



ASIC

Australian Securities & Investments Commission

REPORT 435

Overview of decisions on relief applications (October 2014 to January 2015)

May 2015

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 October 2014 to 31 January 2015. 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*.

It also refers to a number of publications issued by ASIC during the period 1 October 2014 to 31 January 2015 that may be relevant to prospective applicants for relief, including class orders, consultation papers, regulatory guides and reports.

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* and/or the *National Consumer Credit Protection Act 2009*, and other applicable laws apply to you. It is your responsibility to determine your obligations and to obtain any necessary professional advice.

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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), 2G (meetings), 2M (financial reports and audit), 5C (managed investment schemes), 6 (takeovers), 6D (fundraising) and 7 (financial services and markets).
- 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.
- 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 and the National Credit Act.
- 4 This report covers the period beginning 1 October 2014 and ending 31 January 2015. During this period we received 862 applications. We granted relief in relation to 542 applications and refused relief in relation to 61 applications; 122 applications were withdrawn. The remaining 137 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.
- 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). A register of waivers, including class rule waivers, granted under ASIC market integrity rules is published via www.asic.gov.au/markets under 'market integrity rules' on our website. For information and media releases on the matters and publications referred to in this report, see www.asic.gov.au/mr.

A AFS licensing relief

Key points

This section outlines some of our decisions on whether to grant relief under Ch 7 of the Corporations Act, including under s911A(2) and 926A(2), from the requirement to hold an Australian financial services (AFS) licence and other AFS licensing requirements. We did not issue any relevant publications in relation to AFS licensing relief during the period of this report.

AFS licence requirements

Relief from holding an AFS licence

National Electronic Conveyancing Scheme entity

- 8 We granted relief from the requirement to hold an AFS licence to a special-purpose entity set up to initiate and manage the National Electronic Conveyancing Scheme (National EC Scheme). We granted this relief under s911A(2)(l).
- 9 The relief was necessary because the payment processes under the National EC Scheme could potentially involve the provision of a non-cash payment facility to subscribers under the scheme.
- 10 We decided to grant relief to the applicant as current exemptions relating to ultimate settlement systems strongly indicate that it was not the intention of Parliament that arrangements of the kind proposed would be regulated by the Corporations Act.
- 11 We considered that there would minimal risk of regulatory detriment as a result of granting the relief because the applicant and participants in the National EC Scheme are subject to alternative regulation, including regulation by an industry-specific advisory council, the Australian Registrars' National Electronic Conveyancing Council. We also considered that the risk of consumer detriment was minimal because the applicant was not an issuer to consumers and had a robust system in place to manage mistaken payments, cooperation and returns.

Grain grower cooperative

- 12 We granted conditional relief from the requirement to hold an AFS licence to a grain grower cooperative. We granted this relief under s911A(2)(l). The cooperative sought the relief in relation to contractual arrangements entered into with parties that supply grain to the annual grain pools.

- 13 The relief was required because a number of participants would not be considered to be ‘wholesale clients’ for the purposes of Class Order [CO 02/211] *Managed investment schemes—interests not for money*.
- 14 We granted this relief in line with similar relief provided to grain pools and the policy underlying [CO 02/211], contained in Regulatory Guide 80 *Managed investment schemes—interests not for money* (RG 80). We also granted the cooperative relief under s601QA from the managed investment provisions in Ch 5C: see paragraphs 100–101.

Other licensing relief

Appointment of another AFS licensee as an authorised representative

- 15 We granted relief from s916D(1) to enable an intermediary with an AFS licence to appoint another AFS licensee as an authorised representative in relation to dealing in and providing general financial product advice about life risk products.
- 16 The relief applies in circumstances where the AFS licensee, appointed as an authorised representative, does not hold any authorisation in relation to the risk insurance products under its AFS licence.
- 17 We were satisfied that the risk of consumer confusion about who was responsible for the provision of services was minimised by conditions ensuring adequate disclosure. Further, we considered that consumers remain protected from the risk of loss by a condition that ensures that the intermediary is responsible for the conduct of the authorised representative, as well as a requirement that the authorised licensee hold adequate professional indemnity insurance.

Relief from the requirement to appoint persons as authorised representatives

- 18 We granted conditional relief from the administrative requirements associated with appointing authorised representatives to the issuer of a non-cash payment facility. We granted this relief under s926A(2).
- 19 The payment facility is issued to customers of two telecommunications providers for use on their mobile phone. The relief we provided deems the telecommunications providers’ distribution networks to be the representatives of the AFS licensee that issues the non-cash payment facility.
- 20 We granted the relief because we considered the cost of compliance with the requirement to appoint authorised representatives was unduly burdensome, given the significant size of the distribution networks and the very limited

nature of the distributors' conduct. We considered that the relief involved minimal risks for consumers because the AFS licensee is responsible for the conduct and competence of the distributors in the same way it is responsible for its authorised representatives.

B Disclosure relief

Key points

This section outlines some of the applications we have decided that relate to the requirements in Ch 6D of the Corporations Act 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 that relate to disclosure relief.

Relief associated with prospectuses

Advertising and pre-registration activities related to an initial public offering (IPO)

- 21 We made an in-principle decision to grant conditional relief from s734, so that an entity could communicate with its employees about an IPO prior to the lodgement of a prospectus.
- 22 The relief was intended to allow the entity to communicate general, non-promotional information about the IPO to employees, on the condition that the information communicated would not include the advantages and disadvantages of the offer.
- 23 However, the applicant delayed its request for relief because it was considering a private sale. We subsequently refused the application as the applicant did not provide confirmation of the relief requested until one day before the prospectus was due to be lodged. We were not satisfied that relief was necessary at that stage of the transaction.

Disclosure for offer of securities in a reconstruction

- 24 We provided conditional relief from Pts 6D.2 and 6D.3 and s707 to a disclosing entity and its shareholders, so that a prospectus would not be required for a reconstruction involving the sale of assets to a wholly owned unlisted subsidiary and the shareholders could on-sell their shares after the reconstruction.
- 25 The consideration to be provided was the transfer of shares from the wholly owned unlisted subsidiary to the disclosing entity's shareholders by way of an *in-specie* distribution, facilitated by an equal capital reduction. The outcome of the transaction would be that the shareholders would hold an equal proportionate interest in both the disclosing entity and the unlisted subsidiary.

- 26 Although the shareholders' interests were to be separated into an unlisted entity, we considered that there would be no change in the underlying business or assets as the shareholders would retain the same proportionate interest in the rights and liabilities of the business. This view is consistent with precedent and the policy contained in Regulatory Guide 188 *Disclosure in reconstructions* (RG 188). We granted relief on the condition that the shareholders were adequately informed about the transaction in the notice of meeting to approve the capital reduction.
- 27 Furthermore, we granted the relief because we were satisfied that the cost of preparing a prospectus was not justified when there was no change in the underlying business or assets. This is because we do not consider that the shareholders were required to make a new investment decision when considering the reconstruction.

Disclosure relief for offers of convertible notes

- 28 We were minded to refuse to give relief to the unlisted subsidiary of a listed company that sought to offer convertible notes under s713 where the notes were convertible into the listed company's shares.
- 29 This type of relief is similar to the relief provided by Class Order [CO 00/195] *Offer of convertible securities under s713*, which enables a listed company to use a 'transaction specific' prospectus for the offer of convertible securities that are not in a class of quoted securities, provided the convertible securities convert into securities that are in a class of quoted securities.
- 30 Although this type of relief is fairly standard, we were minded to refuse the application due to concerns that the listed company was not proposing to seek shareholder approval under Ch 2E for a financial benefit that the offer would arguably give to a substantial shareholder. The offer was ultimately the subject of orders by the Takeovers Panel that resolved the related party issue, and the offer was made under s710.

Relief associated with providing a financial service

Fee disclosure

- 31 We refused to give a determination under reg 7.7.11B(2) of the Corporations Regulations 2001 (Corporations Regulations) to a financial adviser. The firm requested a determination that describing the bonus opportunity offered to its authorised representatives as a dollar amount or as a percentage of a known amount (the adviser's salary) would impose an unreasonable burden on the financial adviser and its authorised representatives to disclose confidential salary information.

- 32 Granting this determination would have allowed the firm to disclose the advisers' potential bonuses as a description of the method of calculating the remuneration, including worked dollar examples. We considered that it would not assist consumers to understand how their adviser is remunerated.
- 33 In refusing this application, we considered a number of factors, including the following:
- by applying s947B(2)(d), reg 7.7.11(2) and Class Order [CO 04/1430] *Dollar disclosure: Interest payable on deposit products*, the firm could describe the bonus opportunity of its advisers as a percentage of the adviser's salary, including a worked example referring to the relevant bonus opportunity percentage and salary;
 - the cost of compliance referred to in the application did not amount to an unreasonable burden—it was the ordinary cost associated with compliance with the Corporations Act;
 - Parliament intended the current requirement to be a high standard, prioritising the need for optimal disclosure from a consumer comprehension viewpoint over practicability for providing entities;
 - while we accept there is commercial benefit in keeping remuneration information confidential, we need to weigh that commercial benefit against the regulatory detriment of less than optimal disclosure; and
 - a similar decision was made in 2008, about which we said that 'authorised representatives providing personal advice must provide the same level of disclosure regardless of claims of confidentiality and commercial detriment': see paragraph 59 of Report 142 *Overview of decisions on relief applications (April to July 2008)* (REP 142).

Retail client obligations

- 34 We granted conditional relief from the retail client obligations, including the obligation to prepare a PDS, in relation to a comprehensive business insurance product specifically designed for a network of motor dealerships.
- 35 The product included elements considered to be 'motor vehicle insurance products' and 'travel insurance products', as defined in the Corporations Regulations. As a result, where the motor dealerships have less than 20 employees, the product issuers and distributors would ordinarily need to comply with the retail client obligations.
- 36 We granted relief because the cost of compliance with the retail obligations was disproportionately burdensome in the context of the small number of retail client dealerships. We considered that:
- the nature of the dealerships' businesses meant that they had a greater understanding (relative to other small businesses) of the risks covered

- and type of cover provided under the proposed business insurance product; and
- the risks to the dealerships were limited, as the terms of the cover were negotiated by an AFS licensee with whom the dealerships have an existing relationship.

Other disclosure relief

Relief for ASX's AQUA-quoted interests

- 37 We provided conditional relief, to a responsible entity of a managed investment scheme quoted on the AQUA market operated by ASX Limited, from the requirement in s671B(7) to provide information about substantial holdings.
- 38 This allowed the unit holders to calculate whether they had a substantial holding based on the full particulars of the parcel of securities held by the fund that were most recently disclosed by or on behalf of the responsible entity. Without this relief, it would have been difficult for unit holders to determine when they were required to provide information in accordance with s671B, due to the unit holders' relevant interests fluctuating with any changes in the composition of the scheme's portfolio that occurred during a day.
- 39 We based our decision to grant relief on the policy underlying Class Order [CO 13/721] *Relief to facilitate quotation of exchange traded funds on the AQUA Market*, which provides relief to exchange traded funds (ETF) quoted on the AQUA market. This policy recognises that a person's relevant interest in the securities of a listed company or scheme that arises because the person holds interests in an ETF may fluctuate with any changes in the composition of the index being tracked by the ETF that occur during the day.
- 40 We also granted this entity relief from the requirement under s1017B to notify unit holders of:
- any material change to a matter, or significant event that affects a matter, being a matter that would have been required to be specified in a PDS for the financial product prepared on the day before the change or event occurs.
- 41 We granted this relief on the basis that the AQUA managed investment scheme will be quoted on the AQUA market and will therefore already be subject to the continuous disclosure obligations. This view is also recognised in the policy underlying the relief provided to ETFs under [CO 13/721].

Publications

- 42 We issued the following publications in relation to disclosure relief during the period of this report.
- ### Class orders
- Class Order [CO 14/978] *Employee incentive schemes: Personal offers*, Class Order [CO 14/1000] *Employee incentive schemes: Listed bodies* and Class Order [CO 14/1001] *Employee incentive schemes: Unlisted bodies***
- 43 We reviewed the relief underlying our policy on employee share schemes and updated the policy in Regulatory Guide 49 *Employee incentive schemes* (RG 49). In updating this policy, we changed the terminology from ‘employee share schemes’ to ‘employee incentive schemes’ because we consider this better reflects the wider scope of relief in relation to the financial products covered by our updated policy.
- 44 We decided to widen the scope of the relief because we found that Superseded Class Order [SCO 03/184] *Employee share schemes* and certain limitations in our policy were no longer able to accommodate developments, both in Australia and internationally, in relation to employee incentive schemes in circumstances where those developments did not offend the main policy objectives for granting the relief.
- 45 We replaced [SCO 03/184] with [CO 14/1000] and [CO 14/1001].
- 46 We separated the relief into two class orders because the method of meeting our policy objective of ensuring there are adequate protections for employees is quite different, depending on whether their employer is listed or not. When the financial products being offered are able to be traded on a well-regulated financial market, we consider that the restrictions needed for relief are lower than is the case for financial products being offered in relation to an unlisted body. These differences relate particularly to the level of public information about the price and value of financial products being offered, as well as the level of regulation applying to the issuer of the financial product being offered.
- 47 [CO 14/1000] and [CO 14/1001] reduce the regulatory burden on both listed and unlisted bodies that are operating employee incentive schemes by relieving the bodies from a range of product disclosure, financial services licensing, hawking and advertising obligations that apply under the Corporations Act in relation to making offers of financial products under employee incentive schemes.
- 48 [CO 14/978] broadens the ability of a body to make small-scale offers (20 investors and \$2 million limit) of securities without the need for a

disclosure document under s708(1), even if it has also made offers in reliance on [CO 14/1000] and [CO 14/1001].

Superseded Class Order [SCO 14/1118] Amendment of Class Order [CO 12/749]

- 49 The Corporations Amendment Regulations 2010 (No. 5) established a new shorter PDS regime under Subdiv 4.2B (for superannuation products) and Subdiv 4.2C (for simple managed investment schemes) of Pt 7.9 of the Corporations Regulations. The shorter PDS regime fully commenced on 22 June 2012.
- 50 Class Order [CO 12/749] *Relief from the Shorter PDS regime* provides interim relief, until 30 June 2015, from the shorter PDS regime for multifunds, superannuation platforms and hedge funds.
- 51 [SCO 14/1118] amended [CO 12/749] by extending the relief from the shorter PDS regime to 30 June 2016, pending the outcome of the Financial System Inquiry and further work by the Australian Government on the application of the shorter PDS regime to superannuation platforms, multifunds and hedge funds.

Superseded Class Order [SCO 14/870] Amendment of Class Order [CO 11/1227]

- 52 [SCO 14/870] amended Class Order [CO 11/1227] *Relief for providers of retirement estimates* to allow providers of retirement estimates to include an estimate of the age pension that might be available to the member, along with the member's superannuation benefit at retirement, and to make other minor technical amendments.
- 53 [CO 11/1227] provides conditional relief from the AFS licensing requirements in the Corporations Act to superannuation fund trustees who prepare retirement estimates for their members in accordance with the conditions in [CO 11/1227]. If a trustee already holds an AFS licence, we have given relief from the advice, conduct and disclosure requirements of Pt 7.7.

Class Order [CO 14/1252] Technical modifications to Schedule 10 of the Corporations Regulations

- 54 [CO 14/1252] modifies the Corporations Act to revise some of the definitions, including the 'indirect cost' and 'management cost' definitions, and to clarify the costs that must be disclosed consistently with the intended effect of Sch 10 of the Corporations Regulations.
- 55 [CO 14/1252] also addresses some provisions that could be interpreted in an anomalous way, which were included in the Corporations Regulations as part of the Stronger Super reforms.

56 We released the class order following a review of fee disclosure practices, the findings of which we set out in Report 398 *Fee and cost disclosure: Superannuation and managed investment products* (REP 398).

Class Order [CO 14/1276] Repeal of Class Order [SCO 10/321]

57 [CO 14/1276] repealed Superseded Class Order [SCO 10/321] *Offers of vanilla bonds* due to the *Corporations Amendment (Simple Corporate Bonds and Other Measures) Act 2014* and the Corporations Amendment (Simple Corporate Bonds and Other Measures) Regulation 2014, which commenced on 19 December 2014.

58 The repeal was necessary to remove regulatory duplication that would otherwise follow when the legislative reforms came into operation. The timing of the repeal of [SCO 10/321] coincided with the operative commencement date of the legislative reforms.

59 [CO 14/1276] also ensures that the ongoing exemptions and requirements of [SCO 10/321] continue to apply in relation to vanilla bonds that were issued in reliance on that class order before its repeal. This is intended to minimise disruption to bodies who had issued vanilla bonds in reliance on the class order.

Consultation papers

CP 224 Facilitating electronic financial services disclosures

60 CP 224 sought feedback from financial product and services providers, consumers of financial services and their representatives and other interested parties on our proposed approach to the electronic delivery of financial services disclosures.

61 We sought feedback on providing class order relief to facilitate default electronic delivery of financial services disclosures and to facilitate the use of more innovative PDS.

62 We also proposed to update our guidance in Regulatory Guide 221 *Facilitating online financial services disclosures* (RG 221).

63 Submissions on CP 224 closed on 16 January 2015. A report on our response to submissions has not been released at the date of this report.

CP 225 Remaking ASIC class orders on offers of foreign securities

64 CP 225 sought feedback on our proposals to remake into ASIC instruments class orders relating to Regulatory Guide 72 *Foreign securities prospectus relief* (RG 72). Under the *Legislative Instruments Act 2003* (Legislative Instruments Act) these class orders will sunset if not remade.

- 65 CP 225 also sought feedback on our proposals to allow Class Order [CO 00/181] *Foreign securities: publishing of reports and notices* and Class Order [CO 00/185] *Foreign securities* to expire on their sunset date of 1 October 2016.
- 66 We also proposed to make consequential amendments to RG 72 as a result of updates to our relief in the remade ASIC instruments. Submissions on CP 225 closed on 9 February 2015. A report on our response to submissions has not been released at the date of this report.

CP 226 Remaking ASIC class orders on secondary services and general advice

- 67 CP 226 set out our proposals to remake into ASIC instruments our class orders on:
- FSG relief for experts and persons arranging for the issue of a financial product by a product provider under an intermediary authorisation (arrangers); and
 - relief relating to general advice warnings.
- 68 Under the Legislative Instruments Act, these class orders will sunset if not remade.
- 69 We sought feedback on our proposals to remake, without significant changes, the following class orders:
- Class Order [CO 05/835] *General advice in advertising*, which is due to expire on 1 October 2015; and
 - Class Order [CO 04/1572] *Secondary Services: Financial Services Guide relief for experts*, Class Order [CO 04/1573] *Secondary Services: Financial Services Guide relief for arrangers acting under an intermediary authorisation* and Class Order [CO 05/1195] *Simplified warning for oral general advice*, which are due to expire on 1 April 2016.

- 70 Submissions on CP 226 closed on 9 February 2015. A report on our response to submissions has not been released at the date of this report.

CP 227 Disclosure and reporting requirements for superannuation trustees: s29QC

- 71 CP 227 set out our proposals for how the consistency requirements under s29QC of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) may be addressed.
- 72 CP 227 sought feedback on these proposals from registrable superannuation entity (RSE) licensees.

- 73 Section 29QC of the SIS Act imposes consistency requirements between the reporting standards of the Australian Prudential Regulatory Authority (APRA) and the information given by RSE licensees, including under the disclosure requirements in the Corporations Act and the Corporations Regulations. The s29QC requirement is intended to improve the comparability of information about superannuation products.
- 74 The purpose of the proposals in CP 227 was to address uncertainty in the industry about how to comply with s29QC in its current form, while also providing possible options for modifying the scope and application of s29QC.
- 75 Submissions on CP 227 closed on 13 March 2015. A report on our response to submissions has not been released at the date of this report.

Regulatory guides

RG 253 *Fundraising: Facilitating offers of CHESS Depository Interests*

- 76 RG 253 is a guide for foreign companies listed on Australian financial markets, their advisers, and other persons involved in offers of CHESS depository interests (CDIs) over securities of a foreign company.
- 77 This guidance explains:
- how our relief in Class Order [CO 14/827] *Offers of CHESS Depository Interests* modifies the disclosure provisions in Ch 6D and gives relief from the licensing provisions in Pt 7.6, to facilitate offers of CDIs over underlying foreign securities;
 - when we will consider granting individual relief to facilitate offers of CDIs; and
 - how to provide effective disclosure for offers of CDIs.

78 The release of RG 253 follows the issue of Consultation Paper 220 *Fundraising: Facilitating offers of CHESS Depository Interests* (CP 220) in May 2014 and our report on submissions: see paragraphs 88–90.

RG 49 *Employee incentive schemes*

- 79 RG 49 sets out our guidance on when we will give relief from the disclosure, licensing, advertising, hawking, managed investment scheme and on-sale provisions of the Corporations Act for an employee incentive scheme.
- 80 The guidance explains:
- who can make offers;
 - who can receive offers;
 - what financial products can be offered;

- the specific structures that can be used under our relief; and
- the general conditions of our relief.

81 While we broadened the scope of our employee incentive scheme relief, we did not change the fundamental policy settings—that is, to require that:

- the terms of the employee incentive scheme to support the long-term mutual interdependence between employer and employee;
- employees have adequate information to assess the value of what they are being offered and to understand the terms and conditions; and
- the employee incentive scheme is not offered for fundraising purposes.

82 Sections B–F of RG 49 set out our policy and relief for listed bodies, while Section G does the same for unlisted bodies.

83 The release of updated RG 49 and related class orders (see paragraphs 43–48) followed the issue of Consultation Paper 218 *Employee incentive schemes* (CP 218) and our report on submissions (see paragraphs 91–93).

RG 229 Superannuation forecasts

84 RG 229 is a guide for superannuation fund trustees and their advisers. We updated it to explain the relief we have given to trustees to provide their members with superannuation forecasts, both in the form of a statement or as a calculator.

85 RG 229 also explains how our general relief for providers of financial calculators applies to superannuation calculators.

RG 190 Offering financial products in New Zealand and Australia under mutual recognition

86 RG 190 is a joint guide, published by ASIC and the New Zealand Financial Markets Authority, for New Zealand and Australian issuers offering financial products or interests in managed or collective investment schemes in both countries. It explains what issuers have to do under the trans-Tasman mutual recognition scheme for offers of financial products.

87 We updated RG 190 to include guidance on the transitional arrangements that are in place until 1 December 2016 as a result of the introduction of the *Financial Markets Conduct Act 2014* (NZ) and the Financial Markets Conduct Regulations 2014 (NZ).

Reports

REP 414 Response to submissions on CP 220 Fundraising: Facilitating offers of CHESS Depository Interests

- 88 REP 414 highlights the key issues that arose out of the submissions received on CP 220 and details our responses in relation to those issues.
- 89 CP 220 sought feedback on our proposals to facilitate offers of CDIs over shares in a foreign company by issuing relief and guidance in relation to the disclosure provisions in Ch 6D and the licensing provisions in Pt 7.6.
- 90 Feedback received on CP 220 helped us finalise our guidance, which is published in RG 253 (see paragraphs 76–78), and related class orders.

REP 417 Responses to submissions on CP 218 Employee incentive schemes

- 91 REP 417 highlights the key issues that arose out of the submissions received on CP 218 and details our responses in relation to those issues.
- 92 In CP 218 we sought feedback on proposals to widen the scope of relief from the disclosure, licensing, managed investment scheme, advertising, hawking and on-sale provisions of the Corporations Act for offers of financial products under employee incentive schemes.
- 93 Feedback received on CP 218 helped us to finalise our guidance, which is published in RG 49 (see paragraphs 79–83) and related class orders (see paragraphs 43–48).

REP 418 Response to submissions on CP 203 Age pension estimates in superannuation forecasts: Update to RG 229

- 94 REP 418 highlights the key issues that arose out of the submissions received on Consultation Paper 203 *Age pension estimates in superannuation forecasts: Update to RG 229* (CP 203) and details our responses to those issues.
- 95 CP 203 sought feedback from superannuation funds, consumers and other interested stakeholders on our proposed refinements to our policy on superannuation forecasts.
- 96 Feedback received on CP 203 helped us to update our guidance, which is published in RG 229 (see paragraphs 84–85) and [CO 11/1227], as amended by [SCO 14/870] (see paragraphs 52–53).

C Managed investment relief

Key points

This section sets out some of the circumstances in which we have granted or refused relief under s601QA from the provisions of Ch 5C. We did not issue any relevant publications in relation to managed investment scheme relief during the period of this report.

Scheme operation

Relief associated with scheme property

- 97 We granted relief under s601QA, to an operator of an online peer-to-peer lending platform that operates as a registered managed investment scheme, from the requirement to treat the underlying assets of a provision fund as scheme property of the scheme. The provision fund operates in connection with the scheme and may be used to mitigate loss to lenders in the event of borrower default on a loan.
- 98 The relief imposes requirements on the operator (as responsible entity of the scheme) in relation to the provision fund, including that:
- the rights of the responsible entity in relation to the provision fund form part of the assets of the scheme as outlined in the scheme constitution and provision fund trust deed;
 - the assets of the provision fund are limited to cash and loans assigned by the responsible entity to the provision fund;
 - the responsible entity procures the preparation of annual audited financial statements for the provision fund each financial year, and lodges these with ASIC at the same time as it lodges the scheme financial statements with ASIC;
 - the compliance plan for the scheme sets out adequate measures that the responsible entity is to apply in relation to the provision fund assets; and
 - the scheme constitution sets out:
 - the obligation of the responsible entity to ensure the trustee administers the provision fund in compliance with the provision fund trust deed;
 - adequate procedures for dealing with the winding up of the provision fund on the winding up of the scheme; and
 - any rights of the responsible entity or trustee of the provision fund to be paid fees or indemnities out of the assets of the provision

fund and that such rights must only be available in the proper performance of duties.

- 99 We were satisfied that the commercial benefits to the applicant and its members that flowed from granting relief outweighed the regulatory detriment. We considered that adequate alternative protections for investors existed under the contractual arrangements that were present and the strict conditions of the relief.

Relief associated with a grain grower cooperative

- 100 In addition to the relief from the requirement to hold an AFS licence (see paragraphs 12–14), we also granted the grain grower cooperative conditional relief from the managed investment provisions in Ch 5C. We granted this relief under s601QA.
- 101 We granted this relief based on the policy and reasons discussed at paragraphs 13–14. We considered that it would be disproportionately burdensome to refuse relief, given that the purpose of the cooperative is not to raise money from its participants and that its nature as a ‘managed investment scheme’ is merely incidental to the business of growing and exporting grain, as opposed to the operation of an investment business.

Equal treatment obligation

Relief granted to not treat members of the same class equally

- 102 In addition to disclosure relief (paragraphs 37–41), we also granted the responsible entity of the AQUA managed investment scheme conditional relief from the obligation to treat members of the same class of interests equally. We granted this relief under s601QA.
- 103 Relief was granted to the extent that the equal treatment obligation would prevent the responsible entity from permitting only authorised participants to withdraw from the managed fund.
- 104 We granted the relief based on the policy underlying [CO 13/721], which applies to ETFs on the AQUA market. This policy recognises that retail investors do not typically acquire or dispose of these types of quoted products by applying to the responsible entity for an issue or withdrawal, and are usually prohibited from withdrawing or being issued with units directly. Instead, retail investors generally engage in transactions in relation to these products by buying or selling on the relevant secondary market.

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 Ch 6 of the Corporations Act. We did not issue any relevant publications in relation to mergers and acquisitions relief during the period of this report.

Relevant interests

Relief to facilitate the transfer of shares of a company under a deed of company arrangement

- 105 We granted relief from s606 to facilitate a recapitalisation by the administrators of a company under a deed of company arrangement.
- 106 The recapitalisation involved the transfer of all issued shares of the company to its creditor for no consideration. The share transfer was subject to court approval under s444GA(1)(b) and our relief from the 20% threshold in s606.
- 107 We granted relief on the basis that:
 - the court approved the application to transfer shares under s444GA, concluding that the transfer did not involve unfair prejudice to members;
 - the administrators satisfied ASIC that the company's liabilities exceeded its assets and, therefore, there was no prejudice to the company's existing shareholders due to the transaction;
 - an independent expert report and an independent technical specialist report were provided to ASIC that:
 - outlined the value of the company on a going concern basis and the value where the going concern scenario was adjusted to include the effect of the company's circumstances (adjusted going concern value); and
 - concluded that in the adjusted going concern scenario the company's assets exceeded its liabilities and that no circumstances existed that indicated the process was being misused by the creditor.

Compulsory acquisitions

Relief to exempt a bidder from their compulsory buy-out obligations for convertible securities

- 108 We granted relief to exempt a bidder from their post-bid obligations under the compulsory buy-out provisions for convertible securities in Ch 6A. We granted this relief under s669.
- 109 The bidder had already entered into private agreements with each respective convertible security holder to cancel any outstanding securities that were convertible into the bid class.
- 110 Our relief was required because, under s663A(1), if a bidder has over a 90% relevant interest in the bid class following a takeover bid, the bidder must offer to buy out the holders of securities that are convertible into bid class securities in accordance with s663B and s663C. Under s663B(1), the bidder must prepare and lodge a notice with ASIC, and provide the notice and an expert's report (prepared in accordance with s667A) to the relevant market operator and each holder of convertible securities.
- 111 In granting the relief, we considered the underlying intentions behind Ch 6A and our policy contained in Regulatory Guide 10 *Compulsory acquisitions and buyouts* (RG 10). In particular, given the convertible security holders had agreed to their securities being cancelled by way of private arrangements, we were satisfied that we were not removing the ability of these holders to avoid being left as a locked-in minority or the protections of their rights to fair compensation. We also considered that lodging the notice with ASIC and providing it to the relevant market operator was not necessary when the holders of convertible securities no longer required it.

E Conduct relief

Key points

This section outlines some of our decisions to grant relief from conduct obligations imposed by Chs 2D, 2G, 2M, 5C and 7 of the Corporations Act. This section also outlines the publications we issued which related to this area.

Financial reporting

Relief from financial reporting obligations for a group of companies in external administration

- 112 We granted relief from certain financial reporting obligations to a group of related companies that are in external administration (subject to a deed of company arrangement and receivers and managers appointed). We granted this relief under s340(1).
- 113 The relief deferred for one year the requirements to provide members with annual and half-yearly financial reports for the group and to lodge those reports with ASIC. The relief extended analogous deferral relief previously given to the group, which was due to expire.
- 114 The relief was subject to a number of conditions, including that the deed administrators make publicly available a status update on the trusts at the end of each quarter.
- 115 We granted relief because:
 - the financial reporting obligations imposed an unreasonable burden on the group;
 - the deed administrators advised ASIC that it is their current opinion that unit holders have no ongoing economic interest, or only nominal economic interest, in the trusts;
 - the relief was consistent with the previous relief provided to the group in similar circumstances; and
 - the relief was consistent with our proposed policy in Consultation Paper 223 *Relief for externally administered companies and registered schemes being wound up: RG 174 update* (CP 223).

Publications

- 116 We issued the following publications in relation to conduct relief during the period of this report.

Reports

REP 413 Review of retail life insurance advice

- 117 REP 413 presents the findings of our research into, and surveillance of, personal advice given to consumers about life insurance.
- 118 The purpose of this project was to understand the advice consumers are currently receiving about life insurance and to identify opportunities to promote advice that is in the best interests of consumers.
- 119 This report builds on other work we have done focusing on the quality of advice about retirement and self-managed superannuation funds (SMSFs).

REP 415 Review of the sale of home insurance

- 120 REP 415 presents the findings of our review of the sales practices of 12 insurers (representing 30 home insurance brands) who sell home insurance across Australia.
- 121 We reviewed and made findings in relation to the sale of home building insurance through telephone sales (which included the review of 400 telephone sales call recordings), online sales, online calculators, advertising and promotional materials, and staff training and monitoring.
- 122 The purpose of the review was to understand the information that consumers are currently receiving about home insurance at the point of sale and encourage insurers to adopt practices that reduce the risk of consumers buying insurance that does not meet their needs.

REP 416 Insuring your home: Consumers' experiences buying home insurance

- 123 REP 416 was commissioned by ASIC and produced by Susan Bell Research. The report sets out the results of research into consumers' experiences when buying home insurance, and how this experience might affect the adequacy of consumers' insurance cover
- 124 The context for this research was a series of large-scale natural disasters which occurred in Australia, such as the serious bushfires in Victoria in 2009 and the Queensland floods in 2011. These disasters exposed the serious community problem that some people whose homes were damaged or destroyed were not adequately insured.

F Credit relief

Key points

We did not make any relevant relief decisions in which we granted or refused relief under the National Credit Act during the period of this report. This section describes the relevant guidance we issued in relation to credit relief.

Publications

- 125 We issued the following publications in relation to credit relief during the period of this report.

Regulatory guides

RG 209 *Credit licensing: Responsible lending conduct*

- 126 RG 209 is a guide for credit licensees, credit applicants and unlicensed carried over instrument lenders (unlicensed COI lenders), which sets out our expectations for meeting the responsible lending obligations in Ch 3 of the National Credit Act.
- 127 RG 209 was updated to reflect a recent Federal Court decision and changes to statutory restrictions on charges for small amount credit contracts. These changes included some additional examples to help licensees who are considering their obligations. These changes also affected the numbering used in the guide.

G Other relief

Key points

This section outlines decisions we have made that do not fall within any of the categories mentioned in previous sections and that may be significant to participants in the financial services and capital markets industry. It also outlines further publications we issued.

No-action letters

No-action position regarding the treatment of a deposit product under the Corporations Act

- 128 We provided an authorised deposit-taking institution (ADI) with a no-action letter in relation to the issue of a deposit product (a notice account) as a ‘basic deposit product’, as defined under s761A.
- 129 Under the terms of the notice account, the investor’s deposit is subject to a notice period of 32 days in order to withdraw some or all of the funds. However, the notice account did not meet the definition of a ‘basic deposit product’. The issuer sought the no-action letter so that it would not be required to issue a PDS and would be able to take a consistent approach to marketing and client engagement across the bulk of its product range.
- 130 We provided a no-action letter to enable the notice account to be issued as a basic deposit product, subject to certain conditions.
- 131 Under the conditions, the ADI must:
 - inform the depositor that the ADI has the discretion to not permit the withdrawal or transfer of funds for up to 32 days;
 - word and present this information in a clear, concise and effective manner and give it to the depositor verbally or in a printed or electronic document (i.e. in the governing terms or in a one-page document that contains the information and nothing more);
 - if the information is given to the depositor in the governing terms of the notice account, obtain a written acknowledgement from the depositor that they have read the information; and
 - continue to prominently include the term ‘notice account’ in the name of the account.
- 132 As the ADI was considering raising this issue with the Australian Government, relief was granted for a period of six months to give them

sufficient time to consult about proposed amendments to the definition of ‘basic deposit product’ in s761A.

- 133 We took a no-action position in this instance because:
- as part of the Basel III reforms, APRA implemented the liquidity coverage ratio (LCR) requirement from 1 January 2015, as set out in Prudential Standard APS 210 *Liquidity*;
 - deposit products that require 31 days notice for early withdrawal receive favourable liquidity treatment under APS 210;
 - providing a no-action position gives the applicant certainty that the notice account will be treated as a basic deposit product, subject to meeting the conditions;
 - it should allow the ADI to meet APRA’s liquidity requirements without incurring significant compliance costs under the Corporations Act;
 - depositors will continue to receive disclosure of the product’s features in the terms and conditions, and ADI staff will have to meet training requirements applicable to Tier 2 products;
 - the notice account shares most of the features of a basic deposit product, except for subparagraph (d) of the definition in s761A (because depositors must give 32 days notice before withdrawing funds); and
 - the notice account appears to be a relatively low-risk and well-understood product, particularly given that there is no term and therefore no roll over.

Extension of no-action position regarding s719A

- 134 We granted an extension of a no-action letter to a swap execution facility whose related entities have a presence in Australia. This entity was granted an extension of our decision to not take regulatory action in relation to breaches of s791A, to allow the entity to operate a market in Australia.
- 135 Title VII of the *Dodd–Frank Wall Street Reform and Consumer Protection Act* (US) (Dodd–Frank Act) amended the *Commodity Exchange Act* (US) to establish a comprehensive new regulatory framework for swaps in the United States. From 2 October 2013, any platform that helps US persons to execute swaps through a multiple-to-multiple trading mechanism must register as a swap execution facility and comply with the principles set forth in the swap execution facility’s rules. As a result, a number of international trading platform operators (some of which are currently operating in Australia) developed and registered their swap execution facilities with the CFTC to allow US persons the ability to trade in those swaps.

- 136 Some of the platforms currently operating in Australia under an Australian market licence, or an exemption, wanted to continue to provide their

Australian users with the ability to transact with US persons on their swap execution facilities.

137 We initially granted six swap execution facilities no-action letters from 2 October 2013 to 2 April 2014. We then extended the no-action position for these six swap execution facilities from 2 April 2014 to 2 October 2014. We granted extensions to these no-action letters because:

- our policy position on the treatment of swap execution facilities had not been finalised, as Treasury's licensing review had not been settled. Treasury had not, at this stage, finalised its policy for swap execution facilities that are regulated under the Dodd–Frank Act;
- the rationale for granting the initial no-action letters still applied (i.e. to avoid market disruption and fragmentation of liquidity in over-the-counter (OTC) derivatives markets); and
- we consulted with Treasury about extending the no-action position for a further six months. Treasury did not object to our approach.

138 We granted a further extension to five of these facilities from 2 October 2014 to 2 April 2015.

139 This further extension was subject to the conditions and qualifications specified in the new no-action letters, which were identical in all material respects to the conditions of the existing no-action letters—and included a condition that the products able to be traded on the swap execution facility be limited to those listed on the Australian market licence or the Australian market licence exemption of their related entity. This condition prevented a swap execution facility from introducing products that are not currently being offered by their related entity.

140 The sixth swap execution facility was granted an extension in this reporting period.

No-action position regarding the inability to comply with obligations under a scheme constitution

141 We granted a no-action letter to an applicant for its inability to comply with its obligations, under its schemes' constitutions, to have an independent audit of the schemes' final accounts.

142 We granted the no-action letter because:

- members were advised that they would not receive any return from their investment, as there were insufficient funds to pay for the schemes' liabilities; and
- the liquidator was largely unfunded and was unable to meet the costs of preparing the audit of the final accounts.

No-action applications refused in relation to key facts sheets for insurance contracts

- 143 We declined to provide no-action letters to two entities who identified issues with the requirement in the *Insurance Contracts Act 1984* (Insurance Contracts Act) to provide a key facts sheet for home building insurance contracts and home contents insurance contracts. We considered that the majority of the issues raised by the entities were best addressed by ASIC guidance rather than a formal no-action position. In particular, we considered that the no-action position sought could amount to a deferral of the commencement date of the obligation to provide a key facts sheet. Such a deferral would be inconsistent with the intention of Parliament.
- 144 Where the issues raised by the entities could not be addressed by ASIC guidance, we suggested that the entities discuss their concerns with the Australian Government. ASIC does not have exemption or modification powers under the Insurance Contracts Act.

Other relief

Individual exemption from certain provisions of the ASIC Derivative Transaction Rules (Reporting) 2013

- 145 We granted a transitional exemption to an entity from certain reporting requirements under the ASIC Derivative Transaction Rules (Reporting) 2013.
- Note: In this document 'derivative transaction rules (reporting)' refers to the ASIC Derivative Transaction Rules (Reporting) 2013.
- 146 This exemption extended, to 13 April 2015, the date by which the entity must report certain information and designate reported information as being able to be provided to ASIC. This relief was previously provided in ASIC Instrument [14/0238].
- 147 Given recent ASIC rule changes, this relief put the entity in the same position as a number of similarly situated foreign entities, requiring them to report and 'tag' all trades that are entered into or booked in Australia from 13 April 2015.
- 148 To rely on the extended relief, the entity must continue to be registered or provisionally registered as a swap dealer with the US Commodity Futures Trading Commission (CFTC), and either report information about the reportable transaction or reportable position to a prescribed repository in compliance with US regulations, or be exempt from reporting requirements under US regulations. It must also continue to provide certain aggregated information to ASIC.

Relief granted from the short selling prohibition

- 149 We granted relief from the short selling prohibition in s1020B(2) to a company that was seeking to list on the ASX and any trades that may have occurred when it was trading on a conditional and deferred settlement basis.
- 150 During the period of trading on a conditional and deferred settlement basis, it is arguable that the nature of any trades will constitute short selling, as the seller may not have a presently exercisable and unconditional right to vest the products in the buyer. That is, there are circumstances outside the control of the seller that may affect the finalisation of the sale. The context of trading in a conditional settlement does not fall within the exemption in s1020B(4), as ‘consideration’ in the context of an IPO would always have been paid and held in trust before trading on a conditional settlement basis can occur.
- 151 We recognised that this was not the intended operation of the short selling prohibition, and granted the relief to:
- facilitate continuing market practice and the process contemplated by the prospectus; and
 - ensure the company did not suffer undue detriment in an area where further policy work will be conducted.

Publications

- 152 We issued the following publications during the period of this report.

Class orders

ASIC Instrument [14/0067] ASIC Derivative Transaction Rules (Nexus Derivatives) Class Exemption 2015

- 153 We provided relief by way of class exemption from certain requirements under the derivative transaction rules (reporting) to foreign reporting entities in relation to reportable transactions and reportable positions ‘entered into’ by the reporting entity in Australia. The class exemption also provides consequential relief from the tagging requirements under ASIC Instrument [14/0234].
- 154 The relief applies where the relevant reporting entity opts-in to reporting reportable transactions and reportable positions based on an alternative test, the ‘nexus test’, focused on the location of persons performing particular functions in relation to an OTC derivative (including where the OTC derivative is entered into through an automated trading facility).
- 155 For entities that decide to opt-in to the relief, the class exemption provided a delay from the requirement to report reportable transactions or outstanding positions in nexus derivatives until 25 May 2015.

156 The relief is subject to the conditions that a relevant reporting entity that has opted-in must report transactions in accordance with the nexus test and backload positions entered into in accordance with the nexus test. However, a relevant reporting entity does not have to comply with those conditions when it is complying with certain substantially equivalent foreign reporting requirements and designates that information as information that was reported under the derivative transaction rules (reporting) or under the conditions of the relief.

Class Order [CO 14/1262] Relief for 31 day notice term deposits

- 157 [CO 14/1262] gives relief for 18 months to enable 31-day notice term deposits of up to five years to be given concessional regulatory treatment as basic deposit products under the Corporations Act.
- 158 The temporary 18-month period is intended to give the Australian Government the opportunity to consider legislative reform to clarify the meaning of ‘basic deposit product’ (as defined under the Corporations Act) as it applies to 31-day notice term deposits.
- 159 As part of the Basel III reforms, APRA implemented the LCR requirement from 1 January 2015, as set out in APS 210. Term deposits that require 31 days notice for early withdrawal receive favourable liquidity treatment under APS 210.
- 160 [CO 14/1262] provides industry with certainty that these sorts of term deposits will be treated as basic deposit products, subject to meeting the relief conditions.
- 161 [CO 14/1262] formalises our previous conditional no-action position on 31-day notice term deposits. The relief conditions are about ensuring consumers can make confident and informed decisions when investing in the new type of term deposit. They also help consumers understand the new requirement to give 31 days notice to ‘break’ their term deposit and ensure this is considered when the term deposit rolls over.

Reports

REP 421 ASIC enforcement outcomes: July to December 2014

- 162 REP 421 outlines enforcement outcomes achieved by ASIC during the period 1 July 2014 to 31 December 2014. The report identifies the entities and individuals that enforcement action was taken against, and highlights examples of conduct targeted during this period.
- 163 REP 421 reports that we achieved 348 enforcement outcomes between July and December 2014. This included criminal as well as civil and administrative (e.g. banning or disqualification) actions, and negotiated outcomes, including enforceable undertakings. These outcomes were

achieved across the financial services, market integrity, corporate governance and small business areas.

- 164 The report highlights our ongoing focus on tackling serious corporate fraud and loan fraud and our use of civil penalty proceedings to enforce the law.

Appendix: ASIC relief instruments

Table 1 lists the individual relief instruments we have executed for matters that are referred to in this report and which 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	Property Exchange Australia Limited	14-1069 (in A50/14)	04/11/2014	s911A(2)(l), 926A(2)(a), 951B(1)(a), 992B(1)(a) and 1020F(1)(a) of the Corporations Act. Relief from the requirement to hold an AFS licence.	
12–14, 100–101	AGG Asset Management Pty Ltd	14-1122 (in A53/14)	20/11/2014	s601QA(1)(a), 911A(2)(l), and 992B(1)(a) of the Corporations Act. Relief from the requirement to hold an AFS licence and from the managed investment provisions.	
15–17	Auto & General Services Pty Ltd	14-1326 (in A01/15)	22/12/2014	s926A(2)(c) and 951B(1)(c) of the Corporations Act. Relief to allow an AFS licensee to appoint another AFS licensee as an authorised representative for life risk insurance products.	
18–20	Heritage Bank Limited	14-1282 (in A57/14)	15/12/2014	s926A(2)(c) of the Corporations Act. Conditional relief to remove the administrative requirements associated with notifying ASIC of the appointment (and variation) of certain authorised representatives.	

Report para no.	Entity name	Instrument no. (Gazette no. if applicable)	Date executed	Power exercised and nature of relief	Expiry date
24–27	Raffles Capital Limited	15-0050 (in A04/15)	19/01/2015	s741(1)(a) and s741(1)(b) of the Corporations Act. Conditional relief from the requirement to prepare and lodge a prospectus in relation to a reconstruction involving an <i>in-specie</i> distribution facilitated by an equal capital reduction and the on-sale of shares by the shareholders after the reconstruction.	
34–36	Toyota Finance Australia Limited	14-1136 (in A51/14)	5/11/2014	s926A(2)(c), 951B(1)(c), 992B(1)(c) and 1020F(1)(c) of the Corporations Act. Conditional relief from the retail client obligations in relation to a comprehensive business insurance policy.	
37–39	BetaShares Capital Ltd ACN 139 566 868	14-1058 (in A55/14)	02/12/2014	s673(1)(b) of the Corporations Act. Relief from s671B(7) of the Corporations Act.	
40–41	BetaShares Capital Ltd ACN 139 566 868	14-0688 (in A46/14)	08/10/2014	s1020F(1)(a) of the Corporations Act. Relief from s1017B of the Corporations Act.	
97–99	Ratesetter Australia RE Limited	14-1088 (in A50/14)	22/10/2014	s9 of the Corporations Act. Relief to modify the definition of 'scheme property' in the Corporations Act.	
102–104	BetaShares Capital Ltd	14-0534 (in A46/14)	8/10/2014	s601QA(1)(a) of the Corporations Act. Relief from the equal treatment obligation to the extent that it would prevent the responsible entity from permitting only authorised participants to withdraw from the scheme.	
105–107	Nexus Energy Limited	14-1339 (in A02/15)	13/01/2015	s655A of the Corporations Act. Relief from s606(2) of the Corporations Act in relation to the transfer of shares under a s444GA court order.	

Report para no.	Entity name	Instrument no. (Gazette no. if applicable)	Date executed	Power exercised and nature of relief	Expiry date
108–111	Norton Gold Fields Limited	14-1043 (in A53/14)	15/10/2014	s669(1)(a) of the Corporations Act. Relief from the requirement to buy-out convertible securities holders following a takeover bid.	
145–148	UBS AG	15-0030 (in A03/15)	15/01/2015	s907D(2)(a) of the Corporations Act. Extension of relief under ASIC Instrument [14/0238] from Rule 2.2.1(1) and Part 2.2 of the derivative transaction rules (reporting).	
149–151	Estia Health Limited	14-1250 (in A55/14)	09/12/2015	s1020F(1)(b) of the Corporations Act Exemption to permit short selling of Estia Health shares during the conditional trading market.	