

**[CO 07/151]
Variation to Class Orders [CO 02/260], [CO
02/262], [CO 03/237], [CO 03/957] and [CO
03/1092]**

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Registered on Federal Register of Legislative Instruments 25/5/2007

Effective 25/5/2007 (date of registration)

Class Order [CO 05/171] varies a number of class orders to ensure that the relief in these class orders also applies to the Short-Form PDS.

The Short-Form PDS was introduced by the Corporations Amendment Regulations 2005 (No. 5) (reg 7.9.61AA). Under this change, product issuers (except for issuers of general insurance products) can give to their retail clients a Short-Form PDS instead of a PDS.

Australian Securities and Investments Commission
Corporations Regulations 2001 — Subsection 1020F(1) — Variations

Enabling legislation

1. The Australian Securities and Investments Commission makes this instrument under paragraphs 1020F(1)(a) and (c) of the *Corporations Act 2001*.

Title

2. This instrument is ASIC Class Order [07/151].

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/>.

Variations

ASIC Class Order [CO 02/260]

4. ASIC Class Order [CO 02/260] is varied as follows:
 - (a) after “application form”, insert “(an “original form”)”; and
 - (b) in paragraph (a):

- (i) after “Product Disclosure Statement” insert “(the “Statement”) or Short-Form PDS (the “Statement”); and
- (ii) omit “(an “original form”); and
- (c) under paragraph (b) omit “Product Disclosure” (twice occurring); and
- (d) omit the note above the Schedule and substitute:
 - “Note 1: A reference in section 1016A to a Product Disclosure Statement includes a reference to a Short-Form PDS: see section 1017K, as notionally inserted by Part 3 of Schedule 10BA of the *Corporations Regulations 2001*.”
 - Note 2: If a Statement is defective and the issuer or seller does not have reasonable grounds to believe that it was accompanied by a Supplementary Product Disclosure Statement or Supplementary Short-Form PDS which deals with the defect, the issuer or seller is required to deal with the relevant application under subsection 1016E(2) of the Act.”; and
- (e) in subparagraph 1(a) of the Schedule:
 - (i) omit “Product Disclosure” (first occurring); and
 - (ii) after “Statement” (second occurring), insert “(“Supplementary Statement”) or Supplementary Short-Form PDS (“Supplementary Statement”); and
- (f) in subparagraphs 1(b), (c) and (d) and paragraph 2 of the Schedule, and in the note under paragraph 2 of the Schedule, omit “Product Disclosure” (wherever occurring); and
- (g) in paragraph 2 of the **Interpretation** section:
 - (i) omit “In this instrument,” substitute “In this instrument.”; and
 - (ii) after the definition of “financial services licensee” insert:
 - ““Short-Form PDS” and “Supplementary Short-Form PDS” have the same meaning as in Division 3A of Part 7.9 of the Act, as notionally inserted by Part 3 of Schedule 10BA of the *Corporations Regulations 2001*.”.

ASIC Class Order [CO 02/262]

5. ASIC Class Order [CO 02/262] is varied as follows:
- (a) in paragraph 1:
 - (i) after “Product Disclosure Statement” (first occurring) insert “(the “Statement”) or Short-Form PDS (the “Statement”); and
 - (ii) thereafter omit “Product Disclosure” wherever occurring; and
 - (b) in paragraph 3:
 - (i) omit “Product Disclosure” (first occurring); and
 - (ii) after “Supplementary Product Disclosure Statement” insert “(“Supplementary Statement”) or Supplementary Short-Form PDS (Supplementary Statement); and
 - (c) in paragraph 4 omit “Product Disclosure” (twice occurring); and
 - (d) after the definition of “*new managed investment product*” insert:

““Short-Form PDS and Supplementary Short-Form PDS” have the same meaning as in Division 3A of Part 7.9 of the Act, as notionally inserted by Part 3 of Schedule 10BA of the *Corporations Regulations 2001*.”

ASIC Class Order [CO 03/237]

6. ASIC Class Order [CO 03/237] is varied as follows:
- (a) in paragraph (a) after “Product Disclosure Statement” insert “(the “Statement”) or Short-Form PDS (the “Statement”); and
 - (b) in paragraph (b) omit “sections 1012A, 1012B or 1012C”, substitute “sections 1012A, 1012B, 1012C or 1017H,”; and
 - (c) omit the note above the Schedule and substitute:

“Note: The information contained in a Statement includes any information contained in a Supplementary Product Disclosure Statement or Supplementary Short-Form PDS given at the same time as the Statement or later: s1014D and s1017O.”; and
 - (d) in paragraph 1 of the Schedule omit “Product Disclosure; and

- (e) In the **Interpretation** section:
 - (i) in paragraph 2 omit “Product Disclosure”; and
 - (ii) in paragraph 4 omit “1013A(3).”, substitute “1013A(3); and”; and
 - (iii) after paragraph 4 insert:
 - “5. “Short-Form PDS” and “Supplementary Short-Form PDS” have the same meanings as in Division 3A of Part 7.9 of the Act, as notionally inserted by Part 3 of Schedule 10BA of the *Corporations Regulations 2001*.”.

ASIC Class Order [CO 03/957]

7. ASIC Class Order [CO 03/957] is varied as follows:

- (a) in subparagraph 1(a) omit:

“sections 1013I and 1015B of the Act in relation to a Product Disclosure Statement”, substitute:

“section 1013I of the Act in relation to a Product Disclosure Statement or Short-Form PDS”; and
- (b) after subparagraph 1(a) insert:

“(aa) section 1015B of the Act in relation to a Product Disclosure Statement that relates to an ASX traded managed investment warrant of the warrant issuer; and”; and
- (c) omit the note after paragraph 1 and substitute:

“Note 1: The consequences of relying on the exemption from s1015B of the Act include ss1013G(a), 1013J and 1016B(1) of the Act not applying in relation to the relevant Product Disclosure Statement; and s1015D applying in relation to that Statement.

Note 2: Section 1015B does not apply to a Short-Form PDS.”; and
- (d) in the **Interpretation** section:
 - (i) in subparagraph (e)(ii) omit “and”; and
 - (ii) after the definition of “managed investment warrant” insert:
 - “(ea) “Short-Form PDS” has the same meaning as in Division 3A of Part 7.9 of the Act, as

notionally inserted by Part 3 of Schedule 10BA of the *Regulations 2001*; and”; and

ASIC Class Order [CO 03/1092]

8. ASIC Class Order [CO 03/1092] is varied as follows:

- (a) in paragraph 1 of the Schedule omit “(PDS)”, substitute “(the “Statement”) or Short-Form PDS (the “Statement”)”; and
- (b) omit paragraph 2 of the Schedule; and
- (c) renumber paragraph 3 of the Schedule as paragraph 2 and omit “PDS” (wherever occurring), substitute “Statement”; and
- (d) omit the note after paragraph 3 of the Schedule and substitute:

“Note 1: Where the Act requires a Product Disclosure Statement to be given for a financial product, Division 3A of Part 7.9 (as notionally inserted by Part 3 of Schedule 10BA of the *Corporations Regulations 2001*) of the Act allows a Short-Form PDS to be given instead.

Note 2: A Product Disclosure Statement or Short-Form PDS cannot relate to financial products that are securities: see section 1010A of the Act. Accordingly, this instrument does not affect the extent to which a Product Disclosure Statement or Short-Form PDS may be combined with a disclosure document for an offer of securities.”; and

- (e) In the **Interpretation** section omit:

“*new product disclosure provisions* has the meaning by subsection 1438(2) of the Act”, substitute:

“*Short-Form PDS* has the same meaning as in Division 3A of Part 7.9 of the Act, as notionally inserted by Part 3 of Schedule 10BA of the *Corporations Regulations 2001*.”.

Dated this 23rd day of May 2007

Signed by Brendan Byrne

as a delegate of the Australian Securities and Investments Commission