



ASIC
Australian Securities &
Investments Commission

Committee	Parliamentary Joint Committee on Corporations and Financial Services
Inquiry	Inquiry into ASIC, the Takeovers Panel, and the Corporations Legislation
Question No.	074
Topic	Class Order 02/273 Business Introduction Services
Reference	Written, 20 March 2024
Committee member	Senator Deborah O'Neill

Question

The Committee has received the attached correspondence from Mr Jordan Green AM. Would you please provide the Committee with an update on the regulatory change issues associated with ASIC Class Order 02/273 Business Introduction Services discussed on pages 1–2.

Answer

We note that ASIC's Chair recently received a similar letter from Mr Green and responded to him separately on substantively similar terms as set out below.

Class Order

In September 2022, ASIC issued [ASIC Corporations \(Business Introduction Services\) Instrument 2022/805](#) (the **Instrument**). In summary, the Instrument extends the original ASIC Class Order [CO 02/273] *Business introduction and matching services (Class Order)* for interests in managed investment schemes (the original Class Order provided similar relief for securities, such as shares and debentures, as well as interests in managed investment schemes).

The Instrument gives conditional relief from the financial product disclosure, anti-hawking and advertising requirements in the *Corporations Act 2001 (Act)*. The relief is available to a person (**facilitator**) who, through a business introduction service, makes or calls attention to offers of interests in a registered managed investment scheme. In practice, facilitators can provide investors with information about investment opportunities through various ways, including brochures, bulletins, web platforms and meetings (virtual or in person).

Depending on the circumstances of each case, in the course of providing business introduction services, a facilitator may provide financial services under the Act, such as by providing financial advice or dealing in those managed investment schemes. An Australian financial services licence (**AFS licence**) is required to provide financial services. Mr Green's inquiry raised a concern about a change (pursuant to ASIC regulatory guidance) in the requirement for facilitators to hold an AFS licence. However, the Instrument itself does not and has not ever, provided relief from the requirement to hold an AFS licence.

We do note that where a facilitator or other party in an angel investing venture considers that it would be incongruous or disproportionately burdensome for the facilitator to hold an AFS licence, they have the option of applying to ASIC for AFS licensing relief.

As Mr Green noted, the relief provided under the Instrument will lapse on 1 April 2025. At this stage, ASIC does not intend to extend the relief. We understand that the Government intends to consider the merits of making future amendments to the primary legislation and regulations as part of the review process for the Instrument prior to its expiry date: see paragraph 59 of the [Explanatory Statement for the Instrument](#).

Mr Green has also indicated that, in preparation for the end of that relief, ASIC has provided guidance that the interpretation of 'dealing' and managed investment scheme' are to be broadened, effectively eliminating any eligibility for unlicensed business introduction service. However, we are not aware of ASIC providing or intending to provide any guidance or broadening of the interpretation of these terms, in connection with the lapse of the relief or otherwise.