

[CO 05/1070]

General insurance distributors

Issued 26/10/2005

Effective on date of registration on Federal Register of Legislative Instruments

Related documents: [IR 05/59]

Class Order [CO 05/1070] deems a distributor of an Australian financial services (AFS) licensee, authorised to deal in general insurance products, as a representative of that licensee when they provide the financial service of dealing in a general insurance product. This means that distributors do not need to hold an AFS licence or be formally appointed as an authorised representative to deal in general insurance on behalf of a licensee.

The class order also means that the licensee will be fully responsible for all consumer protection measures under the Corporations Act for the provision of the financial service by the distributor, including providing proper disclosure and dispute resolution mechanisms.

Australian Securities and Investments Commission Corporations Act 2001 — Paragraph 926A(2)(c) — Declaration

Enabling legislation

1. The Australian Securities and Investments Commission (**ASIC**) makes this instrument under paragraph 926A(2)(c) of the *Corporations Act 2001* (the *Act*).

Title

2. This instrument is ASIC Class Order [CO 05/1070].

Commencement

3. This instrument commences on the date it is registered under the *Legislative Instruments Act 2003*.

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/>.

Situations in which this instrument applies

4. This instrument applies where all of the following are satisfied:
 - (a) a person (the **distributor**) provides a financial service on behalf of a financial services licensee (the **licensee**);
 - (b) the distributor is:

- (i) a person (the *principal distributor*) who the licensee has given a written notice (which notice has not been revoked) authorising them to provide the financial service on behalf of the licensee; or
- (ii) if the principal distributor is a body corporate—an individual who the principal distributor has, with the written consent of the licensee, given a written notice (which notice has not been revoked) authorising them to provide the financial service on behalf of the licensee;

Note 1: A principal distributor who is not a body corporate cannot, in that capacity, authorise another person to provide financial services on behalf of the licensee.

Note 2: The licensee may give written consent to the principal distributor to authorise individuals under paragraph 4(b)(ii) in respect of either a specified individual or a specified class of individuals (the membership of which might change from time to time).

- (c) the distributor is not an authorised representative of the licensee;
- (d) the financial service is dealing in either or both of the following:
 - (i) a general insurance product;
 - (ii) a bundled consumer credit insurance product;
- (e) the licensee holds an Australian financial services licence covering the provision of the financial service; and
- (f) the licensee has taken reasonable steps to ensure that, when the distributor provides the financial service to another person (the *client*) as a retail client:
 - (i) the distributor specifically draws the client's attention to the availability of a dispute resolution system of the licensee that covers complaints by the client in relation to the financial service and how that system may be accessed; and
 - (ii) the client is given information in writing about:
 - (A) who the distributor acts for when providing the financial service; and
 - (B) any remuneration (including commission) or other benefits that the distributor, or an associate of the distributor, may receive in respect of, or that is attributable to, the provision of the financial service.

Modification of authorisation requirements for insurance distributors

5. Part 7.6 (other than Divisions 4 and 8) of the Act applies in relation to the licensee and the distributor as if provisions of that Part were modified or varied as follows:
 - (a) in section 910A:
 - (i) before the definition of *representative*, add:

“insurance distributor means, in relation to a financial services licensee, a person who is authorised to provide financial services in relation to risk insurance products on behalf of the licensee.”;

and
 - (ii) in the definition of *representative*, add after subparagraph (a)(iii):

“(iii)a an insurance distributor of the licensee; or”;

and
 - (b) after paragraph 911B(1)(a), add:

“(ab) these conditions are satisfied:

 - (i) the principal holds an Australian financial services licence covering the provision of the service; and
 - (ii) the provider is an insurance distributor of the principal;”.

Interpretation

6. In this instrument:

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

bundled consumer credit insurance product means a facility that:

- (a) is a consumer credit insurance product as defined by regulation 7.1.15 of the *Corporations Regulations 2001*; and
- (b) constitutes both:
 - (i) a general insurance product; and

- (ii) a life risk insurance product as defined by section 761A of the Act.

general insurance product has the meaning given by section 761A of the Act.

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

Dated this 26th day of October 2005

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