



**ASIC**

Australian Securities & Investments Commission

## REGULATORY GUIDE 152

# Lodgment of disclosure documents

Related instruments [CO 00/44]; [CO 00/167], [CO 00/168], [CO 00/169]

### Chapter 6D — Fundraising

Issued 17/2/2000

Updated 7/6/2000, 2/7/2003

*From 5 July 2007, this document may be referred to as Regulatory Guide 152 (RG 152) or Policy Statement 152 (PS 152). Paragraphs in this document may be referred to by their regulatory guide number (e.g. RG 152.1) or their policy statement number (e.g. PS 152.1).*

## What this guide is about

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RG 152.1 This guide explains:

- A** your responsibility to provide access to disclosure documents during the 7 to 14 day period after lodgment when you may not accept applications (“the exposure period”) and what we will do to facilitate that access;  

*see RG 152.2–RG 152.44*
- B** our approach to scrutiny of disclosure documents;  

*see RG 152.45–RG 152.59*
- C** what you must do about applications received during the exposure period.  

*see RG 152.60–RG 152.73*

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## **A Access to disclosure documents**

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### **Our policy**

#### ***What you must do to make disclosure documents generally available***

RG 152.2 As an offeror of securities, you are expected to make your disclosure document generally available during the exposure period.

RG 152.3 In determining what you must do to make a document generally available you should consider the nature of the offer and the likely interest in it. The method or methods you choose to make your document available should:

- (a) involve means of communication likely to be used by the kind of people likely to be interested in examining the document;
- (b) be either free of charge to those seeking the document or involve no greater charge than is reasonable given the method of communication; and
- (c) involve timely delivery of the document considering the method of communication and length of the exposure period.

RG 152.4 We consider that a disclosure document for an offer that is expected to be open to the investing public or otherwise widely circulated will have been made generally available where it is both:

- (a) posted on an internet site that is accessible to the public; and
- (b) available (on request) to members of the public by way of paper copy or by facsimile.

RG 152.4A If it is clear that a disclosure document posted on the internet site during the exposure period is not making any offer of securities, the conditions in Class Order [CO 00/44] will not be applicable (see Note 1 to that class order). We do not consider that you will be offering securities under a disclosure document posted on an internet site during the exposure period if you:

- (a) do not make an electronic application form available with the electronic disclosure document during the exposure period; and
- (b) display a prominent statement that will be seen no later than the electronic disclosure document, to the effect that securities are not being offered on the basis of the electronic disclosure document displayed and securities will only be issued or transferred on the

basis of an application form to be issued together with the disclosure document.

[*Historical note:* RG 152.4A inserted 7/6/2000.]

RG 152.4B It is recommended that disclosure documents displayed on the internet during the exposure period contain a jurisdictional disclaimer to make it clear where the offer will be made once the exposure period has run its course (see Part B of Regulatory Guide 141 *Offers of securities on the internet* at RG 141.21 and condition 6(a) of Class Order [CO 00/44]). As noted in RG 141, including a jurisdictional disclaimer in an electronic prospectus will not significantly increase the regulatory burden on issuers. However, it may assist Australian issuers to avoid infringing laws or other regulatory controls in jurisdictions where their offers, invitations and advertisements will not be targeted.

[*Historical note:* RG 152.4B inserted 7/6/2000.]

RG 152.5 There may be other ways in which a disclosure document can be made generally available apart from the way described in RG 152.4. Other methods will be assessed given the particular circumstances. However, it would not be appropriate only to make copies available to potential offerees.

[*Historical note:* RG 152.5 amended 7/6/2000 by inserting the words “apart from the way described in RG 152.4” at the end of the first sentence.]

RG 152.6 It would generally be reasonable to expect that:

- (a) no charge would be imposed by the offeror for downloading an electronic version of the document; and
- (b) for paper copies, no more is charged than the marginal cost of providing them.

RG 152.7 Where offers are intended to have a more limited audience, for instance if the offer is to be made in a small community, or only to a small group of employees, more limited means of dissemination may be appropriate, for example, just making paper or facsimile copies available on request.

RG 152.8 Irrespective of the method of communication selected, the disclosure document should generally be made available no later than the business day after it is lodged.

### ***What we will do to facilitate access to disclosure documents***

RG 152.9 We will establish and maintain a database that can be accessed via the homepage of our internet site. That database will give details of all disclosure documents lodged with us. We intend that this database will set out:

- (a) details about the offeror;
- (b) when the disclosure document was lodged;
- (c) the expiry date of the exposure period;
- (d) whether any relevant supplementary or replacement disclosure document has been lodged in relation to the disclosure document; and
- (e) if the offeror has provided the information:
  - (i) details about how to obtain a copy of the disclosure document; and
  - (ii) details of the offer itself (but not promotional material).

RG 152.10 The database may list an internet site nominated by the offeror (whether its own or that of a consenting third party host) where the relevant disclosure document may be accessed. We will explore the possibilities of including hypertext links on our database to disclosure documents posted on the internet site of the offeror or a third party host.

RG 152.11 We will continue to provide access to “docimaged” copies of disclosure documents (including any documents incorporated by reference) through searches at any ASIC Business Centre or through our recognised information vendors (including on-line vendors). We will continue to expedite making available all disclosure documents lodged with us through our “docimage” system.

### ***When we will extend the exposure period***

RG 152.12 We will extend the exposure period where:

- (a) we are not satisfied that the disclosure document is made “generally available”;
- (b) a national public holiday falls within the first 7 days;
- (c) a supplementary or replacement disclosure document is lodged within the first 7 days;
- (d) it appears to us that the disclosure document may be defective; or
- (e) the offeror requests that the period be extended.

RG 152.13 The extension will be from 7 to 14 days other than in the case of national public holidays where the extension will be for as many days as there are holidays.

RG 152.14 When we decide to extend the exposure period for your disclosure document, we will notify you in writing and we will record particulars of the new expiry date of the exposure period on our database.

RG 152.15 We may give relief on a case by case basis to extend the life of a disclosure document which is about to expire, beyond 13 months where a new disclosure document for the same securities has its exposure period extended.

***When we will give relief from the exposure period***

RG 152.16 Under Class Order [CO 00/167] we have given relief from the exposure requirement for profile statements where:

- (a) the underlying prospectus:
  - (i) has already been subject to an exposure period; and
  - (ii) contains all of the material content of the profile statement (including the requirements of s714(1)(a)(c) and s714(1)(f)), which includes our requirements under Superseded Policy Statement 153 [SPS 153]; or
- (b) a materially similar profile statement for the same securities has already been subject to an exposure period.

RG 152.17 For the purposes of our relief, an underlying prospectus will be considered to contain the material information in a profile statement and a profile statement will be considered to be materially similar to another profile statement even if information is presented:

- (a) in a different order; or
- (b) in a different format, for example, quantitative information presented in a table will not be considered materially different from the same information presented in a graph.

RG 152.18 To avoid any doubt, we have given relief under Class Orders [CO 00/168] and [CO 00/169] to make it clear that the following are not subject to the exposure requirements:

- (a) securities which are not yet quoted if they are securities of a class that is already quoted; and.
- (b) supplementary or replacement prospectuses.

## Underlying principles

RG 152.19 The exposure period is intended to provide market participants and us with the opportunity to scrutinise disclosure documents before they are used for fundraising. For effective scrutiny to take place:

- (a) the market must be able to find out that the document has been lodged;
- (b) the document must be generally available to those likely to want to scrutinise it; and
- (c) there must be a reasonable period in which the document can be scrutinised.

## Explanations

### ***Offeror to make disclosure documents generally available***

RG 152.20 The *Explanatory Memorandum to the Corporate Law Economic Reform Program Bill 1998* (the Explanatory Memorandum) states:

*The 7 to 14 day period gives ASIC and the market an opportunity to consider the disclosure document before the commencement of subscriptions for the securities on offer. Where the disclosure document was defective, the market could draw it to the attention of ASIC or aggrieved parties could, if appropriate, seek injunctions preventing the fundraising. (para 8.68)*

RG 152.21 Market consideration of a disclosure document may include review by analysts, commentators, journalists and other members of the public. This outcome is best achieved by relying on the offeror to make its disclosure document generally available during the exposure period. This is also consistent with the fact that the offeror will ordinarily put in place measures to ensure its disclosure document is generally available after the end of the exposure period.

RG 152.22 We do not consider that there is a universally appropriate method for making disclosure documents generally available. Rather, the method should reflect the circumstances of the intended offer.

RG 152.23 Disclosure documents that we consider should be made available to the investing public include at least the following:

- (a) initial public offerings with a view to seeking listing of the offeror;

- (b) offers by continuous issuers of debentures and interests in managed investment schemes; and
- (c) offers that will be advertised in metropolitan daily newspapers or on the internet.

[*Historical note:* RG 152.23 amended 7/6/2000 by replacing the term “offer documents” with “disclosure documents”.]

### ***What we will do to facilitate access to disclosure documents***

RG 152.24 Our aim in establishing a database detailing all disclosure documents lodged with us is to ensure that the people likely to be interested in examining a disclosure document during the exposure period will be able to readily find out what documents are being exposed at any point in time.

[*Historical note:* RG 152.24 amended 7/6/2000 by replacing the term “offer documents” with “disclosure documents”.]

### **Electronic formats**

RG 152.25 Generally, under s352(1)(b) a document may be lodged electronically only if we have approved in writing the electronic lodgment of documents of that kind. Further, the document is taken to be lodged with us if it is lodged in accordance with this approval (including any requirements of the approval as to authentication).

RG 152.26 We are working towards approving one or more electronic formats for the lodgment of disclosure documents for the purposes of s352(1) and the specification of one or more methods of authenticated lodgment. Before approving any electronic format(s), we propose to consult widely with lodging parties and to user-test various formats.

### ***When we will extend the exposure period***

#### **Document not generally available**

RG 152.27 In order to assess whether we should extend the exposure period, we will ask you when you lodge a disclosure document to indicate how you intend to distribute the document during the exposure period. You may provide this information through an interactive internet site we will be establishing or by a covering letter with the disclosure document.



RG 152.28 If you do not provide us with these details or if the details indicate that insufficient steps are being taken to provide access to the disclosure document, we may conclude that we are not satisfied that the document will be made generally available. We may also consider that a document is not generally available if it comes to our attention that copies of the document are not being made available on a timely basis on request or if unreasonable charges are being applied.

RG 152.29 Where we are not satisfied that a disclosure document is made generally available we will notify the offeror of the extension of the exposure period by the seventh day of the period. We will generally send this notification by facsimile.

#### Document may be deficient

RG 152.30 Where we have reason to believe a disclosure document may *prima facie* not satisfy the relevant disclosure requirements, we will extend the exposure period from 7 to 14 days. Our approach to scrutinising disclosure documents is set out in RG 152.45–RG 152.59 below.

#### Extension on request

RG 152.31 Where you make a written request to us to extend the exposure period applicable to a disclosure document, and we do not otherwise propose to extend the exposure period, we will grant your request and notify you of the extension. You may make such a request either at the time of lodgment or otherwise during the first 7 days of the exposure period. This extension will ordinarily be from 7 to 14 days.

#### No adverse implications

RG 152.32 It should be recognised that a number of factors may warrant the extension of an exposure period applicable to a disclosure document. Even where an extension is based on our preliminary view that a disclosure document is affected by *prima facie* deficiencies, notification of the extension will not amount to the taking of remedial action in relation to the document but will merely be an administrative mechanism to permit additional time for resolution of concerns. The *prima facie* deficiencies may or may not ultimately be established.

RG 152.33 We consider that persons dealing with an offeror should not draw any undue adverse implications from the mere fact of an extension of the exposure period applicable to a disclosure document. For example, we do not anticipate that an extension of the exposure period should, of itself, form the basis for an underwriter to revoke or terminate its obligations under an underwriting agreement.

### Extension of life of disclosure documents

RG 152.34 We realise that an extension of an exposure period may cause particular problems for continuous offerors of securities. Arrangements for the publication of a new disclosure document may be made on the basis that there will be no extension of an exposure period and any extension may mean there is a short period during which the securities cannot be offered.

RG 152.35 In these circumstances we will assess, on a case by case basis, whether an existing disclosure document should have its life extended in conjunction with the extension to the exposure period. Ordinarily, however, we would expect that offerors would take account of the possibility of an extension to the exposure period for their documents.

### ***When we will give relief from the exposure period***

#### Profile statements

RG 152.36 The exposure period required under s727(3) applies to all disclosure documents other than for offers of quoted securities. The stated rationale for the exemption for quoted securities is that these securities "have an established market price and are subject to the continuous disclosure regime": Explanatory Memorandum, para 8.69. Furthermore, any disclosure document for quoted securities will be available to the market and the market reaction to it can be expected to be factored into the price of the securities.

RG 152.37 We consider that the approach taken in the legislation reflects a policy that an exposure period is necessary except in circumstances where there is adequate alternate scrutiny of the offer. We consider that this is similarly the case where the information contained in the disclosure document has in effect already been subject to scrutiny via an exposure period. Accordingly, we have provided relief from exposure for profile statements where their material content has been exposed in the underlying prospectus or in another profile statement.

RG 152.38 We expect that this relief may be particularly of benefit to responsible entities of managed investment schemes that seek to issue interests through investor directed portfolio services (IDPS) or managed investment schemes providing such services (IDPS-like schemes). Those offerors may wish to prepare different profile statements tailored for different services: see generally [SPS 153].

RG 152.39 Where a disclosure document is exempt from exposure either by virtue of the legislation or our relief, the prohibition against misleading or deceptive statements or omissions will, of course, continue to apply to it.

### Replacement or supplementary documents

RG 152.40 If a replacement or supplementary document is lodged it is arguable that an exposure period applies to those documents by virtue of s719(4) and (5). To avoid doubt, we will give relief to ensure that replacement and supplementary disclosure documents are not subject to an exposure period. This is consistent with a policy of facilitating the prompt use of replacement or supplementary prospectuses where they may be necessary to ensure proper disclosure in relation to an offer that is taking place.

RG 152.41 However, if these documents are lodged during the first 7 days of the exposure period for the original document (ie the document that is being supplemented or replaced) we will generally extend the exposure period for that original document to 14 days. As offers cannot be accepted during the exposure period, the balance of convenience would seem to lie with providing the market with an opportunity to examine the new information.

### Further issues of quoted securities

RG 152.42 The effect of ASX Listing Rule 2.4 is that there is no automatic right of quotation for securities if those securities are of a class that is already quoted.

RG 152.43 We have given relief so that the disclosure document will not be subject to an exposure period if the securities being offered are of a class already quoted. This is regardless of whether the actual securities being issued were quoted at the time of their offer.

RG 152.44 In the case of renounceable rights issues of quoted securities where the rights themselves are traded, we do not consider that the exposure period applies to any disclosure document dealing with those rights as the rights are not securities: see RG 56.184 and s92(3)(d).

## **B Scrutiny of disclosure documents**

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### **Our policy**

#### ***Pre-vetting***

RG 152.45 We are unable to allocate resources to consider or provide advice on draft disclosure documents or otherwise assist intending offerors in the preparation of disclosure documents prior to their being submitted for lodgment, other than in the most exceptional circumstances.

#### ***Post lodgment review***

RG 152.46 We will conduct selective compliance reviews of disclosure documents following their lodgment (whether or not they are subject to an exposure period). We may commence a review either before or after the end of the exposure period (if there is one).

RG 152.47 We may identify disclosure documents which may be categorised as open to compliance risk for review. We may also decide to review a disclosure document following receipt of credible information from external sources which warrants the undertaking of such a review. We may also decide to review some disclosure documents at random.

RG 152.48 Where valid *prima facie* disclosure concerns are detected or brought to our attention within the first 7 days, we will usually attempt to resolve these with the offeror during that period. If it becomes apparent that the issues cannot be resolved, the exposure period will be extended to 14 days.

*[Historical note: RG 152.48 amended 2/7/2003 by inserting the word “usually” before the word “attempt” in the first sentence.]*

RG 152.49 However, if delay may be seen to be prejudicial to the public interest, we may impose an interim stop order, pending resolution of our concerns at a hearing.

*[Historical note: RG 152.49 amended 2/7/2003 by substituting the words “However, if” for the words “If, at the end of the 14 days, the concerns have not yet been satisfactorily resolved, and”.]*

RG 152.50 There may be differences between the disclosure document lodged with us and the disclosure document distributed to investors relating to:

- (a) the presentation of the document (eg its general layout and formatting) as long as the changes do not make the disclosure document deficient; and
- (b) the content of the document, if these differences are trivial (eg typographical and spelling mistakes, and corrections of those mistakes, if they do not affect the sense).

RG 152.50A This applies to both electronic and paper copies of disclosure documents distributed to investors (see also Class Order [CO 00/44]).

*[Historical note: RG 152.50A inserted 7/6/2000.]*

RG 152.51 If a defective disclosure document has been lodged with us and we have accepted it, we will not allow this document to be withdrawn. A supplementary or replacement disclosure document should be issued or other arrangements agreed with us should be put in place to ensure that no securities are issued on the basis of the defective disclosure document.

RG 152.52 These other arrangements may include the offeror providing an enforceable undertaking that the disclosure document will not be used for fundraising. In the absence of one of these approaches being adopted, we may issue a stop order in relation to the document.

RG 152.53 If we begin to review a disclosure document during its exposure period, we will not necessarily complete that review by the end of the period. In those cases we will continue to review the document after the exposure period.

RG 152.54 As with apparent deficiencies identified during the exposure period, if we identify apparent deficiencies after that period and we consider that delay may be prejudicial to the public interest, we will issue an interim stop order without reference to the issuer to limit any unnecessary risks to the investing public.

*[Historical note: RG 152.54 amended 2/7/2003. The paragraph formerly read: "As with apparent deficiencies identified during the exposure period, if we identify apparent deficiencies after that period in the first instance we will generally work with the offeror to attempt to resolve them. If the deficiencies are not or cannot be corrected to our satisfaction, we will generally take action to ensure securities are not continued to be offered or issued in reliance on the disclosure document. Primarily, this would involve the issue of a stop order to prohibit any use of a disclosure document (see s739). In circumstances where we consider that delay may be prejudicial to the public interest, we will issue an interim stop order to limit any unnecessary risks to the investing public.".]*

RG 152.55 We will also take this approach where we identify apparent deficiencies in disclosure documents for which there is no exposure period.

## Underlying principles

RG 152.56 It is the responsibility of offerors to ensure that their disclosure documents comply with the Law and are otherwise suitable for dissemination prior to lodging them with us.

## Explanations

RG 152.57 A supplementary or replacement disclosure document must be lodged if, during the exposure period or application period for a disclosure document, the offeror becomes aware that the disclosure document is deficient: see s719. It can be an offence to offer securities under a disclosure document in these circumstances: see s728.

RG 152.58 While the Law requires offerors to lodge supplementary or replacement disclosure documents in these circumstances, their use is not limited to these cases: see note 3 of s719(1). They can be used (and lodged) whenever an offeror wants to:

- (a) correct a deficiency in the original disclosure document. This means any sort of deficiency (eg a material omission, a material statement which is false or misleading, or some error which is not material);
- (b) update the original disclosure document by providing information about something which has happened since the disclosure document was prepared. This is the case whether or not the information is material. For example, they can be used to tell investors that there has been a change in the offeror's address or other contact details; or
- (c) provide additional information, whether or not the information is new or material.

RG 152.59 At the time of lodgment we may briefly examine a disclosure document to see if it falls within one of the categories noted in s1274(8), eg it contains matters contrary to law or contains errors, alterations or erasure. If it does we may refuse to receive it. However, once a disclosure document is accepted by us, it becomes part of our register and accordingly cannot be withdrawn.

## C No applications accepted during exposure period

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### Our policy

RG 152.60 If you circulate an application form with a disclosure document during the exposure period and you receive applications before the end of that period, we consider that you must not:

- (a) process those applications before the end of the period; or
- (b) do anything else that would have the effect of conferring preference on those applications or any other applications dated or sent to you during the exposure period.

RG 152.61 You may deposit any application money you receive during the exposure period into a trust account with a financial institution. This will not constitute processing of the application but rather is a means of complying with the requirement in s722 to hold any application money on trust.

RG 152.62 You are not required to include an application form in a disclosure document lodged with us or made available during the exposure period unless the form is in effect part of the disclosure document because it:

- (a) contains information incorporated by reference into the disclosure document under s712; or
- (b) it is both an application form and a supplementary document under s719.

*[Historical note: RG 152.62 replaced 7/6/2000. The paragraph formerly read:*

*“RG 152.62 You are not required to include an application form in a prospectus lodged with us or made available during the exposure period unless:*

- (a) it is part of the prospectus by virtue of being attached to it; or
- (b) if it is not attached to the prospectus, it either:
  - (i) contains information incorporated by reference into the prospectus under s712; or
  - (ii) it is both an application form and a supplementary disclosure document under s719.]

RG 152.63 Further, unless the application form is part of the disclosure document as set out above, there is no requirement for the forms that are distributed after the exposure period to be copies of an original or of one another. For example, they could all be personalised.

*[Historical note: RG 152.63 amended 7/6/2000 by replacing the term “attached to the prospectus” with “part of the disclosure document as set out above”.]*

### **Warning to investors**

RG 152.64 If you circulate an application form with a disclosure document during the exposure period you must make it clear to potential investors that:

- (a) you will not process any applications received until after the exposure period;
- (b) no preference will be conferred on applications received in the exposure period;
- (c) (i) the purpose of the exposure period is to enable the disclosure document to be examined by market participants prior to the raising of funds;
  - (ii) that examination may result in the identification of deficiencies in the disclosure document; and
  - (iii) in those circumstance, any application that has been received may need to be dealt with in accordance with s724 of the Law.

*[Historical note: RG 152.64 amended 7/6/2000 by replacing the term “prospectus” with “disclosure document”.]*

### **Underlying principles**

RG 152.65 Disclosure documents are to be made generally available during the exposure period to allow market participants to scrutinise them, not to enable potential investors to apply for the securities.

### **Explanations**

RG 152.66 Under s727(3) you must not accept an application for, or issue or transfer, non-quoted securities offered under a disclosure document until after the exposure period. We consider that this prohibition is wider than accepting an offer in the contractual sense. The heading to the subsection refers to the “processing” of applications.

RG 152.67 In the context of the exposure period being for the purpose of enabling the market to scrutinise the documents, we consider that accepting the application includes conferring a preference on those application forms received during the exposure period. We consider that you should not treat those applications any more favourably than the applications received on the first day after the end of the exposure period.

RG 152.68 An application form can only be distributed if it is included in or accompanies the disclosure document (see s723 and s727). This includes a supplementary or replacement disclosure document by virtue of s719(4) and 719(5).



RG 152.69 Except as set out in RG 152.62, we regard an application form as a separate document (see s727(2) and s728(1)(a)). There is no express requirement for it to be lodged, and no provision under which it may be lodged other than s712(4) or s719.

*[Historical note: RG 152.69 replaced 7/6/2000. The paragraph formerly read: “If the form accompanies the disclosure document, it is regarded as a separate document (s728(1)). There is no express requirement for it to be lodged, and no provision under which it may be lodged other than s712(4) or s719.”]*

RG 152.70 If an application form is circulated with the disclosure document during the exposure period then no preference is to be conferred as a result of its receipt by the offeror.

*[Historical note: RG 152.70 replaced 7/6/2000. The paragraph formerly read: “If an application form is part of the disclosure document lodged with us or if it accompanies the disclosure document circulated during the exposure period then no preference is to be conferred as a result of its receipt by the offeror.”]*

RG 152.71 For example, if completed application forms are received by the offeror or dated during the exposure period they must not be taken into account if a “first in, first served” method of allocating securities is adopted as this would lead to a preference being given to them.

### ***Warnings to investors***

RG 152.72 Should you elect to circulate an application form with a disclosure document, we consider it appropriate that you warn investors of the risks involved in lodging applications during the exposure period. These warnings may but need not be included in the disclosure document itself. Rather you may provide a warning in a prominent manner consistent with the means by which you make the copy of the disclosure document available. For example, the warning could be included in a covering letter if you are posting the disclosure document; or on the same page of the internet site from which the disclosure document may be downloaded.

*[Historical note: RG 152.72 amended 7/6/2000 by replacing the term “prospectus” with “disclosure document” wherever occurring.]*

RG 152.73 We consider that s724 applies in relation to applications received during the exposure period. Accordingly, if the disclosure document is found to be deficient, you must either return the application money or give the applicant the supplementary or replacement document and the opportunity to withdraw their application.

*[Historical note: RG 152.73 amended 7/6/2000 by replacing the term “prospectus” with “disclosure document”.]*

## Key terms

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RG 152.74 In this guide, a reference to:

“ASIC” means the Australian Securities and Investments Commission;

[*Historical note:* Defn “Bill” deleted 7/6/2000. The definition formerly read: “Bill” means the Corporate Law Economic Reform Bill 1998”.]

“deficient” in relation to a disclosure document means:

- (a) there is a misleading and deceptive statement in the disclosure document;
- (b) there is an omission from the disclosure document of information required to be disclosed; or
- (c) a new circumstance has arisen since the disclosure document was lodged and which would otherwise have been required to be disclosed if it had arisen before the disclosure document was lodged,

which is materially adverse from the point of view of investors (see s719 in relation to updating disclosure documents);

“disclosure document” means:

- (a) a prospectus;
- (b) a short form prospectus;
- (c) a profile statement; or
- (d) an offer information statement,

as those expressions are used in the Law;

“exposure period” means the period (including any extension made by us) for the purposes of s727(3) during which a person must not accept an application for, or issue or transfer, non-quoted securities offered under a disclosure document;

“Law” means the Corporations Law (as amended by the Corporate Law Economic Reform Program Act 1999);

“national public holiday” means a day that is observed as a public holiday throughout Australia;

“non-quoted securities” means all securities which are not in a class of securities quoted on a stock market of a securities exchange (eg the Australian Stock Exchange Ltd);

“offeror” means the person offering, or proposing to offer, securities for issue or sale under a disclosure document;

“our approved electronic format” means a format of a disclosure document approved for the purposes of electronic lodgment with us under s352(1)(b);

“s700” (for example) is to a section of the Law.

## Related information

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RG 152.75

### Headnotes

Lodgment of disclosure documents; making disclosure documents “generally available”; exposure period; extension of exposure period; prohibition on giving preference to application forms received or dated during exposure period; lodgment of a defective disclosure document; ASIC's role in the lodgment process.

### Class orders and pro formas

[CO 00/167], [CO 00/168], [CO 00/169], [CO 00/44]

### Policy statements

Superseded Policy Statement 153 *Profile statements* [SPS 153]

### Regulatory guides

RG 141 *Offers of securities on the internet*

RG 150 *Electronic applications and dealer personalised applications*

### Legislation

s92(3)(d), 352(1), 352(1)(b), 712, 712(4), 714(a)(c), 719, 719(1), 719(4), 719(5), 722, 723, 724, 727, 727(3), 728, 728(1)(a), 739, 1274(8)

### Consultation papers

*Fundraising: Disclosure document lodgment*

### Media releases

[MR 99/247], [MR 99/303]