



**ASIC**

Australian Securities & Investments Commission

## **[CO 01/50]**

### **Differential fees**

*17/1/2001*

*Class Order [CO 01/50] provides an exemption from paragraph 601FC(1)(d) of the Corporations Law in relation to the imposition of certain differential fee arrangements by responsible entities of registered managed investment schemes.*

*See Information Release [IR 01/02]*

| <i>Amending class order</i> | <i>Date of operation</i> |
|-----------------------------|--------------------------|
| <i>[CO 01/51]</i>           | <i>19/1/2001</i>         |

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Australian Securities and Investments Commission

Corporations Law

Paragraph 601QA(1)(a) — Exemption

Under paragraph 601QA(1)(a) of the Corporations Law (the Law) the Australian Securities and Investments Commission hereby exempts each person referred to in Schedule A from paragraph 601FC(1)(d) of the Law in the cases referred to in Schedule B on the conditions set out in Schedule C and for so long as they are met.

#### SCHEDULE A

The responsible entity of a registered managed investment scheme (the "responsible entity").

## SCHEDULE B

- 1 The charging, rebating or waiving of fees including entry, exit and periodic fees ("management fees") by the responsible entity to members on a basis that differs from that applying to other members of the same class and that is based on:
  - (a) the total value of interests held by the member in the scheme or in the scheme together with all or any specified other managed investment schemes operated by the responsible entity; or
  - (b) the member having acquired their interests under a switching facility that involved the member first withdrawing from another managed investment scheme operated by the responsible entity.
  
- 2 The charging, rebating or waiving of management fees by the responsible entity to a member who acquired their interests in the scheme in response to an offer to which subsection 708(8) or subsection 708(11) applies ("sophisticated or professional investor") on a basis that differs from that applying to other members who hold interests of the same class and that is based on individual negotiation between the responsible entity and that member.

## SCHEDULE C

- 1 The responsible entity must ensure that:
  - (a) where a differential fee arrangement of a kind referred to in paragraph 1 of Schedule B is in place or is to be offered, a statement of the basis upon which the differential fee will be calculated and which specifies the fees members will have to bear; and
  - (b) where a differential fee arrangement of a kind referred to in paragraph 2 of Schedule B is in place or is to be offered to certain sophisticated or professional investors, a statement of that fact,  
  
is disclosed:
    - (c) to existing members of the scheme by no later than the date of the first communication which the responsible entity makes to all members which is made both:
      - (i) after the date when the differential fee arrangement

is first offered; and

(ii) after 18 March 2001; and

(d) in any disclosure document used for an offer of interests in the scheme.

*[Historical note: Para 1(b) of Schedule C of [CO 01/50] was amended 19/1/2001 by replacing the words "if fees may be individually negotiated with" with the words "where a differential fee arrangement of a kind referred to in paragraph 2 of Schedule B is in place or is to be offered to".*

*Para 1(c) was replaced in its entirety 19/1/2001. It previously read: "to existing members of the scheme by no later than the date of the first communication the responsible entity makes to all members after 18 March 2001; and".]*

2 The responsible entity must ensure that the differential fee arrangements referred to in Schedule B do not adversely affect the fees that are paid or to be paid by any other member of the scheme who is not a party to those fee arrangements.

Dated the 17th day of January 2001

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