



ASIC

Australian Securities & Investments Commission

[CO 02/1399]

Operators of IDPS-like managed investment schemes – variation of old law licence

Issued 20/12/2002

Class Order [CO 02/1399] applies to licensees who are currently licensed under the pre-FSR regime to operate IDPS-like managed investment schemes. The relief modifies the transitional provisions of the Corporations Act to allow these licensees to vary their old law licence to enable them to operate an IDPS.

Australian Securities and Investments Commission
Corporations Act 2001 – Subsection 1437(2) – Declaration

Under subsection 1437(2) of the *Corporations Act 2001* (the “Act”), the Australian Securities and Investments Commission declares that Subdivision D of Division 1 of Part 10.2 (other than section 1436A) and any associated provisions have effect in relation to the class of persons referred to in the Schedule as if:

- (1) the third column of item 1 of the table in subsection 1430(1) (whether or not modified or varied by another instrument under subsection 1437(2) in relation to some or all of those persons) were modified or varied by adding at the end the following words:

“And such other activities as are involved in the operation of an IDPS as defined in the instrument issued under paragraphs 601QA(1)(a), 741(1)(a), 992B(1)(a) and 1020F(1)(a) dated 11 March 2002 known as ASIC Class Order [CO 02/294] which the person is authorised to carry on by reason of a variation to the licence made after the FSR commencement.”;

- (2) paragraph 1432(1)(a) were modified or varied by omitting the word “activities;” and substituting the words “activities (including in the case of a regulated principal referred to in item 1 of the table in subsection 1430(1), the making of an application to vary the

relevant dealers licence and the granting or refusal of that application);” and

- (3) paragraph 1432(1)(b) were modified or varied by omitting the word “activities;” and substituting the words “activities (including in the case of a regulated principal referred to in item 1 of the table in subsection 1430(1), the making of an application to vary the relevant dealers licence and the granting or refusal of that application).”.

Schedule

A regulated principal of a kind referred to in item 1 of the table in subsection 1430(1) which is authorised by its dealers licence to operate a registered scheme which has a constitution that has provisions to the effect that:

- (a) a member may direct that an amount of money corresponding to part or all of the amount invested by the member in the scheme be invested in specified assets (“underlying investments”) including without limitation, financial products; and
- (b) the distributions of capital and income from the scheme to the member in relation to their interests in the scheme will be determined by reference to amounts received by the custodian in relation to the underlying investments acquired in accordance with that direction.

Note: Registered schemes with constitutions containing provisions to this effect may be referred to in a dealers licence as either a member discretionary master fund or an IDPS like scheme.

Interpretation

In this instrument:

1. “associated provisions” has the meaning given by subsection 1410(1);
2. “custodian” means a person that holds property of a registered scheme and who may also be the responsible entity of the scheme; and
3. references to provisions are references to provisions of the Act.

Dated this 20th day of December 2002

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