



ASIC

Australian Securities & Investments Commission

[CO 02/1296]

ASX managed investment warrants – FSR Act transition

Issued 22/11/2002

Class Order [CO 02/1296] ensures that Part 7.9 applies to ASX managed investment warrants and extends conditional transitional relief from Part 7.9 to the issue, sale and on-sale of ASX managed investment warrants.

Australian Securities and Investments Commission
Corporations Act 2001 – Subsection 1020F(1) – Exemption and
Declaration

ASX managed investment warrants – FSR Act transition

Under subsection 1020F(1) of the *Corporations Act 2001* (the “Act”) the Australian Securities and Investments Commission (“ASIC”) gives the following exemptions to the extent and in the case specified in relation to each of them.

Issue and sale of warrants

A warrant-issuer and any other regulated person is exempt from Part 7.9 (other than sections 1017E, 1017F, 1019A, 1019B, 1020B, 1020C and 1020D) in relation to an offer to issue, sell or to arrange the issue of, a recommendation to acquire, or an issue of a transitional ASX managed investment warrant where:

- (a) the offer, recommendation or issue is made before the earlier of:
 - (i) the end of the period of 2 years starting on the FSR commencement; or
 - (ii) if a notice has been lodged in accordance with paragraph 1438(3)(b) that covers or purports to cover the warrant or a class of financial products including the warrant and the

notice has not been revoked – the date specified in the notice as varied (if at all) in accordance with paragraph 1438(5)(a);

- (b) the warrant-issuer complies with:
 - (i) Business Rule 8.7.5, except that information required by the rule may be excluded where:
 - (A) the warrant-issuer has previously disclosed the information in a document which was either lodged under the Act or provided to ASX for the purpose of ASX making that information available to a financial market operated by ASX; and
 - (B) the Offering Circular refers to the document, summarises the information excluded from the Offering Circular and states that a copy of the document may be obtained from the warrant-issuer free of charge during the period the Offering Circular is current; and
 - (ii) all of the other Business Rules which relate to the warrant (subject to any waiver or variation of those Business Rules made by ASX) and any conditions imposed by the ASX on the waiver of Business Rules;
- (c) each advertisement relating to the warrant complies with the requirements of Business Rule 8.10.1;
- (d) in the case of a warrant offered for issue or in respect to which an offer to arrange the issue or a recommendation to acquire by way of issue is made — the warrant is not issued except:
 - (i) in response to an application made on a form; and
 - (ii) the warrant-issuer has reasonable grounds to believe that the form was included in or accompanied by a copy of the Offering Circular required by the Business Rules when the form was distributed by the warrant-issuer; and
- (e) in the case of a warrant offered for sale — the warrant was originally issued under an Offering Circular and a copy of that document has been lodged with ASX and is available for inspection in accordance with Business Rule 8.7.14.

On market purchasers of warrants — relief in relation to on-sale

Any person who purchases a transitional ASX managed investment warrant in the ordinary course of trading on a financial market of ASX is exempt from Part 7.9 (other than sections 1020B, 1020C and 1020D) in relation to any subsequent sale of the warrant where any offer to sell the warrant is made before the earlier of:

- (a) the end of the period of 2 years starting on the FSR commencement; or
- (b) if a notice has been lodged in accordance with paragraph 1438(3)(b) that covers or purports to cover the warrant or a class of financial products including the warrant and the notice has not been revoked – the date specified in the notice as varied (if at all) in accordance with paragraph 1438(5)(a).

Note: A warrant that has been purchased in the ordinary course of trading on a financial market may have been issued for the purposes of resale without a Product Disclosure Statement. In those circumstances, without this relief, a Product Disclosure Statement may be required for the initial and any subsequent resale.

Managed investment warrants subject to Part 7.9

And under subsection 1020F(1) ASIC declares that Part 7.9 applies to a managed investment warrant as if the definition of “warrant” in subregulation 1.0.02(1) of the *Corporations Regulations 2001* were modified or varied by omitting subparagraph (a)(ii) of that definition and substituting the following subparagraph:

- “(ii) a financial product to which the definition of derivative in subsection 761D(1) of the Act applies that is:
 - (A) a security because of paragraph (c) of the definition of “security” in section 761A of the Act; or
 - (B) a financial product of the kind referred to in subparagraph 764A(1)(b)(ii) or 764A(1)(ba)(ii); and”.

Interpretation

In this instrument:

1. “ASX” means Australian Stock Exchange Limited;
2. “ASX Warrant” means a Warrant as defined in Business Rule 8.1 that ASX has admitted to trading status on a financial market of ASX;
3. “Business Rules” means the operating rules of ASX known as the

Business Rules as amended from time to time;

4. “FSR commencement” has a meaning given by subsection 1410(1);
5. “Offering Circular” has the same meaning as in Business Rule 8.1;
6. “regulated person” means a regulated person as defined in section 1011B of the Act other than a person who purchased transitional ASX managed investment warrants in the ordinary course of trading on a financial market of ASX when they are subsequently selling those warrants;
7. “managed investment warrant” means a financial product:
 - (a) to which the definition of derivative in subsection 761D(1) applies that is a financial product of the kind referred to in subparagraph 764A(1)(b)(ii) or 764A(1)(ba)(ii); and
 - (b) that is transferable;
8. “transitional ASX managed investment warrant” means an ASX Warrant that:
 - (a) is a financial product of the kind referred to in subparagraph 764A(1)(b)(ii) or 764A(1)(ba)(ii); and
 - (b) is not in a class of financial products first issued by the warrant-issuer after the FSR commencement;
9. “warrant-issuer” means an institution referred to in Business Rule 8.6.1;
10. an ASX Warrant is in the same class as another financial product if and only if the other financial product is an ASX Warrant and both products are issued by the same person; and
11. except as otherwise stated, a reference to a provision is a reference to a provision of the Act.

Dated this 22nd day of November 2002

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