



**ASIC**

Australian Securities & Investments Commission

**[CO 02/273]**

## **Business introduction or matching services**

*Issued 5/3/2002*

*Class Order [CO 02/273] provides an exemption from the fundraising provisions of the Corporations Act for persons involved in making or calling attention to offers of securities through a business introduction service. Separate exemptions are provided for each of the following categories: operators of introduction services; those who propose to issue or sell securities through the use of introduction services; professionals who endorse or verify information which appears in introduction services; and people who sponsor or publish introduction services. This class order revokes [CO 00/192].*

***This class order comes into effect on 11 March 2002 upon commencement of Schedule 1 to the Financial Services Reform Act 2001: see paragraph 4(2A)(c) of the Acts Interpretation Act 1901.***

Australian Securities and Investments Commission  
Corporations Act 2001 — Paragraphs 283GA(1)(a), 741(1)(a),  
992B(1)(a) and 1020F(1)(a) — Revocation and Exemption

- 1 Under paragraphs 283GA(1)(a) and 741(1)(a) of the *Corporations Act 2001* (the “Act”), the Australian Securities and Investments Commission (“ASIC”) hereby revokes Class Order [00/192].
- 2 Under paragraphs 283GA(1)(a), 741(1)(a), 992B(1)(a) and 1020F(1)(a) of the Act ASIC hereby exempts each person in the following classes in the cases identified, to the extent and on conditions specified as follows.

### **First exemption — business introduction service operators**

*Persons to whom this exemption applies*

- 1 This exemption (the “First Exemption”) applies to any person (“the

Operator”) who conducts an Introduction Service and through a Publication or a Meeting:

- (a) offers securities or interests in a managed investment scheme (“scheme interests”) for issue or sale;
- (b) advertises an offer or intended offer of securities or scheme interests for issue or sale;
- (c) makes a recommendation that a person acquire those scheme interests; or
- (d) publishes a statement that directly or indirectly refers to an offer or intended offer of securities or scheme interests for issue or sale, or is reasonably likely to induce people to apply for the scheme interests.

*Scope of this exemption*

- 2 The persons to whom this First Exemption applies are exempted from Parts 2L.1, 2L.2, 2L.3, 2L.4, 2L.5, 6D.2, 6D.3 and 7.9 and sections 992A and 992AA of the Act in relation to offers, advertisements, recommendations and publications mentioned in paragraph 1 of this First Exemption that comply with paragraph 3 of this First Exemption.

*Conditions of exemption*

- 3 This First Exemption applies when the Operator meets the following conditions:
- (a) neither the Operator nor any associate of the Operator has any pecuniary interest in the outcome of any investment decision by the users of the Introduction Service other than the charging of a fee for providing the Introduction Service or the payment of an Introduction Commission;
  - (b) every Publication contains prominent statements appropriate for the particular medium by which the Publication is made to the effect that:
    - (i) investment in new business carries high risks. It is highly speculative and before investing in any project about which information is given, prospective investors are strongly advised to take appropriate professional advice;

- (ii) the information contained in the Publication has been prepared by or on behalf of the person who is proposing to issue or sell the securities or scheme interests and neither the Operator nor the Publisher (if any) has undertaken an independent review of the information contained in the Publication;
  - (iii) the information contained in the Publication about the proposed business opportunity and the securities or scheme interests is not intended to be the only information on which the investment decision is made and is not a substitute for a disclosure document, Product Disclosure Statement or any other notice that may be required under the Act, as the Act may apply to the investment. Detailed information may be needed to make an investment decision, for example: financial statements; a business plan; information about ownership of intellectual or industrial property; or expert opinions including valuations or auditors' reports;
  - (iv) prospective investors should be aware that no established market exists for the trading of any securities or scheme interests that may be offered; and
  - (v) the Publication is subject to this instrument;
- (c) except as provided in subparagraph 3(d) of this First Exemption no Publication contains the name or any distinguishing trademark or logo of:
- (i) any person who may issue, arrange the issue of, make available, or sell securities or scheme interests; or
  - (ii) the original issuer of the securities or scheme interests which may be sold, as a result of an offer made, issued or referred to in the Publication;
- (d) a Publication may contain the name and any distinguishing trademark or logo of a person described in subparagraph 3(c) of this First Exemption only if:
- (i) the Publication is available only on subscription;
  - (ii) before a person is entitled to receive the first copy

of, or first obtain access to, the Publication for which the person has subscribed, the person acknowledges to the Operator that the person is aware of the limitations of the information provided in the Publication, as set out in subparagraph 3(b) of this First Exemption; and

- (iii) the Publication contains prominent statements appropriate for the particular medium by which the Publication is made to the effect that:
  - (A) the information contained in the Publication about the proposed business opportunity and the securities or scheme interests is not intended to be the only information on which the investment decision is made and is not a substitute for a disclosure document, Product Disclosure Statement or any other notice that may be required under the Act, as that Act may apply to the investment. Detailed information may be needed to make an investment decision, for example: financial statements; a business plan; information about ownership of intellectual or industrial property; or expert opinions including valuations or auditors' reports; and
  - (B) a prospective investor is strongly advised to take appropriate professional advice before accepting an offer for issue or sale of any securities or scheme interests;
- (e) other than in the situation set out in paragraph 3(d) of this First Exemption, at the time of first supplying the name of the proposed issuer or proposed seller of the securities or scheme interests to any prospective investor the Operator issues or causes to be issued to the prospective investor a notice containing statements to the effect of the matters set out in subparagraphs 3(d)(iii)(A) and (B) of this First Exemption;

- (f) the Operator does not provide at any Meeting or publish in any Publication any information about an offer made by an Issuer or Seller without the prior written authorisation of the Issuer or Seller (as the case may be);
- (g) no Publication contains any application form for the securities or scheme interests;
- (h) no Publication contains any:
  - (i) advertisement of; or
  - (ii) statement that directly or indirectly refers to, or that is reasonably likely to induce people to apply for the securities or scheme interests under,
 

an offer or intended offer of securities or scheme interests for more than \$5 million in total in relation to any one body, business or managed investment scheme;
- (j) no Publication contains, nor does any person at any Meeting make, any statement to the effect that the Introduction Service, the Operator or any other person associated with the Introduction Service has been endorsed or approved by ASIC;
- (k) the Operator at every Meeting:
  - (i) does not issue or permit the issue of any application form for the securities or scheme interests; and
  - (ii) makes statements at the commencement of the Meeting and circulates notices in writing to each person attending the Meeting containing prominent statements to the effect that:
    - (A) a prospective investor should obtain further information from the Issuer or Seller and conduct further enquiries about the proposed investment and the securities or scheme interests that may be issued, or sold before applying for or buying those financial products;

- (B) requests for further information about a proposed investment and the relevant securities or scheme interests may be made to the Issuer or Seller (as the case may be);
  - (C) a prospective investor is strongly advised to take appropriate professional advice before accepting an offer for issue or sale of any securities or scheme interests, including advice about whether the proposed investment is suitable for that person's circumstances;
  - (D) no contract for the issue or sale of the securities or scheme interests discussed at a Meeting shall be entered into on the day of the Meeting between an Issuer or Seller and a prospective investor who attended the Meeting; and
  - (E) a contract for the issue or sale of securities or scheme interests discussed at a Meeting entered into during the period of five business days commencing on the date of the Meeting, with a prospective investor who attended the Meeting, is voidable at the option of the prospective investor, without penalty or forfeiture, during the period of ten business days commencing on the date of the Meeting; and
- (l) the Operator provides ASIC with a notice stating the Operator's name and contact details and details of the Publication published by the Operator.

**Second exemption — issuer of securities or scheme interests**

*Persons to whom this exemption applies*

- 1 This exemption (the "Second Exemption") applies to each person ("Issuer") who through a Publication or at a Meeting published or conducted in accordance with the First Exemption:
  - (a) offers securities or scheme interests of the Issuer for issue;

- (b) advertises an offer or intended offer of securities or scheme interests of the Issuer for issue;
- (c) publishes a statement that directly or indirectly refers to an offer or intended offer of securities or scheme interests of the Issuer for issue, or is reasonably likely to induce people to apply for the securities or scheme interests; or
- (d) makes a recommendation that a person acquire those scheme interests; and

to any person acting for or on behalf of the Issuer who makes or publishes such an offer, advertisement or publication, or who makes such a recommendation to acquire scheme interests.

(For the purposes of this exemption an offer to sell securities or scheme interests to which either subsection 707(3) or 1012C(6) of the Act applies is treated as an offer for issue of those securities or scheme interests and as having been made by the issuer of the securities or scheme interests as well as by the person who offers them for sale.)

*Scope of this exemption*

2 The persons to whom this Second Exemption applies are exempted from Parts 2L.1, 2L.2, 2L.3, 2L.4, 2L.5, 6D.2, 6D.3 and 7.9 and sections 992A and 992AA of the Act in relation to:

- (a) offers, advertisements, publications and recommendations mentioned in paragraph 1 of this Second Exemption that comply with the conditions in paragraph 3 of this Second Exemption and that cannot by acceptance give rise to contracts to issue the securities or scheme interests; and
- (b) offers in relation to securities or scheme interests which may by acceptance give rise to a contract to issue the securities or scheme interests, made or issued personally to persons where the number of persons to whom offers in relation to financial products of the same class are issued at the same time or have been issued or made in the preceding 12 months does not exceed 20,

where the total amount for which the financial products are offered does not exceed \$5 million in relation to any one business, body or managed investment scheme or any bodies or managed investment schemes that are determined by ASIC to be closely related bodies or schemes under subsections 740(1), 601ED(3) or 1012K(1) of the Act.

In counting 20 persons for paragraph (b), do not count a person to whom no offer was made other than:

- (c) an offer which is exempted under subparagraph 2(a) of this Second Exemption or under subparagraph 2(a) of the Third Exemption or the corresponding exemptions in former Class Order [00/192];
- (d) an offer which did not need disclosure to investors because of a provision of section 708 of the Act other than subsection 708(1); or
- (e) an offer of a financial product other than a security which did not need a Product Disclosure Statement (other than because of this instrument or section 1012E of the Act).

*Conditions of the exemption in subparagraph 2(a)*

3 The exemption referred to in subparagraph 2(a) of this Second Exemption applies where the Issuer meets the following conditions:

- (a) the Issuer takes all reasonable steps to ensure that all material included in a Publication or provided at a Meeting that is prepared by or on behalf of the Issuer does not contain any false, misleading or deceptive statements;
- (b) the Issuer does not:
  - (i) make an offer of securities or scheme interests for issue which may by acceptance give rise to a contract with a person who responded to an offer to which subparagraph 2(a) of this Second Exemption applies, during one year after that offer was made, other than any of the following:
    - (A) an offer which does not need disclosure to investors because of a provision of section 708 of the Act other than subsection 708(1);
    - (B) an offer of a financial product other than a security which does not need a Product Disclosure Statement (other than because of this instrument or section 1012E of the Act);
    - (C) an offer to which subparagraph 2(b) of this Second Exemption applies;



- (D) an offer contained in a lodged disclosure document or a Product Disclosure Statement; or
- (ii) issue securities or scheme interests in relation to any one business, body or managed investment scheme or any bodies or managed investment schemes that are determined by ASIC to be closely related bodies or schemes under subsections 740(1), 601ED(3) or 1012K(1) of the Act to persons who respond to offers made under subparagraph 2(a) or (b) of this Second Exemption for more than \$5 million in total until one year after the last of those offers was made.

In calculating the \$5 million do not count:

- (A) amounts paid in relation to issues that result from offers which:
  - (I) did not need disclosure to investors because of a provision of section 708 of the Act other than subsection 708(1); or
  - (II) in the case of a financial product other than a security did not need a Product Disclosure Statement (other than because of this instrument or section 1012E of the Act); or
- (B) amounts paid in response to an offer made in a disclosure document or Product Disclosure Statement (as applicable) dated after the Issuer has ceased to make or publish offers, advertisements or publications under subparagraph 2(a) of this Second Exemption;
- (c) except as permitted by subparagraph 3(d) of the First Exemption, the Issuer does not publish or cause to be published in any Publication the name or any distinguishing trademark or logo of the Issuer;

- (d) neither the Issuer nor any other person issues or makes available at any Meeting any application form for securities or scheme interests of the Issuer;
- (e) the Issuer does not issue securities or scheme interests to a person to whom a Publication has been made available, or who has attended a Meeting, relating to securities or scheme interests of the Issuer (unless the Issuer has issued to the person an application form which when completed is capable by acceptance of giving rise to a contract for issue of the securities or scheme interests) for the period of one year after the Publication was made available or the Meeting was held;
- (f) the Issuer does not enter into a contract for issue of securities or scheme interests discussed at a Meeting on the day of the Meeting with a prospective investor who attended the Meeting;
- (g) a contract for issue of securities or scheme interests contains a provision to the effect that if:
  - (i) the investor attended a Meeting at which the securities or scheme interests were discussed; and
  - (ii) the contract is entered into during the period of five business days after the date of the Meeting,

the contract is voidable at the option of the prospective investor, without penalty or forfeiture, during the period of ten business days commencing on the date of the Meeting;

- (h) where the Issuer causes or authorises Endorsed Material to be included in a Publication or referred to at a Meeting, the Issuer obtains the prior written consent of the Endorser to the inclusion or reference to the Endorsed Material in the Publication or at the Meeting (as the case may be);

- (j) where the Issuer causes or authorises Endorsed Material to be included in a Publication or referred to at a Meeting, the Issuer includes a statement in the Publication and makes a statement at the Meeting to the effect that the Endorser has given, and has not, before the inclusion of the material in the Publication or reference to the material at the Meeting, withdrawn, the Endorser's written consent to:
- (i) the inclusion of the Endorsed Material in the form and context in which it is included in the Publication; or
  - (ii) the reference to the Endorsed Material at the Meeting,

as the case may be;

- (k) where the Issuer causes or authorises Endorsed Material to be included in a Publication or referred to at a Meeting, the Issuer indicates in the Publication and at the Meeting the information that the Endorser has provided to the Issuer about the extent of the enquiries the Endorser has made in order to make the endorsement, verification or assessment; and
- (l) where the Issuer causes or authorises Endorsed Material to be included in a Publication or referred to at a Meeting, the Issuer causes to be disclosed in writing in the Publication in proximity to the endorsement, verification or assessment, or by a statement in writing provided to each participant at the Meeting, as the case requires, full particulars of:
- (i) the nature and extent of the interest of the Endorser, including a statement of all amounts paid or agreed to be paid to the Endorser in cash or financial products or otherwise by any person for services rendered by the Endorser:
    - (A) when the offer is made or referred to in the Publication or at the Meeting; and
    - (B) that existed within 2 years before the Publication or the Meeting,

in connection with:

    - (C) the promotion, formation, or inception;

- (D) any property to be acquired in connection with the promotion, formation or inception; and
- (E) any services rendered in connection with the promotion, formation or inception,
  - of the body, business or managed investment scheme to which the Endorsed Material relates; and
- (ii) where the interest of the Endorser consists of being a partner in a firm, the nature and extent of the interest of the firm in the matters referred to in clause (i) of this subparagraph.

### **Third exemption — sellers of issued securities or scheme interests**

#### *Persons to whom this exemption applies*

- 1 This exemption (the “Third Exemption”) applies to each person (“Seller”) who through a Publication or at a Meeting published or conducted under the First Exemption offers or recommends securities or scheme interests for sale, other than an offer to which subsection 707(3) or 1012C(6) applies, and any person acting for or on behalf of a Seller who makes such an offer.

#### *Scope of this exemption*

- 2 The persons to whom this Third Exemption applies are exempted from Parts 2L.1, 2L.2, 2L.3, 2L.4, 2L.5, 6D.2, 6D.3 and 7.9 and sections 992A and 992AA of the Act in relation to:
  - (a) offers or recommendations mentioned in paragraph 1 of this Third Exemption that comply with the conditions in paragraph 3 of this Third Exemption and that cannot by acceptance give rise to contracts to sell the securities and scheme interests; and
  - (b) offers in relation to securities or scheme interests which may by acceptance give rise to a contract to sell them, made or issued personally to persons where the number of persons to whom offers in relation to securities or scheme interests of the same class are made or issued at the same time or have been made or issued in the preceding 12 months does not exceed 20,

where the total amount for which the securities or scheme interests are offered does not exceed \$5 million in relation to any one business, body or managed investment scheme or any bodies or managed investment schemes that are determined by ASIC to be closely related bodies or schemes under subsections 740(1), 601ED(3) or 1012K(1) of the Act.

In counting 20 persons for paragraph (b), do not count a person to whom no offer was made other than:

- (c) an offer which is exempted under subparagraph 2(a) of the Second Exemption or under subparagraph 2(a) of this Third Exemption or the corresponding exemptions in former Class Order [00/192];
- (d) an offer which did not need disclosure to investors because of a provision of section 708 of the Act other than subsection 708(1); or
- (e) an offer of a financial product other than a security which did not need a Product Disclosure Statement (other than because of this instrument or section 1012E of the Act).

*Conditions of the exemption in subparagraph 2(a)*

3 The exemption referred to in subparagraph 2(a) of this Third Exemption applies where the Seller meets the following conditions:

- (a) the Seller takes all reasonable steps to ensure that all material included in a Publication or provided at a Meeting that is prepared by or on behalf of the Seller does not contain any false, misleading or deceptive statement;
- (b) the Seller does not:
  - (i) make an offer in relation to securities or scheme interests which may by acceptance give rise to a contract with a person who responded to an offer to which subparagraph 2(a) of this Third Exemption applies, during one year after that offer was made, other than any of the following:
    - (A) an offer which does not need disclosure to investors because of a provision of section 708 of the Act other than subsection 708(1);
    - (B) an offer of a financial product other than a

security which does not need a Product Disclosure Statement (otherwise than because of this instrument or section 1012E of the Act);

- (C) an offer to which subparagraph 2(b) of this Third Exemption applies;
  - (D) an offer contained in a lodged disclosure document or Product Disclosure Statement; or
- (ii) sell or agree to sell securities or scheme interests in relation to any one business, body or managed investment scheme or any bodies or managed investment schemes that are determined by ASIC to be closely related bodies or schemes under subsections 740(1), 601ED(3) or 1012K(1) of the Act to persons who respond to offers made under subparagraph 2(a) or (b) of this Third Exemption for more than \$5 million in total until one year after the last of those offers was made.

In calculating that \$5 million do not count:

- (A) amounts paid in relation to sales that result from offers which:
  - (i) did not need disclosure to investors because of a provision of section 708 of the Act other than subsection 708(1); or
  - (ii) in the case of a financial product other than a security did not need a Product Disclosure Statement (other than because of this instrument or section 1012E of the Act);
- (B) amounts paid in response to an offer made in a disclosure document or Product Disclosure Statement (as applicable) dated after the Seller has ceased to make offers, under subparagraph 2(a) of this Third Exemption;

- (c) except as permitted under subparagraph 3(d) of the First Exemption, the Seller does not publish or cause to be published in any Publication the name or any distinguishing trademark or logo of the Seller or the original issuer of the securities or scheme interests which may be sold;
- (d) the Seller does not sell securities or scheme interests to a person to whom a Publication has been made available, or who has attended a Meeting, relating to those securities or scheme interests (unless the Seller has issued to the person a document offering the securities or scheme interests for sale which is capable by acceptance of giving rise to a contract for sale of the financial products) for the period of one year after the Publication was made available or the Meeting was held;
- (e) the Seller does not enter into a contract of sale for securities or scheme interests that are discussed at a Meeting on the day of the Meeting with a prospective buyer who attended the Meeting;
- (f) a contract of sale with a prospective buyer of securities or scheme interests contains a provision to the effect that if:
  - (i) the investor attended a Meeting at which the financial products were discussed; and
  - (ii) the contract is entered into during the period of five business days after the date of the Meeting,the contract is voidable at the option of the prospective buyer, without penalty or forfeiture, during the period of ten business days commencing on the date of the Meeting;
- (g) where the Seller causes or authorises Endorsed Material to be included in a Publication or referred to at a Meeting, the Seller obtains the prior written consent of the Endorser to the inclusion or reference to the Endorsed Material in the Publication or at the Meeting (as the case may be);
- (h) where the Seller causes or authorises Endorsed Material to be included in a Publication or referred to at a Meeting, the Seller includes a statement in the Publication and makes a statement at the Meeting to the effect that the Endorser has given, and has not, before the inclusion of the material in the Publication or reference to the material at the Meeting, withdrawn, the Endorser's written consent to:

- (i) the inclusion of the Endorsed Material in the form and context in which it is included in the Publication; or
  - (ii) the reference to the Endorsed Material at the Meeting (as the case may be);
- (j) where the Seller causes or authorises Endorsed Material to be included in a Publication or referred to at a Meeting, the Seller indicates in a statement in the Publication and at the Meeting the information that the Endorser has provided to the Seller about the enquiries the Endorser has made in order to make the endorsement, verification or assessment; and
- (k) where the Seller causes or authorises Endorsed Material to be included in a Publication or referred to at a Meeting, the Seller causes to be disclosed in writing in the Publication in proximity to the endorsement, verification or assessment, or by a statement in writing provided to each participant at the Meeting, as the case requires, full particulars of:
- (i) the nature and extent of the interest of the Endorser, including a statement of all amounts paid or agreed to be paid to the Endorser in cash or financial products or otherwise by any person for services rendered by the Endorser:
    - (A) when the offer is made or referred to in the Publication or at the Meeting; and
    - (B) that existed within 2 years before the Publication or Meeting,

in connection with:

    - (C) the promotion, formation, or inception;
    - (D) any property to be acquired in connection with the promotion, formation or inception; and
    - (E) any services rendered in connection with the promotion, formation or inception,

of the body, business or managed investment scheme to which the Endorsed Material relates; and



- (ii) where the interest of the Endorser consists of being a partner in a firm, the nature and extent of the interest of the firm in the matters referred to in clause (i) of this subparagraph.

#### **Fourth exemption — endorsers**

##### *Persons to whom this exemption applies*

- 1 This exemption (the “Fourth Exemption”) applies to each person (“Endorser”) who by endorsing, verifying or providing an assessment of any information included in a Publication or provided at a Meeting by an Issuer or Seller:
  - (a) offers securities or scheme interests for issue or sale;
  - (b) advertises an offer or intended offer of securities or scheme interests for issue or sale;
  - (c) makes a recommendation for a person to acquire those scheme interests;
  - (d) publishes a statement that directly or indirectly refers to an offer or intended offer of securities or scheme interests for issue or sale, or is reasonably likely to induce people to apply for the securities or scheme interests; or
  - (e) is involved in making or publishing such offers, advertisements, recommendations or statements.

##### *Scope of this exemption*

- 2 The persons to whom this Fourth Exemption applies are exempted from Parts 2L.1, 2L.2, 2L.3, 2L.4, 2L.5, 6D.2, 6D.3 and 7.9 and sections 992A and 992AA of the Act, in relation to offers, advertisements, recommendations and statements as mentioned in paragraph 1 of this Fourth Exemption that comply with the condition in paragraph 3 of this Fourth Exemption.

*Condition of the exemption*

- 3 This Fourth Exemption applies on condition that the Endorser indicates in any Endorsed Material the extent of the enquiries the Endorser has made in order to make the endorsement, verification or assessment.

**Fifth exemption — business introduction publishers***Persons to whom this exemption applies*

- 1 This exemption (the “Fifth Exemption”) applies to each person (“Publisher”) other than an Issuer, Operator, Seller or Endorser who by publishing a Publication:
- (a) offers securities or scheme interests for issue or sale;
  - (b) makes a recommendation that a person acquire those scheme interests;
  - (c) advertises an offer or intended offer of securities or scheme interests for issue or sale;
  - (d) publishes a statement that directly or indirectly refers to an offer or intended offer of securities or scheme interests for issue or sale, or is reasonably likely to induce people to apply for the securities or scheme interests; or
  - (e) is involved in making or publishing such recommendations, offers, advertisements or statements.

*Scope of this exemption*

- 2 The persons to whom this Fifth Exemption applies are exempted from Parts 2L.1, 2L.2, 2L.3, 2L.4, 2L.5, 6D.2, 6D.3 and 7.9 of the Act in relation to offers, advertisements and statements published as mentioned in paragraph 1 of this Fifth Exemption that comply with the condition in paragraph 3 of this Fifth Exemption where the Publisher:
- (a) conducts a business of publishing information and the offer, advertisement and statement is received for publication in the ordinary course of that business; or
  - (b) is involved in the promotion or encouragement of investment in Small and Medium sized enterprises on a not for profit basis; or

- (c) allows the name of the Publisher to be associated with or used in the Publication, but not in relation to any particular offer in the Publication; or
- (d) provides to the Operator direct financial assistance which is applied for the purpose of the preparation, publishing or distribution of the Publication; and

has no pecuniary interest in the outcome of any investment decision by the users of the Introduction Service.

*Condition of exemption*

- 3 This Fifth Exemption applies when the Publisher meets the following condition: each offer, advertisement and statement in the Publication is caused or authorised to be published by an Operator and an Issuer or Seller (as the case may be).

**Interpretation**

For the purposes of this instrument:

- 1 The following terms have the following meanings:

“Commencement Date” means the date of commencement of Schedule 1 to the *Financial Services Reform Act 2001*.

“Effective Date” means:

- (a) for financial products in a class first issued before the Commencement Date - the Commencement Date; and
- (b) for other financial products - the date on which the new product disclosure provisions (as defined in subsection 1438(2) of the Act) first apply to the financial products.

“Endorsed Material” means material that is endorsed, verified or assessed by an Endorser.

“Introduction Commission” is any commission, fee or other payment made to an Operator by:

- (i) an Issuer upon the Issuer agreeing to issue or issuing any security or scheme interest;
- (ii) a Seller upon the Seller agreeing to sell or selling any security or scheme interest,

as a result of the Operator identifying a person who accepts an

offer for issue or sale of the security or scheme interest.

“Introduction Service” is a business that has as one of its objects the promotion or encouragement of investment in Small and Medium sized enterprises. An Introduction Service achieves this object by identifying potential investors to invest in these enterprises or potential investments for ascertained investors.

“Meeting” means any meeting between an Issuer or Seller and potential investors which is organised and conducted by an Operator and not held at premises of any potential investor.

“Publication” means a document or series of documents published by an Operator, including any electronic publication, which principally contains information about persons other than the Operator who are soliciting investments.

“Small and Medium sized enterprise” means a business which employs up to 250 employees (counting any part-time employee as an appropriate fraction of a full-time equivalent).

- 2 When determining whether two or more financial products are of the same class:
  - (a) a share in a body is of the same class as any other share in the body or any other body that ASIC determines is a closely related body under subsection 740(1) of the Act; and
  - (b) a debenture of a body is of the same class as any other debenture of the body or any other body that ASIC determines is a closely related body under subsection 740(1) of the Act; and
  - (c) an interest in a managed investment scheme is of the same class as any other interest in the scheme or any other scheme that is declared by ASIC to be a closely related scheme under subsections 601ED(3), 740(1) or 1012K(1) of the Act.
- 3 References to amounts for which financial products are offered, issued or sold are to the total consideration paid or payable for the issue or sale of the financial products.
- 4 When determining whether an offer needs disclosure to investors under section 708 of the Act, assume in the case of an offer prior to the Effective Date of an interest in an unregistered managed

investment scheme that the scheme is registered and that interests in the scheme are securities.

### **Commencement**

This instrument takes effect on the Commencement Date.

Dated the 5th day of March 2002

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