity of two illiquid schemes to offer members an opportunity to withdraw, partly or wholly, from the schemes by paying cash and units in a newly established sub-trust.	

Report para no.	Entity name	Instrument no. (Gazette no. if applicable)	Date executed	Power exercised and nature of relief	Expiry date
75–78	Bodiam RE Limited ACN 145 968 574 as responsible entity of the IEF Real Estate Entertainment Group ARSN 108 982 627	12-0505 (in A042/12)	08/05/2012	s601QA(1)(b), Corporations Act Relief modifying s601GAA(12A) (as notionally inserted into the Corporations Act by [CO 05/26]) to enable a responsible entity of a registered scheme to determine the issue price of stapled securities issued under a rights issue that was underwritten by an associate of the responsible entity that did not hold an AFS licence.	
79–81	Charter Hall Office Management Ltd ACN 006765206 as responsible entity for the Charter Hall Office REIT ARSN 093 016 838	12-0321 (in A023/12)	14/03/2012	s601QA(1)(a), Corporations Act Relief from Pts 5C.4 and 5C.5 (except s601JF and 601JG).	
103	The Myer Family Company Holdings Pty Ltd	12-0232	24/02/2012	s257D(4), Corporations Act Relief to permit a tender-style share buy-back to proceed without having to seek shareholder approval at a meeting under s257D(1).	
104	Goldman Sachs Financial Markets Pty Ltd, Goldman Sachs Australia Pty Ltd	12-0643 (in A046/12)	17/05/2012	s655A(1), Corporations Act Relief to modify s609 so that the creditor, trustee and issuer of instalment warrants do not hold relevant interests in those securities.	