



Commonwealth of Australia



ASIC

Australian Securities &
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RIGHTS OF REVIEW

Persons affected by certain decisions made by ASIC under the Corporations Act and the other legislation administered by ASIC may have rights of review. ASIC has published **Practice Note 57 [PN57] Notification of rights of review** and Information Sheet [INFO 1100] **ASIC decisions – your rights** to assist you to determine whether you have a right of review. You can obtain a copy of these documents from the ASIC Digest, the ASIC website at www.asic.gov.au or from the Administrative Law Co-ordinator in the ASIC office with which you have been dealing.

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**Australian Securities and Investments Commission
Corporations Act 2001 — Paragraphs 911A(2)(l), 926A(2)(a), 951B(1)(a),
992B(1)(a) and 1020F(1)(a) — Exemptions**

Enabling legislation

1. The Australian Securities and Investments Commission grants the exemptions set out in:
 - (a) paragraph 4(a) under paragraphs 911A(2)(l), 992B(1)(a) and 1020F(1)(a) of the *Corporations Act 2001* (the *Act*);
 - (b) paragraph 4(b) under paragraphs 926A(2)(a), 951B(1)(a) and 992B(1)(a) of the *Act*; and
 - (c) paragraph 4(c) under paragraph 951B(1)(a) of the *Act*.

Title

2. This instrument is ASIC Class Order [CO 05/736].

Commencement

3. This instrument commences on the later of:
 - (a) the date it is registered under the Legislative Instruments Act 2003; and
 - (b) the date of its gazettal.

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (*FRLI*) in electronic form; see *Legislative Instruments Act 2003*, s 4 (definition of *register*). The FRLI may be accessed at <http://www.frli.gov.au/>.

Exemptions for providers of low value non-cash payment facilities

4. A person who provides financial services in relation to a low value non-cash payment facility does not have to comply with:
 - (a) subsection 911A(1), section 992A and Part 7.9 of the *Act* in relation to those financial services; and
 - (b) where the person is a financial services licensee—Part 7.6 (other than subsection 911A(1) and Divisions 4 and 8), Divisions 2, 3 and 4 of Part 7.7 and Divisions 2, 3, 5 and 6 of Part 7.8 of the *Act* in relation to those financial services; and
 - (c) where the person is an authorised representative of a financial services licensee—Divisions 2, 3 and 4 of Part 7.7 of the *Act* in relation to those financial services.

Conditions

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5. An issuer of a low value non-cash payment facility who takes advantage of any of the exemptions in paragraph 4 must take reasonable steps to ensure all of the following are satisfied:
- (a) before or at the time the low value non-cash payment facility is offered to a person as a retail client, the person is given a written document (the disclosure document) which sets out the terms and conditions of the facility and separately sets out in a prominent manner:
 - (i) information about whether any of the terms and conditions of the facility may be unilaterally varied by the issuer and a statement of how a person (the *client*) who holds the facility may get information about the new terms and conditions;
 - (ii) information about whether there is a date (the *expiry date*) after which the facility cannot be used for the making of non-cash payments (regardless of whether there is an amount standing to the credit of the facility at the end of the relevant day) and information about where the expiry date may be found out;
 - (iii) information about the procedures for dealing with any unauthorised or mistaken transactions relating to the facility or the loss or theft of the device (if any) referred to in subparagraph (c)(i);
 - (iv) fees or charges for acquiring and using the facility and where any such fees or charges are subject to change during the life of the facility, a statement of how the client may get information about the new fees or charges;
 - (b) the disclosure document is worded and presented in a clear, concise and effective manner;
 - (c) where the facility is issued on or after 1 June 2006 and is subject to an expiry date:
 - (i) if the client is provided with a physical device to use the facility—the expiry date is prominently set out on the device in a manner that makes it clear that it is an expiry date;
 - (ii) otherwise—the expiry date is set out in the disclosure document or in a written statement that is attached to the disclosure document;
 - (d) a convenient means is available, that involves no charge by the issuer or its associates, for the client to do all of the following:
 - (i) check the amount standing to the credit of the facility;

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- (ii) if subparagraph (c)(ii) applies—check any relevant expiry date that applies to the facility;
 - (iii) obtain at reasonable intervals a record of the past 10 transactions (or such transactions that have occurred) under the facility;
 - (e) if the terms and conditions of the low value non-cash payment facility are unilaterally varied, or the fees or charges for using the facility are changed during the life of the facility:
 - (i) a statement setting out the effect of the variation or change is displayed in a clear and prominent notice at each place of business where the facility may be acquired in an area that is accessible to the public;
 - (ii) information about the variation or change is made available to the client in accordance with the statement in subparagraph 5(a)(i) or 5(a)(iv);
 - (iii) the new terms and conditions or fees and charges are made available to the client on request at each place of business where the facility may be acquired; and
 - (iv) if the issuer makes available information about the facility on an Internet website—the statement in subparagraph 5(e)(i), information about the variation or change, and the new terms and conditions or fees and charges are made available on the website in a manner reasonably likely to come to the attention of persons seeking information about the facility;
 - (f) if a facility is issued to a person as a retail client, the issuer maintains adequate internal dispute resolution processes in accordance with the Australian Standard on Complaints Handling (AS 4269–1995) as at 5 February 1995.
- 6. A person who takes advantage of any of the exemptions in paragraph 4 and is not the issuer of the low value non-cash payment facility must take reasonable steps to ensure that both of the following are satisfied:
 - (a) before or at the time the low value non-cash payment facility is offered to a person, the person is provided with the disclosure document;
 - (b) where the facility is issued on or after 1 June 2006 and is subject to an expiry date:
 - (i) if the client is provided with a physical device to use the facility—the expiry date is prominently set out on the device in a manner that makes it clear that it is an expiry date; or

- (ii) otherwise—the expiry date is set out in the disclosure document or in a written statement that is attached to the disclosure document.

Case where exemptions apply

- 7. A person may only rely on an exemption in paragraph 4:
 - (a) in the course of providing a financial service on their own behalf—if they have given ASIC a notice in writing that they intend to rely on this instrument; and
 - (b) in the course of providing a financial service on behalf of another person (the principal)—if they do not have reason to believe that the principal has not given ASIC a notice under paragraph (a).
- 8. The exemptions in paragraph 4 are not available to a person if a condition in paragraph 5 or 6 applies to them and they do not comply with the condition.

Interpretation

- 9. In this instrument:

authorised representative has the meaning given by section 761A of the Act.

device includes a certificate, voucher, token, card, coin or other object by which a person may use a low value non-cash payment facility.

facility has a meaning affected by section 762C of the Act.

issuer has the meaning given by subsection 761E(4) of the Act.

low value non-cash payment facility means a facility through which, or through the acquisition of which, a person makes non-cash payments and in relation to which the following are satisfied:

- (a) the total amount available for the making of non-cash payments under all facilities of the same class held by any person at any one time does not exceed \$1,000;
- (b) the total amount available for making non-cash payments under all facilities of the same class does not exceed \$10,000,000 at any time; and
- (c) the facility is not a component of another financial product.

makes non-cash payments has the meaning given by section 763D of the Act.

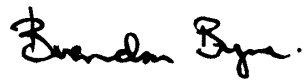
offer has a meaning affected by subsection 1010C(2) of the Act.

retail client has the meaning given by section 761G of the Act.

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Dated this 14th day of November 2005

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

05 / 0738

**Australian Securities and Investments Commission
Corporations Act 2001 — Paragraphs 911A(2)(l), 926A(2)(a), 951B(1)(a),
992B(1)(a) and 1020F(1)(a) — Exemptions**

Enabling legislation

1. The Australian Securities and Investments Commission grants the exemptions set out in:
 - (a) paragraph 4(a) under paragraphs 911A(2)(l), 992B(1)(a) and 1020F(1)(a) of the *Corporations Act 2001* (the *Act*);
 - (b) paragraph 4(b) under paragraphs 926A(2)(a), 951B(1)(a) and 992B(1)(a) of the *Act*; and
 - (c) paragraph 4(c) under paragraph 951B(1)(a) of the *Act*.

Title

2. This instrument is ASIC Class Order [CO 05/738].

Commencement

3. This instrument commences on the later of:
 - (a) the date it is registered under the *Legislative Instruments Act 2003*; and
 - (b) the date of its gazettal.

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (*FRLI*) in electronic form: see *Legislative Instruments Act 2003*, s 4 (definition of *register*). The FRLI may be accessed at <http://www.frli.gov.au/>.

Exemptions for providers of gift facilities

4. A person who provides financial services in relation to a gift facility does not have to comply with:
 - (a) subsection 911A(1), section 992A and Part 7.9 of the *Act* in relation to those financial services; and
 - (b) where the person is a financial services licensee—Part 7.6 (other than subsection 911A(1) and Divisions 4 and 8), Divisions 2, 3 and 4 of Part 7.7, Divisions 2, 3, 5 and 6 of Part 7.8 of the *Act* in relation to those financial services; and
 - (c) where the person is an authorised representative of a financial services licensee—Divisions 2, 3 and 4 of Part 7.7 of the *Act* in relation to those financial services.

Interpretation

5. In this instrument:

authorised representative has the meaning given by section 761A of the *Act*.

device includes a certificate, voucher, token, card, coin or other object by which a person may use the gift facility.

facility has a meaning affected by section 762C of the *Act*.

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gift facility means a facility through which, or through the acquisition of which, a person makes non-cash payments for goods or services, in relation to which all of the following are satisfied:

- (a) the amount standing to the credit of the facility and which is available for the making of non-cash payments under the facility:
 - (i) is determined at the time of the issue of the facility; and
 - (ii) cannot be increased after the issue of the facility unless it is because of the reversal of a payment made under the facility in the case of refund or because of a correction of an error; and
 - (iii) cannot be withdrawn from the facility in whole or in part by means of a cash payment (except for the withdrawal of the full amount standing to the credit of the facility after one or more non-cash payments have been made through the facility being an amount that in the reasonable opinion of the issuer of the facility, is unlikely to be able to be conveniently used under the facility);
 - (b) the facility may be used to make non-cash payments on more than one occasion;
 - (c) the facility is only promoted or marketed as a gift product;
 - (d) if:
 - (i) under the terms of the facility there is a date (the *expiry date*) after which the facility cannot be used for the making of non-cash payments (regardless of whether there is an amount standing to the credit of the facility at the end of the expiry date); and
 - (ii) the facility is issued on or after 1 June 2006;
- the expiry date is:
- (iii) in the case where the presentation of a device is the means by which a person uses the facility—prominently set out on the device in a manner that makes it clear that it is an expiry date; or
 - (iv) in any other case—prominently displayed in a manner that:
 - (A) could reasonably be expected to come to the attention of a person who is given or given use of the facility at the time it is given and at the time it is used; and
 - (B) makes it clear that it is an expiry date; and

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(e) the facility is not a component of another financial product.

issuer has the meaning given by subsection 761E(4) of the Act.

makes non-cash payments has the meaning given by section 763D of the Act.

Dated this 14th day of November 2005



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

05 / 0740

**Australian Securities and Investments Commission
Corporations Act 2001 — Paragraphs 911A(2)(l), 926A(2)(a), 951B(1)(a),
992B(1)(a) and 1020F(1)(a) — Exemptions**

Enabling legislation

1. The Australian Securities and Investments Commission grants the exemptions set out in:
 - (a) paragraph 4(a) under paragraphs 911A(2)(l), 992B(1)(a) and 1020F(1)(a) of the *Corporations Act 2001* (the *Act*);
 - (b) paragraph 4(b) under paragraphs 926A(2)(a), 951B(1)(a) and 992B(1)(a) of the *Act*; and
 - (c) paragraph 4(c) under paragraph 951B(1)(a) of the *Act*.

Title

2. This instrument is ASIC Class Order [CO 05/740].

Commencement

3. This instrument commences on the later of:
 - (a) the date it is registered under the *Legislative Instruments Act 2003*; and
 - (b) the date of its gazettal.

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (*FRLI*) in electronic form: see *Legislative Instruments Act 2003*, s 4 (definition of *register*). The FRLI may be accessed at <http://www.frli.gov.au/>.

Exemptions for providers of prepaid mobile phone payment facilities

4. A person who provides financial services in relation to a prepaid mobile facility does not have to comply with:
 - (a) subsection 911A(l), section 992A and Part 7.9 of the *Act* in relation to those financial services; and
 - (b) where the person is a financial services licensee—Part 7.6 (other than subsection 911A(l) and Divisions 4 and 8), Divisions 2, 3 and 4 of Part 7.7 and Divisions 2, 3, 5 and 6 of Part 7.8 of the *Act* in relation to those financial services; and
 - (c) where the person is an authorised representative of a financial services licensee—Divisions 2, 3 and 4 of Part 7.7 of the *Act* in relation to those financial services.

Interpretation

5. In this instrument:

authorised representative has the meaning given by section 761A of the *Act*.

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facility has a meaning affected by section 762C of the Act.

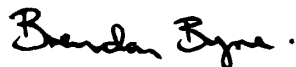
makes non-cash payments has the meaning given by section 763D of the Act.

prepaid mobile facility means a facility through which, or through the acquisition of which, a person may make non-cash payments and in relation to which the following are satisfied:

- (a) the facility is a part of an arrangement for the supply of a public mobile telecommunication service under which the service may be used to the extent it is covered by the amount (the *prepaid amount*) paid in advance which remains unused under the arrangement;
- (b) the non-cash payments made under the facility are debited against the prepaid amount; and
- (a) the facility is not a component of another financial product.

public mobile telecommunications service has the meaning set out in section 32 of the *Telecommunications Act 1997*.

Dated this 14th day of November 2005



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

05 / 1160

**Australian Securities and Investments Commission
Corporations Act 2001 — Paragraphs 911A(2)(l) — Exemption**

1. Under paragraph 911A(2)(l) of the Corporations Act 2001 (the Act), the Australian Securities and Investments Commission (ASIC) exempts the persons referred to in Schedule A in the case set out in Schedule B from the requirement to hold an Australian financial services licence.
2. This instrument takes effect upon *Gazettal*.

Schedule A

The firm KPMG (KPMG).

Schedule B

The provision by KPMG of general advice as to the fair value of a share in Coopers Brewery Limited ACN 007 871 409 (Coopers) where all of the following are met:

- (a) general advice as to the fair value of a share in Coopers is provided to KPMG by the holder of an Australian financial services licence that authorizes it to provide the advice to the members of Coopers (the Licensee);
- (b) KPMG accepts the advice provided to it by the Licensee;
- (c) KPMG and the Licensee each consent, pursuant to subsection 638(5) of the Act, to the inclusion of the advice in the target's statement to be lodged with ASIC by Coopers in response to a takeover bid by Lion Nathan Australia Pty Limited ACN 008 596 370 in accordance with the bidder's statement lodged with ASIC on 10 October 2005 (as updated and corrected in accordance with Division 4 of Part 6.5 and as varied in accordance with Part 6.6);
- (d) the target's statement contains the advice or the substance of the advice and statements to the effect that:
 - (i) KPMG does not hold an Australian financial services license authorizing it to provide the advice;
 - (ii) KPMG has been given an exemption by ASIC from the requirement to hold such a licence in order to provide the advice; and
 - (iii) it is a condition of the exemption that the Licensee consent to the inclusion of the advice in the target's statement.

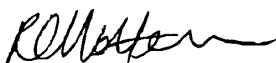
Interpretation

In this instrument:

firm has the same meaning as in paragraph 324AA(b) of the Act, as affected by sections 324AB and 324AC of the Act.

general advice has the same meaning as in subsection 766B(4) of the Act.

Dated 14 November 2005



Signed by Katharine Motteram
As a delegate of the Australian Securities and Investments Commission