



Corporations Regulations 2001

Statutory Rules No. 193, 2001

made under the

Corporations Act 2001

Compilation No. 202

Compilation date: 8 March 2025

Includes amendments: F2025L00307

This compilation is in 7 volumes

Volume 1: regulations 1.0.01–6D.5.03

Volume 2: regulations 7.1.04–7.6.08E

Volume 3: regulations 7.7.01–8B.5.20

Volume 4: regulations 9.1.01–12.9.03

Volume 5: Schedules 1, 2 and 2A

Volume 6: Schedules 3–13

Volume 7: Endnotes

Each volume has its own contents

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About this compilation

This compilation

This is a compilation of the *Corporations Regulations 2001* that shows the text of the law as amended and in force on 8 March 2025 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Schedule 3—Specified offices

(regulation 6.2.02)

Column 1	Column 2	Column 3	Column 4
Item	Office	Law	Jurisdiction
1	Treasurer		Commonwealth
2	Trustee	Parts IV, X and XI of the <i>Bankruptcy Act 1966</i>	Commonwealth
3	Chairperson of the Australian Securities and Investments Commission	<i>Australian Securities and Investments Commission Act 2001</i>	Commonwealth
4	Deputy Chairperson of the Australian Securities and Investments Commission	<i>Australian Securities and Investments Commission Act 2001</i>	Commonwealth
5	Member of the Australian Securities and Investments Commission	<i>Australian Securities and Investments Commission Act 2001</i>	Commonwealth
7	Member of the Takeovers Panel	<i>Australian Securities and Investments Commission Act 2001</i>	Commonwealth
8	Treasurer		Western Australia
9	Commissioner for Corporate Affairs		Western Australia
10	Public Trustee	<i>Public Trustee Act 1941</i>	Western Australia
11	Master of the Supreme Court	<i>Supreme Court Act 1935</i>	Western Australia
12	Registrar of the Supreme Court	<i>Supreme Court Act 1935</i>	Western Australia
13	Treasurer		Victoria
14	Commissioner for Corporate Affairs		Victoria
15	Public Trustee	<i>Public Trustee Act 1958</i>	Victoria
16	Master of the Supreme Court	<i>Supreme Court Act 1958</i>	Victoria
17	Treasurer		New South Wales
18	Public Trustee	<i>Public Trustee Act 1913</i>	New South Wales
19	Master	Division 1 of Part VIII of the <i>Supreme Court Act 1970</i>	New South Wales
20	Supervisor of Loan Fund Companies	<i>Loan Fund Companies Act 1976</i>	New South Wales
21	Protective Commissioner	<i>Mental Health Act 1958</i>	New South Wales
22	Treasurer		Queensland

Schedule 3 Specified offices

Column 1	Column 2	Column 3	Column 4
Item	Office	Law	Jurisdiction
23	Commissioner for Corporate Affairs		Queensland
24	Public Trustee	<i>Public Trustee Act 1978</i>	Queensland
25	Registrar	Supreme Court Acts 1861-1980	Queensland
26	Treasurer		South Australia
27	Curator of Prisoners Property	<i>Criminal Law Consolidation Act 1935-80</i>	South Australia
28	Public Trustee	<i>Administration and Probate Act 1919-1980</i>	South Australia
29	Master or accountant	Supreme Court Act 1935-1980	South Australia
30	Administrator	Chapter XLIX of the <i>Criminal Code</i>	Tasmania
31	Treasurer		Tasmania
32	Commissioner for Corporate Affairs		Tasmania
33	Public Trustee	<i>Public Trustee Office Act 1930</i>	Tasmania
34	Registrar of the Supreme Court	<i>Supreme Court Act 1959</i>	Tasmania
35	Treasurer		Australian Capital Territory
36	Public Trustee	<i>Administration and Probate Ordinance 1929 and the Public Trustee Act 1985</i>	Australian Capital Territory
37	Registrar of the Supreme Court	<i>Australian Capital Territory Supreme Court Act 1933</i>	Commonwealth
38	Master of the Supreme Court	<i>Australian Capital Territory Supreme Court Act 1933</i>	Commonwealth
39	Treasurer		Northern Territory
40	Public Trustee	<i>Public Trustee Act 1979</i>	Northern Territory
41	Master of the Supreme Court		Northern Territory
42	Commissioner for Corporate Affairs	<i>Companies (Administration) Act 1986</i>	Northern Territory

Schedule 4—Prescribed amounts

(regulation 1.1.01)

Column 1	Column 2	Column 3
Item	Matter	Amount (\$)
1	Inspection of registers for the purposes of: (a) subsection 173(2) or subsection 672DA(7): (i) if a register is not kept on a computer—for each inspection (ii) if a register is kept on a computer—for each inspection	5.00 a reasonable amount that does not exceed the marginal cost to the company of providing an inspection
1AA	Supply of copies for subsection 173(3) In addition, if information is provided about 5,000 or more members: (a) for the 5,000th member and for each additional member up to and including the 19,999th member (b) for the 20,000th member and for each additional member	250.00 0.05 0.01
1A	Inspection of registers or records for: (a) subsection 271(3) (b) subsection 668A(3); for each inspection	5.00
2	Supply under section 139 by a company to a member of the company of a copy of the company’s constitution	10.00
3	Supply of copies for subsection 672DA(8): (a) if a register is not kept on a computer—for each page, or part of a page, not exceeding international sheet size A4 of the copy supplied or, at the option of the supplier, for each 100 words or part of 100 words (b) if a register is kept on a computer—for each inspection	0.50 a reasonable amount that does not exceed the marginal cost to the company of providing a copy
3A	Supply of copies for: (a) subsection 246G(3) (b) subsection 251B(4) (ba) subsection 253N(4) (c) subsection 271(4) (d) subsection 812(3)	

Schedule 4 Prescribed amounts

Column 1	Column 2	Column 3
Item	Matter	Amount (\$)
	(e) paragraph 1178(3)(a); for each page, or part of a page, not exceeding international sheet size A4 of the copy supplied or, at the option of the supplier, for each 100 words or part of 100 words	0.50
4	Payment for each name and address provided under subsection 641(5)	0.10
5	For compliance with a direction under section 672A	5.00
6	Replacement of lost or destroyed certificate for paragraph 1070D(4)(a)	10.00
7	Fee for supply by a responsible entity of a copy of the constitution of a registered scheme under subsection 601GC(4)	10.00
7A	Costs of the operator in providing a copy of the consolidated constitution of a notified foreign passport fund under section 1213J	10.00
7B	Costs of the operator in providing a copy of the register of members of a notified foreign passport fund under section 1213K	250.00
	In addition, if information is provided about 5,000 or more members:	
	(a) for the 5,000th member and for each additional member up to and including the 19,999th member	0.05
	(b) for the 20,000th member and for each additional member	0.01
8	Inspection of register for subsection 919E(3):	
	(a) if the register is not kept on a computer—for each inspection	12.50
	(b) if the register is kept on a computer—for each inspection	a reasonable amount that does not exceed the marginal cost to the declared professional body of providing an inspection
	(c) despite paragraphs (a) and (b), if the inspection is by a member of the declared professional body	No fee
9	Making copies of, or taking extracts from, a register for subsection 919E(3):	
	(a) if the register is not kept on a computer—for each page, or part of a page, not exceeding international sheet size A4 of the copy supplied or, at the option of the supplier, for each 100 words or part of 100 words	1.25
	(b) if a register is kept on a computer—for each copy or extract	a reasonable amount that does not exceed the marginal cost to

Column 1	Column 2	Column 3
Item	Matter	Amount (\$)
		the declared professional body of providing a copy or extract

Schedule 5C—Conduct of auditor—relevant relationships

(regulation 2M.6.05)

1 Money owed—debt

- (1) Subclause (2) applies in relation to audit activity in relation to a financial year that ends on or after the commencement of this Schedule.
- (2) The operation of Chapter 2M of the Act is modified by omitting subsection 324CH(5) of the Act (including the subheading) and substituting the following subheading and subsection:

Ordinary course of business exception

- (5) For the purposes of item 15 of the table in subsection (1):
 - (a) disregard a debt owed by an individual to a body corporate or entity if:
 - (i) the body corporate or entity is:
 - (A) an Australian ADI; or
 - (B) a body corporate registered under the *Life Insurance Act 1995*; and
 - (ii) the debt arose because of a loan that the body corporate or entity made to the person in the ordinary course of its ordinary business; and
 - (iii) the person used the amount of the loan to pay the whole or part of the purchase price of premises that the person uses as their principal place of residence; and
 - (b) disregard a debt owed by the person or firm to a body corporate or entity if:
 - (i) the debt is on normal terms and conditions, and arises from the acquisition of goods or services on normal trading terms from:
 - (A) the audited body; or
 - (B) an entity that the audited body controls; or
 - (C) a related body corporate; and
 - (ii) the goods or services will be used by the person or firm:
 - (A) for the personal use of the person or firm; or
 - (B) in the ordinary course of business of the person or firm.

2 Money owed—deposit account

- (1) Subclause (2) applies in relation to audit activity in relation to a financial year that ends on or after the commencement of this Schedule.
 - (2) The operation of Chapter 2M of the Act is modified by omitting subsection 324CH(6) of the Act (including the subheading) and substituting the following subheading and subsection:
-

Loans by immediate family members and amounts on call

- (6) For the purposes of item 16 of the table in subsection (1):
- (a) disregard a debt owed to a person by a body corporate or entity if:
 - (i) the item applies to the person because the person is an immediate family member of:
 - (A) a professional member of the audit team conducting the audit of the audited body; or
 - (B) a non-audit services provider; and
 - (ii) the debt is incurred in the ordinary course of business of the body corporate or entity; and
 - (b) disregard an amount owed to the person or firm by the audited body, a related body corporate or an entity that the audited body controls if:
 - (i) the body, body corporate or entity is an Australian ADI; and
 - (ii) the amount is in a basic deposit product provided by the body, body corporate or entity; and
 - (iii) the amount was deposited in the ordinary course of the business of the audited body, body corporate or entity, and on the terms and conditions that normally apply to basic deposit products provided by the body, body corporate or entity.

3 Public company auditor (annual appointments at AGMs to fill vacancies)

- (1) Subclause (2) applies to:
 - (a) all companies; and
 - (b) all registered schemes; and
 - (c) all disclosing entities;
 only in relation to audit activity that is conducted on or after the commencement of this Schedule.
- (2) The operation of Chapter 2M of the Act is modified by omitting from subsections 327B(2A), (2B) and (2C) of the Act “21 days” and inserting “21 days, or such longer period as ASIC allows,”.

Schedule 6—Availability of names

(regulations 2B.6.01, 2B.6.02, 5B.3.01, 5B.3.02 and 8A.4.10)

Part 1—Rules for ascertaining whether names are identical

6101

In comparing one name with another for paragraph 147(1)(a) or (b) or 601DC(1)(a) or (b) or for subparagraph 1213B(5)(a)(i), (ii), (iii) or (iv) of the Act, the following matters are to be disregarded:

- (a) the use of the definite or indefinite article as the first word in one or both of those names;
- (b) the use of ‘Proprietary’, ‘Pty’, ‘Limited’, ‘Ltd’, ‘No Liability’ or ‘NL’ in one or both of the names;
- (c) whether a word is in the plural or singular number in one or both names;
- (d) the type, size and case of letters, the size of any numbers or other characters, and any accents, spaces between letters, numbers or characters, and punctuation marks, used in one or both names;
- (e) the fact that one name contains a word or expression in column 2 of the following table and the other name contains an alternative for that word or expression in column 3:

Column 1 Item	Column 2 Word or expression	Column 3 Alternative
1	Australian	Aust
2	Company	Co <i>or</i> Coy
3	Co	Company <i>or</i> Coy
4	Coy	Company <i>or</i> Co
5	Number	No
6	and	&
7	Incorporated	Inc
8	Corporation	Corp
9	Australian Company Number	ACN
10	Corporate Collective Investment Vehicle	CCIV

Part 2—Names unacceptable for registration

6203

For paragraphs 147(1)(c) and 601DC(1)(c) and for subparagraph 1213B(5)(a)(v) of the Act, a name is unacceptable for registration if the name:

- (a) in the opinion of ASIC, is undesirable, or likely to be offensive to:
 - (i) members of the public; or
 - (ii) members of any section of the public; or
- (b) subject to rule 6204:
 - (i) contains a word or phrase specified in an item in Part 3, or an abbreviation of that word or phrase; or
 - (ii) a word or phrase or an abbreviation having the same or a similar meaning; or
- (c) subject to rule 6205, includes the word ‘Commonwealth’ or ‘Federal’; or
- (d) in the context in which it is proposed to be used, suggests a connection with:
 - (i) the Crown; or
 - (ii) the Commonwealth Government; or
 - (iii) the Government of a State or Territory; or
 - (iv) a municipal or other local authority; or
 - (v) the Government of any other part of the Queen’s dominions, possessions or territories; or
 - (vi) a department, authority or instrumentality of the Commonwealth Government; or
 - (vii) a department, authority or instrumentality of the Government of a State or Territory; or
 - (viii) the government of a foreign country;
if that connection does not exist; or
- (e) in the context in which it is proposed to be used, suggests a connection with:
 - (i) a member of the Royal Family; or
 - (ii) the receipt of Royal patronage; or
 - (iii) an ex-servicemen’s organisation; or
 - (iv) Sir Donald Bradman; or
 - (v) Mary MacKillop;
if that connection does not exist; or
- (f) in the context in which it is proposed to be used, suggests that the members of an organisation are totally or partially incapacitated if those members are not so affected.

6204

Paragraph 6203(b) does not apply to the following:

Schedule 6 Availability of names

Part 2 Names unacceptable for registration

- (a) item 6309, 6312 or 6318 of Part 3 if a word or phrase in any of those items must be included in the name of:
 - (i) a registrable Australian body; or
 - (ii) a registered Australian body;because of the Act under which it is incorporated or registered;
- (b) item 6314 of Part 3 if the word in that item must be included in the name of:
 - (i) a registrable Australian body; or
 - (ii) a registered Australian body; or
 - (iii) a registered foreign company; or
 - (iv) a foreign company;because of the Act under which it is incorporated or registered;
- (c) item 6316AA of Part 3 if the phrase in that item is included in the name of a foreign passport fund in relation to which a notice of intention has been lodged under section 1213 of the Act (which deals with notices of intention to offer interests in a foreign passport fund).

6205

Paragraph 6203(c) does not apply if ASIC is satisfied that the word is used in a geographical context.

Part 3—Restricted words and phrases

Column 1	Column 2
Item	Word or phrase
6301A	Aboriginal and Torres Strait Islander Corporation
6301	Aboriginal Corporation
6302	Aboriginal Council
6304	Chamber of Commerce
6305	Chamber of Manufactures
6306	Chartered
6308	Consumer
6309	Co-operative
6311	Executor
6312	Friendly Society (other than in relation to the conduct of a financial business)
6312A	GST
6312B	G.S.T.
6313	Guarantee
6314	Incorporated
6315	Indigenous Corporation
6316	Made in Australia
6316AA	passport fund
6316A	police
6316B	policing
6317	R.S.L.
6317A	RSL
6318	Starr Bowkett
6319	Stock Exchange
6319A	Torres Strait Islander and Aboriginal Corporation
6320	Torres Strait Islander Corporation
6321	Trust
6322	Trustee

Schedule 6 Availability of names

Part 4 Consent required to use restricted words and phrases

Part 4—Consent required to use restricted words and phrases

Column 1	Column 2	Column 3
Item	Word or phrase	Minister
6401	Anzac	Minister for Veterans' Affairs
6403	Geneva Cross, Red Crescent, Red Cross, Red Lion and Sun	Minister for Defence
6405	United Nations	Minister for Foreign Affairs
6406	University	Minister for Education, Training and Youth Affairs

Part 5—Names relating to financial institutions for use of which consent is required

Item	Letters, word or expression	Public authority, instrumentality or agency
6501	ADI	APRA
6502	authorised deposit-taking institution	APRA
6503	bank	APRA
6504	banker	APRA
6505	banking	APRA
6506	building society	APRA
6507	credit society	APRA
6508	credit union	APRA
6509	friendly society (in relation to the conduct of a financial business)	APRA

Schedule 7—Exemptions from requirements to set out certain corporate particulars

(regulations 2B.6.03 and 5B.3.03)

7001 Definitions for Schedule 7

In this Schedule:

IATA means the International Air Transport Association.

IATA body means a company, registered Australian body or registered foreign company that is a member of IATA, or participates in the program conducted by IATA known as BSP Australia.

relevant information means the information that is required under subsection 153(2), or paragraph 601DE(1)(b), (c) or (d), of the Act to be set out on a public document or negotiable instrument.

7002 Exemption for certain IATA documents

An IATA Body is exempt from the requirement to set out the relevant information on a document if:

- (a) it is a document of one of the following kinds:
 - (i) passenger ticket and baggage check;
 - (ii) excess baggage ticket;
 - (iii) agency credit or debit memo;
 - (iv) credit card charge form;
 - (v) miscellaneous charges order;
 - (vi) stopover voucher;
 - (vii) air waybill; and
- (b) either:
 - (i) it is in a form sponsored by IATA; or
 - (ii) it is required by IATA to be used by IATA bodies; or
 - (iii) it is a document printed outside Australia exclusively for use, outside Australia, by or on behalf of that particular IATA body.

7003 Exemption for bills of lading and sea waybills

The following companies, registered Australian bodies and registered foreign companies are exempt from the requirement to set out the relevant information on a bill of lading or sea waybill:

- (a) Austrident Shipping Agency Pty Ltd;
- (c) Bakke-WA Pty Limited;
- (d) Blue Star Line Limited;
- (e) Blue Star PACE Limited;

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- (f) CSR Limited;
 - (g) Dalgety Australia Operations Limited;
 - (h) Five Star Shipping & Agency Company Pty Ltd;
 - (i) Jebsens International (Australia) Pty Ltd;
 - (j) 'K' Line (Australia) Pty Limited;
 - (k) Nedlloyd Australia Pty Ltd;
 - (l) OOCL (Australia) Pty Limited;
 - (m) Opal Maritime Agencies Pty Limited;
 - (n) Patrick Sleigh Shipping Agencies Pty Limited;
 - (o) Tasman Express Line Limited;
 - (p) Wilhelmsen Lines Australia Pty Ltd;
 - (q) Wills Shipping Pty Limited.

7004 Exemptions—quotation of ACNs and ARBNs

- (1) A company is exempt from the requirement to set out the relevant information on a public document, or a negotiable instrument, of the company if:
 - (a) the company is registered on the Australian Business Register; and
 - (b) the last 9 digits of its ABN are the same, and in the same order, as the last 9 digits of its ACN; and
 - (c) 'Australian Business Number' or 'ABN' is displayed with the name of the company, or with 1 of the references to that name:
 - (i) in the case of a document or instrument in which the name appears on only 1 page—on that page; and
 - (ii) in the case of a document or instrument in which the name appears on 2 or more pages—on the first of those pages.
- (2) A registered Australian body or registered foreign body is exempt from the requirement to set out information mentioned in paragraph 601DE(1)(b) and subsection 601DE(2) of the Act on a public document, or a negotiable instrument, of the registered body or foreign company if:
 - (a) the body or company is also registered on the Australian Business Register; and
 - (b) the last 9 digits of its ABN are the same, and in the same order, as the last 9 digits of its ARBN; and
 - (c) 'Australian Business Number' or 'ABN' is displayed with the name of the body or company, or with 1 of the references to that name:
 - (i) in the case of a document or instrument in which the name appears on only 1 page—on that page; and
 - (ii) in the case of a document or instrument in which the name appears on 2 or more pages—on the first of those pages.

Schedule 7A—Content of annual transparency report

(subregulation 2M.4A.02(1))

Part 1—Interpretation for Schedule 7A

7A101 Interpretation

In this Schedule:

management body, for an authorised audit company, means the Board of Directors.

relevant transparency reporting year means the transparency reporting year to which an annual transparency report relates.

Note: See regulation 2M.4A.01 for an application provision that, read in combination with regulation 2M.4A.02, is relevant to Schedule 7A.

Part 2—Prescribed information for audit firm or authorised audit company

Item	Information
7A201	A description of the transparency reporting auditor's: (a) legal structure; and (b) ownership
7A202	If the transparency reporting auditor belongs to a network, a description of: (a) the network; and (b) the legal arrangements of the network; and (c) the structural arrangements of the network
7A203	A description of the transparency reporting auditor's governance structure
7A204	A description of the transparency reporting auditor's internal quality control system
7A205	A statement by the transparency reporting auditor's administrative body or management body on the effectiveness of the functioning of the transparency reporting auditor's internal quality control system in the relevant transparency reporting year
7A206	The name of each body that is authorised to review the transparency reporting auditor (for example, ASIC or a professional accounting body) and the date of the most recent review of the transparency reporting auditor conducted by the body
7A207	The names of bodies of the kinds mentioned in subsection 332A(1) of the Act for which the transparency reporting auditor conducted an audit under Division 3 of Part 2M.3 of the Act in the relevant transparency reporting year
7A208	A statement about the transparency reporting auditor's independence practices in the relevant transparency reporting year, including the date on which the transparency reporting auditor most recently conducted an internal review of its independence compliance
7A209	A statement about the policy that the transparency reporting auditor follows regarding the minimum amount and nature of continuing or other professional education that professional members of an audit team must undertake during the relevant transparency reporting year
7A210	Financial information for the transparency reporting auditor that relates to the relevant transparency reporting year, including: (a) total revenue; and (b) revenue relating to: (i) audits of financial statements conducted by the transparency reporting auditor; and (ii) other services provided by the transparency reporting auditor
7A211	Information concerning the basis for remuneration of: (a) the audit firm's partners; or (b) the authorised audit company's directors

Part 3—Prescribed information for individual auditor

Item	Information
7A301	If the transparency reporting auditor belongs to a network, a description of: (a) the network; and (b) the legal arrangements of the network; and (c) the structural arrangements of the network
7A302	A description of the transparency reporting auditor's internal quality control system
7A303	The name of each body that is authorised to review the transparency reporting auditor (for example, ASIC or a professional accounting body) and the date of the most recent review of the transparency reporting auditor conducted by the body
7A304	The names of bodies of the kinds mentioned in subsection 332A(1) of the Act for which the transparency reporting auditor conducted an audit under Division 3 of Part 2M.3 of the Act in the relevant transparency reporting year
7A305	A statement that sets out the transparency reporting auditor's independence practices in the relevant transparency reporting year
7A306	Financial information for the transparency reporting auditor that relates to the relevant transparency reporting year, including: (a) total revenue; and (b) revenue relating to: (i) audits of financial statements conducted by the transparency reporting auditor; and (ii) other services provided by the transparency reporting auditor

Schedule 8—Schemes of arrangement under Part 5.1 of the Act

(regulation 5.1.01)

Chapter 5—External administration

Part 1—Interpretation and application

8101 In this Schedule:

internal creditor means:

- (a) a creditor who is a member of the company; or
- (b) a relative or spouse of a member; or
- (c) a relative of the spouse of a member.

relevant marketable securities means:

- (a) unless paragraph (b) applies—marketable securities; or
- (b) if, because of section 1235C of the Act, the subject of the Scheme is a sub-fund of a CCIV:
 - (i) shares or debentures; or
 - (ii) any rights or options in respect of shares.

Note: If, because of section 1235C of the Act, the subject of the Scheme is a sub-fund of a CCIV, that section translates most of this Schedule's references to the company so that they are references to the sub-fund.

Scheme means the proposed compromise or arrangement.

scheme creditors means the creditors or class of creditors of a company, to whom the Scheme would apply.

scheme members means the members or class of members of a company, to whom the Scheme would apply.

8102 This Schedule applies to a Part 5.1 body that is not a company as if:

- (a) references to a company were references to a Part 5.1 body that is not a company; and
- (b) references to a director were references to an office bearer, committee member or other office holder of the body; and
- (c) references to entitlements to voting shares were references to an ability to exercise a percentage of the total votes that could be exercised by members of the body.

Part 2—Prescribed information relating to proposed compromise or arrangement with creditors or class of creditors

- 8201** The statement must set out:
- (a) the expected dividend that would be available to scheme creditors if the company were to be wound up within 6 months after the date of the hearing of the application to the Court for an order under subsections 411(1) and (1A) of the Act; and
 - (b) if a composition of debts is proposed—the expected dividend that would be paid to scheme creditors if the Scheme were put into effect as proposed; and
 - (c) a list of the names of all known scheme creditors and the debts owed to those creditors; and
 - (d) if a scheme creditor is known to be a guaranteed creditor—the name of the creditor and the amount of the debt owed; and
 - (e) if a scheme creditor is known to be an internal creditor—the name of the creditor and the amount of the debt owed.
- 8202** The statement must contain a statement that an order under subsections 411(1) and (1A) of the Act is not an endorsement of, or any other expression of opinion on, the Scheme.
- 8203** The statement must contain or have annexed to it:
- (a) a report on the affairs of the company in accordance with Form 507, showing the financial position of the company as at a day within one month of the date on which it is intended to apply to the Court for an order under subsections 411(1) and (1A) of the Act;
 - (b) a copy, certified by a director or by a secretary of the company to be a true copy, of all financial statements, required to be lodged with the ASIC by the company, together with a copy of every document required by law to be annexed to the financial statements;
 - (c) if the company the subject of the Scheme is a trustee, a statement:
 - (i) of the number of trusts administered by the trustee; and
 - (ii) whether the trustee carries on any business separate from that of the trust; and
 - (iii) how the scheme creditors may obtain a copy of the relevant trust deed, free of charge, prior to the date of the meeting; and
 - (d) if the person (if any) who would be appointed to manage the Scheme proposes to charge for his or her services and for the services of his or her staff in accordance with a particular scale of charges, that scale of charges.

Part 3—Prescribed information relating to proposed compromise or arrangement with members or a class of members

8301 The statement must set out:

- (a) unless the company the subject of the Scheme is in the course of being wound up or is under official management, in relation to each director of the company:
 - (i) whether the director recommends the acceptance of the Scheme or recommends against acceptance and, in either case, his or her reasons for so recommending; or
 - (ii) if the director is not available to consider the Scheme—that the director is not so available and the cause of his or her not being available; or
 - (iii) in any other case—that the director does not desire to make, or does not consider himself or herself justified in making, a recommendation and, if the director so requires, his or her reasons for not wishing to do so; or
- (b) if the company is in the course of being wound up or is under official management—in relation to each liquidator or each official manager:
 - (i) whether he or she recommends acceptance of the Scheme or recommends against acceptance and, in either case, his or her reasons for so recommending; or
 - (ii) in any other case—that the liquidator or official manager does not wish to make a recommendation and his or her reasons for not wishing to do so.

8302 The statement must set out:

- (a) the number, description and amount of relevant marketable securities of the company the subject of the Scheme held by or on behalf of each director of the company or, if none are held by or on behalf of a director, a statement to that effect; and
- (b) for each director of the company by whom or on whose behalf shares in that company are held, whether:
 - (i) the director intends to vote in favour of, or against, the Scheme; or
 - (ii) the director has not decided whether he or she will vote in favour of, or against, the Scheme; and
- (c) if the other party to the proposed reconstruction or amalgamation is, or includes, a corporation, whether any marketable securities of the corporation are held by, or on behalf of, any director of the company the subject of the Scheme and, if so, the number, description and amount of those marketable securities; and
- (d) particulars of any payment or other benefit that is proposed to:
 - (i) be made or given to any director, secretary or senior manager of the company the subject of the Scheme as compensation for loss of, or as

- consideration for or in connection with his or her retirement from, office in that company or in a related body corporate; or
- (ii) be made or given to any director, secretary or senior manager of any related body corporate as compensation for the loss of, or as consideration for or in connection with his or her retirement from, office in that body corporate or in the company the subject of the Scheme; and
- (e) if there is any other agreement or arrangement made between a director of the company the subject of the Scheme and another person in connection with or conditional on the outcome of the Scheme—particulars of the agreement or arrangement; and
- (f) if the object of the Scheme is for a corporation to acquire control of another corporation that is a company, particulars of the nature and extent of any interest of a director of that company in any contract entered into by the corporation seeking control; and
- (g) if the shares of the company the subject of the Scheme are not granted official quotation on a securities exchange, all the information that the company has as to the number of shares that have been sold in the 6 months immediately before the date on which the statement is lodged, the amount of those shares and the prices at which they were sold; and
- (h) whether, within the knowledge of the directors of the company the subject of the Scheme, or, if the company is in liquidation or under official management, the knowledge of the liquidator or the official manager, the financial position of the company has materially changed since the date of the last balance sheet laid before the company in general meeting or sent to shareholders in accordance with section 314 or 317 of the Act and, if so, full particulars of any change; and
- (i) any other information material to the making of a decision in relation to the Scheme, being information that is within the knowledge of any director, liquidator or official manager of a company the subject of the Scheme or of a related company and that has not previously been disclosed to the Scheme members.

8303

If:

- (a) the other party to the proposed reconstruction or amalgamation of the company the subject of the Scheme has a prescribed shareholding in the company; or
- (b) a director of any corporation that is the other party to the proposed reconstruction or amalgamation is a director of a company the subject of the Scheme;

the statement must be accompanied by a copy of a report made by an expert who is not associated with the corporation that is the other party, stating whether or not, in his or her opinion, the proposed Scheme is in the best interest of the members of the company the subject of the Scheme and setting out his or her reasons for that opinion.

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- 8304** If the company the subject of the Scheme obtains 2 or more reports, each of which could be used for clause 3, the statement must be accompanied by a copy of each report.
- 8305** If:
- (a) the company the subject of the Scheme obtains a report for clause 3; and
 - (b) the report contains:
 - (i) a forecast of the profits or profitability of the company; or
 - (ii) a statement that the market value of an asset or assets of the company or of a related body corporate differs from an amount at which the value of the asset or assets is shown in the books of the company or the related body corporate;
- that report must not accompany the statement except with the consent in writing of ASIC and in accordance with such conditions (if any) as are stated by ASIC.
- 8306** For clause 3:
- (a) a person has a prescribed shareholding in a company if he or she is entitled to not less than 30% of the voting shares in the company; and
 - (b) a person has a prescribed shareholding in a company in which the voting shares are divided into 2 or more classes of shares, if he or she is entitled to not less than 30% of the shares in one of those classes.
- 8307** If the consideration to be offered to scheme members consists, in whole or in part, of marketable securities issued, or to be issued, by a corporation, the statement must set out the formula to be applied to find out the number of marketable securities to be issued to each scheme member, and the basis on which that formula was developed.
- 8308** If marketable securities of the same class as those mentioned in clause 7 are granted official quotation on a securities exchange, the statement must state the fact, specify the securities exchange concerned, and set out:
- (a) the latest recorded sale price before the date on which the statement is lodged for registration; and
 - (b) the highest and lowest recorded sale prices during the 3 months immediately before that date and the dates of the relevant sales; and
 - (c) if the Scheme has been the subject of a public announcement in newspapers or by any other means before the statement has been registered by ASIC—the latest recorded sale price immediately before the public announcement.
- 8309** (1) If the marketable securities mentioned in clause 8 are granted official quotation on more than one securities exchange, it is sufficient compliance with paragraphs 8(a) and (c) if information on the marketable securities is given for the securities exchange at which there has been the greatest number of recorded dealings in the securities in the 3 months immediately before the date on which the statement is lodged for registration.
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- (2) If the securities have not been granted official quotation on a securities exchange, the statement must set out all the information that a director, liquidator or official manager of the company the subject of the Scheme or of a related body corporate has about the number of securities that have been sold in the 3 months immediately before the date on which the explanatory statement was prepared and the price of those securities or, if that information or any part of that information cannot be ascertained, a statement to that effect.

8310 The statement must set out particulars of the intentions of the directors of the company the subject of the Scheme regarding:

- (a) the continuation of the business of the company or, if the undertaking, or any part of the undertaking, of a company is to be transferred, how that undertaking or part is to be conducted in the future; and
- (b) any major changes to be made to the business of the company, including any redeployment of the fixed assets of the company; and
- (c) the future employment of the present employees of the company.

Part 4—Prescribed information relating to proposed compromise or arrangement with members or class of members for transfer to a trustee

- 8401** The statement must set out:
- (a) in detail, the basis on which units in the unit trust are to be issued to scheme members; and
 - (b) if the issue of units in the unit trust is based on the asset backing of shares held by scheme members—full valuation details of those assets.
- 8402** A copy of the trust deed must be annexed, or set out in a schedule, to the statement.
- 8403** If the effect of the proposed compromise or arrangement will be the merger of 2 companies without substantial common membership, the explanatory statement must, so far as practicable, state the matters, and be accompanied by the documents and reports, mentioned in Part 3.

Schedule 8A—Deed of company arrangement— prescribed provisions

(regulation 5.3A.06)

1 Administrator deemed agent of company

In exercising the powers conferred by this deed and carrying out the duties arising under this deed, the administrator is taken to act as agent for and on behalf of the company.

2 Powers of administrator

For the purpose only of administering this deed, the administrator has the following powers:

- (a) to enter upon or take possession of the property of the company;
- (b) to lease or let on hire property of the company;
- (c) to grant options over property of the company on such conditions as the administrator thinks fit;
- (d) to insure property of the company;
- (e) to repair, renew or enlarge property of the company;
- (f) to call in, collect or convert into money the property of the company;
- (g) to administer the assets available for the payment of claims of creditors in accordance with the provisions of this deed;
- (h) to purchase, hire, lease or otherwise acquire any property or interest in property from any person or corporation;
- (i) to borrow or raise money, whether secured upon any or all of the assets of the company or unsecured, for any period on such terms as the administrator thinks fit and whether in substitution for any existing security or otherwise;
- (j) to bring, prosecute and defend in the name and on behalf of the company or in the name of the administrator any actions, suits or proceedings;
- (k) to refer to arbitration any question affecting the company;
- (l) to make payments to any secured creditor of the company and any person who is the owner or lessor of property possessed used or occupied by the company;
- (m) to convene and hold meetings of the members or creditors of the company for any purpose the administrator thinks fit;
- (n) to make interim or other distributions of the proceeds of the realisation of the assets available for the payment of claims of creditors as provided in this deed;
- (o) to appoint agents to do any business or to attend to any matter or affairs of the company that the administrator is unable to do, or that it is unreasonable to expect the administrator to do, in person;
- (p) to engage or discharge employees on behalf of the company;

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- (q) to appoint a solicitor, accountant or other professionally qualified person to assist the administrator;
 - (r) to permit any person authorised by the administrator to operate any account in the name of the company;
 - (s) to sell, call in or convert into money any of the property of the company, to apply the money in accordance with this deed and otherwise effectively and properly to carry out his or her duties as administrator;
 - (t) to do all acts and execute in the name and on behalf of the company all deeds, receipts and other documents, using the company's common or official seal when necessary;
 - (u) subject to the *Bankruptcy Act 1966*, to prove in the bankruptcy of any contributory or debtor of the company or under any deed executed under that Act;
 - (v) subject to the Act, to prove in the winding up of any contributory or debtor of the company or under any scheme of arrangement entered into, or deed of company arrangement executed, under the Act;
 - (w) to draw, accept, make or endorse any bill of exchange or promissory note in the name and on behalf of the company;
 - (x) to take out letters of administration of the estate of a deceased contributory or debtor, and do any other act necessary for obtaining payment of any money due from a contributory or debtor, or the estate of a contributory or debtor, that cannot be conveniently done in the name of the company;
 - (y) to bring or defend an application for the winding up of the company;
 - (z) to carry on the business of the company on such terms and conditions and for such purposes and times and in such manner as the administrator thinks fit subject only to the limitations imposed by this deed;
 - (za) to sell any or all of the property of the company including the whole of the business or undertaking of the company at any time the administrator thinks fit, either by public auction or by private contract and either for a lump sum or for a sum payable by instalments or for a sum on account and to obtain a mortgage charge or encumbrance for the balance or otherwise;
 - (zb) to close down the whole or any part of any business of the company;
 - (zc) to enter into and complete any contract for the sale of shares in the company;
 - (zd) to compromise any debts or claims brought by or against the company on such terms as the administrator thinks fit and to take security for the discharge of any debt forming part of the property of the company;
 - (ze) to pay any class of creditors in full, subject to Subdivision D of Division 6 of Part 5.6 of the Act;
 - (zf) to do anything that is incidental to exercising a power set out in this clause;
 - (zg) to do anything else that is necessary or convenient for the purpose of administering this deed.

Clause 3

3 Termination of deed where arrangement fails

If the administrator or the committee of inspection determines that it is no longer practicable or desirable either to continue to carry on the business of the company or to implement this deed, the administrator:

- (a) may cease to carry on the business of the company except so far as is necessary for the beneficial winding up of the company;
- (b) must summon a meeting of creditors for the purpose of passing a resolution under section 445C(b) of the Act; and
- (c) must forward to each creditor not less than 14 days prior to the meeting an up-to-date report as to the position of the company accompanied by such financial statements as the administrator thinks fit, together with a statement that he or she does not think it practicable or desirable to carry on the business of the company or to continue this deed and that this deed will be terminated if the company's creditors resolve.

4 Priority

The administrator must apply the property of the company coming under his or her control under this deed in the order of priority specified in section 556, 560 or 561 of the Act.

5 Discharge of debts

The creditors must accept their entitlements under this deed in full satisfaction and complete discharge of all debts or claims which they have or claim to have against the company as at the day when the administration began and each of them will, if called upon to do so, execute and deliver to the company such forms of release of any such claim as the administrator requires.

6 Claims extinguished

If the administrator has paid to the creditors their full entitlements under this deed, all debts or claims, present or future, actual or contingent, due or which may become due by the company as a result of anything done or omitted by or on behalf of the company before the day when the administration began and each claim against the company as a result of anything done or omitted by or on behalf of the company before the day when the administration began is extinguished.

7 Bar to creditors' claims

Subject to section 444D of the Act this deed may be pleaded by the company against any creditor in bar of any debt or claim that is admissible under this deed and a creditor (whether the creditor's debt or claim is or is not admitted or established under this deed) must not, before the termination of this deed:

- (a) take or concur in the taking of any step to wind up the company; or
- (b) except for the purpose and to the extent provided in this deed, institute or prosecute any legal proceedings in relation to any debt incurred or alleged

to have been incurred by the company before the day when the administration began; or

- (c) take any further step (including any step by way of legal or equitable execution) in any proceedings pending against or in relation to the company at the day when the administration began; or
- (d) exercise any right of set-off or cross-action to which the creditor would not have been entitled had the company been wound up at the day when the administration began; or
- (e) commence or take any further step in any arbitration against the company or to which the company is a party.

8 Making claims

- (1) Subdivisions A, B, C and E of Division 6 of Part 5.6 of the *Corporations Act 2001* apply to claims made under this deed as if the references to the liquidator were references to the administrator of this deed.
- (2) For subclause (1), the remainder of that Act, and the *Corporations Regulations 2001*, are taken to apply, as far as practicable, as if:
 - (a) a reference that is relevant to the liquidator were a reference in a form that is applicable to the administrator; and
 - (b) a reference that is relevant to any other matter relating to liquidation were a reference in a form that is applicable to the administration of this deed; and
 - (c) a reference to a **relevant date** were a reference to the date of the administrator's appointment .

10 Lodging of accounts

Section 434 of the Act applies to the administrator as if the reference to a controller were a reference to the administrator of this deed.

11 Committee of inspection

For the purpose of advising and assisting the administrator of this deed, there may be a committee of inspection (the **committee**) to which the following rules apply:

- (a) the committee must consist of at least 3 and not more than 5 members;
- (b) the creditors must appoint the members in a general meeting;
- (c) a creditor is not entitled to have more than one representative (including the creditor himself or herself, if a natural person) on the committee;
- (d) minutes of all resolutions and proceedings of each meeting of the committee must be made and duly entered in books to be provided from time to time for that purpose by the administrator under this deed;
- (e) if the minutes of a meeting purport to be signed by the chairperson of the meeting at which the resolutions were passed or proceedings taken or by the chairperson of the next meeting of the committee, the minutes are *prima facie* evidence of the matters contained in them;

Clause 12

- (f) unless the contrary is proved, the meeting is taken to have been duly had and convened and all resolutions passed and proceedings taken at the meeting are taken to have been duly passed and taken;
- (g) a corporation (being otherwise qualified for membership of the committee) is not entitled to be a member of the committee but may appoint a person to represent it on the committee;
- (h) subsection 548(3) and sections 549, 550 and 551 of the Act apply, with such modifications as are necessary, to a committee of inspection established under this deed as if the references to the liquidator were references to the administrator of this deed and the references to contributories were deleted.

12 Termination of deed where arrangement achieves purpose

If the administrator has applied all of the proceeds of the realisation of the assets available for the payment of creditors or has paid to the creditors the sum of 100 cents in the dollar or any lesser sum determined by the creditors at a general meeting, the administrator must certify to that effect in writing and must within 28 days lodge with ASIC a notice of termination of this deed in the following form:

‘X PTY LIMITED

I, *(insert name and address)* as administrator of the deed of company arrangement executed on *(insert date)*, CERTIFY that the deed has been wholly effectuated.’,

and the execution of the notice terminates this deed, but nothing in this clause relieves the administrator of his or her obligations under clause 10 of this deed.

Schedule 8AA—Trustee companies

(regulation 5D.1.01A)

Item	Trustee companies
1	ANZ Trustees (Canberra) Limited
2	ANZ Trustees Limited
3	Australian Executor Trustees Limited
4	Australian Executor Trustees (Canberra) Limited
5	Australian Executor Trustees (NSW) Limited
6	Australian Executor Trustees (SA) Limited
6A	Australian Unity Trustees Limited
7	Bagot's Executor and Trustee Company Limited
8	Elders Trustees Limited
9	Equity Trustees Limited
10	Executor Trustee Australia Limited
11	Mutual Trust Pty Ltd
12	National Australia Trustees Limited
14	Perpetual Limited
15	Perpetual Trustee Company (Canberra) Limited
16	Perpetual Trustee Company Limited
17	Perpetual Trustees Consolidated Limited
18	Perpetual Trustees Queensland Limited
19	Perpetual Trustees S.A. Limited
20	Perpetual Trustees Victoria Limited
21	Perpetual Trustees W.A. Limited
22	Plan B Trustees Limited
23	Sandhurst Trustees Limited
24	Tasmanian Perpetual Trustees Limited
25	The Myer Family Company Ltd
26	The Trust Company Limited
27	The Trust Company (Australia) Limited
27A	The Trust Company (PTCCL) Limited
28	The Trust Company (UTCCL) Limited

Schedule 8AB—Prescribed State and Territory provisions for paragraph 601RAE(4)(a) of the Act

(subregulation 5D.1.04(1))

Item	State or Territory law and provisions
1	Trustee Companies Act 1984 (Vic), sections 40–42
2	<i>Trustee Companies Act 1987</i> (WA), Part IV and section 34
3	<i>Trustee Companies Act 1988</i> (SA), sections 15–15B and 19–21
4	<i>Trustee Companies Act 1953</i> (Tas), subsections 18C(1), (3)–(13)
5	<i>Companies (Trustees and Personal Representatives) Act 1981</i> (NT), section 25

Schedule 8AC—Prescribed State and Territory laws and provisions for paragraph 601RAE(4)(b) of the Act—estate administration

(subregulation 5D.1.04(2) and subregulation 7.6.02(6))

Item	State or Territory law and provisions
1	<i>Children and Young Persons (Care and Protection) Act 1998</i> (NSW)
2	<i>Guardianship Act 1987</i> (NSW)
3	<i>NSW Trustee and Guardian Act 2009</i> (NSW)
4	Victorian Civil and Administrative Tribunal Act 1998 (Vic), Part 9 of Schedule 1
5	Guardianship and Administration Act 1986 (Vic)
6	<i>Guardianship and Administration Act 2000</i> (Qld)
7	<i>Guardianship and Administration Act 1990</i> (WA)
8	<i>Guardianship and Administration Act 1993</i> (SA)
9	<i>Guardianship of Infants Act 1940</i> (SA)
10	<i>Guardianship and Administration Act 1995</i> (Tas)
11	<i>Guardianship and Custody of Infants Act 1934</i> (Tas)
12	<i>Guardianship and Management of Property Act 1991</i> (ACT)
13	<i>Testamentary Guardianship Act 1984</i> (ACT)
14	<i>Guardianship of Adults Act 2016</i> (NT)
15	<i>Guardianship of Infants Act 1972</i> (NT)

Schedule 8AD—Prescribed State and Territory laws and provisions for paragraph 601RAE(4)(b) of the Act

(subregulation 5D.1.04(3))

Item	State or Territory law and provisions
	NEW SOUTH WALES
1A	<i>Legal Profession Act 2004</i> and any regulations made under that Act
1	<i>Probate and Administration Act 1898</i> and any regulations made under that Act
2	<i>NSW Trustee and Guardian Act 2009</i> and any regulations made under that Act
3	<i>Trustee Act 1925</i> and any regulations made under that Act
4	<i>Trustee Companies Act 1964</i> and any regulations made under that Act
	VICTORIA
5	Administration and Probate Act 1958 and any regulations made under that Act
6	Guardianship and Administration Act 1986 and any regulations made under that Act
7	Instruments Act 1958 and any regulations made under that Act
7A	Legal Profession Act 2004 and any regulations made under that Act
8	Medical Treatment Act 1988 and any regulations made under that Act
9	State Trustees (State Owned Company) Act 1994 and any regulations made under that Act
10	Trustee Act 1958 and any regulations made under that Act
	QUEENSLAND
11	<i>Guardianship and Administration Act 2000</i> and any regulations made under that Act
12	<i>Legal Profession Act 2007</i> and any regulations made under that Act
13	<i>Public Trustee Act 1978</i> and any regulations made under that Act
14	<i>Succession Act 1981</i> and any regulations made under that Act
15	<i>Trustee Companies Act 1968</i> and any regulations made under that Act
16	<i>Trusts Act 1973</i> and any regulations made under that Act
17	<i>Uniform Civil Procedure Rules 1999</i> , Chapter 15 and rule 94
	WESTERN AUSTRALIA
18	<i>Guardianship and Administration Act 1990</i> and any regulations made under that Act
18A	<i>Legal Profession Act 2008</i> and any regulations made under that Act
18B	<i>Public Trustee Act 1941</i> and any regulations made under that Act
19	<i>Trustees Act 1962</i> and any regulations made under that Act
	SOUTH AUSTRALIA
20	<i>Administration and Probate Act 1919</i> and any regulations made under that Act
21	<i>Aged and Infirm Persons' Property Act 1940</i> and any regulations made under that Act
22	<i>Guardianship and Administration Act 1993</i> and any regulations made under that Act

Item	State or Territory law and provisions
23	<i>Legal Practitioners Act 1981</i> and any regulations made under that Act
24	<i>Public Trustee Act 1995</i> and any regulations made under that Act
25	<i>Trustee Act 1936</i> and any regulations made under that Act
25A	<i>Trustee Companies Act 1988</i> and any regulations made under that Act
TASMANIA	
26	<i>Administration and Probate Act 1935</i> and any regulations made under that Act
26A	<i>Legal Profession Act 2007</i> and any regulations made under that Act
26B	<i>Public Trustee Act 1930</i> and any regulations made under that Act
27	<i>Supreme Court Civil Procedure Act 1932</i> and any regulations made under that Act
28	<i>Trustee Act 1898</i> and any regulations made under that Act
AUSTRALIAN CAPITAL TERRITORY	
29	<i>Administration and Probate Act 1929</i> and any regulations made under that Act
30	<i>Court Procedures Act 2004</i> and any regulations made under that Act
31	<i>Guardianship and Management of Property Act 1991</i> and any regulations made under that Act
32	<i>Legal Profession Act 2006</i> and any regulations made under that Act
33	<i>Trustee Act 1925</i> and any regulations made under that Act
34	<i>Trustee Companies Act 1947</i> and any regulations made under that Act
NORTHERN TERRITORY	
35	<i>Aged and Infirm Persons' Property Act</i> and any regulations made under that Act
36	<i>Public Trustee Act</i> and any regulations made under that Act

Schedule 8AE—Relevant State and Territory provisions

(regulation 5D.2.06)

Item	State or Territory provisions
1	<i>Trustee Act 1925</i> (NSW), Part 2, Division 2
2	Trustee Act 1958 (Vic), Part I
3	<i>Trusts Act 1973</i> (Qld), Part 3
4	<i>Trustees Act 1962</i> (WA), Part III
5	<i>Trustee Act 1936</i> (SA), Part 1
6	<i>Trustee Act 1898</i> (Tas), Part II
7	<i>Trustee Act 1925</i> (ACT), Part 2, Subdivision 2.2.1
8	<i>Trustee Act 1893</i> (NT), Part I

Schedule 8C—Modifications of Part 7.5 of the Act— compensation regimes

(regulation 7.5.01A)

1 Section 880B, definition of *fidelity fund*, subparagraph (b)(ii)

omit

markets;

insert

markets; or

2 Section 880B, definition of *fidelity fund*, after paragraph (b)

insert

- (c) the operator of the market or related body corporate of the operator of the market;

3 Subsection 881A(2)

substitute

(1A) If:

- (a) compensation arrangements under Division 4 apply to only some financial products acquired or disposed of through a licensed market; and
- (b) paragraphs (1)(a) and (b) are satisfied for the other products acquired or disposed of through the licensed market;

there must be compensation arrangements in relation to the other products that are approved in accordance with Division 3.

(2) The compensation regime that applies to a financial market is:

- (a) for a financial product to which Division 3 applies—the compensation regime constituted by Division 3; and
- (b) for a financial product to which Division 4 applies—the compensation regime constituted by Division 4.

4 Paragraph 885C(1)(b)

substitute

- (b) the money or other property, or the authority, was given to the participant in connection with effecting a transaction, or proposed transaction, that:
 - (i) was covered by provisions of the operating rules of the market relating to transactions effected through the market; and
 - (ii) related to a particular financial product that was not covered by the compensation regime constituted by Division 4; and

5 Section 885D, heading

substitute

885D Certain losses that are or are not Division 3 losses

6 After subsection 885D(2)

Insert:

- (2A) Despite subsection (2), if, in relation to a loss suffered by a person:
- (a) the requirements of subsection 885C(1) are satisfied in relation to a participant and a financial market, except that it is not reasonably apparent whether the compensation regime constituted by Division 3 or by Division 4 covered the transaction, or proposed transaction; and
 - (b) the relevant financial market has both Division 3 and Division 4 arrangements; and
 - (c) either:
 - (i) the person did not (expressly or impliedly) instruct the participant to use the money or other property to enter into a transaction that would be covered by the compensation regime constituted by Division 3 or by Division 4; or
 - (ii) if the participant had authority to enter into transactions on the person's behalf without specific authority, there is no evidence that the participant decided to use the money or other property to enter into a transaction that would be covered by the compensation regime constituted by Division 3 or by Division 4; and
 - (d) the participant was permitted to trade in products that would be covered by the compensation regimes constituted by Division 3 and by Division 4; and
 - (e) it is not reasonably apparent from the usual business practice of the participant which of those transactions the participant proposed to undertake;

the loss is taken to be a **Division 3 loss** and not to be a loss that is connected with a financial market to which Division 4 applies.

- (2B) Despite subsection (2), if:
- (a) the requirements of subsection 885C(1) are satisfied in relation to a participant and a financial market; and
 - (b) the loss is also connected (see section 888A) with a financial market to which Division 4 applies; and
 - (c) the person did not (expressly or impliedly) instruct the participant to use a particular one of those markets; and
 - (d) it is not reasonably apparent from the usual business practice of the participant which of those markets the participant would use when acting for the person; and
 - (e) the loss is connected with a transaction effected through a financial market to which Division 3 applies; and
 - (f) a claim cannot be made, or has been disallowed, under Division 4 (see subsection 888A(1));

the loss is taken to be a **Division 3 loss** and not to be a loss that is connected with a financial market to which Division 4 applies.

7 Subsection 885J(1)

omit

adequate,

insert

adequate for the market, or segment of the market, for which the arrangements apply,

8 Section 887A

substitute

887A Markets to which this Division applies

- (1) This Division applies to a financial market that is operated by:
 - (a) a body corporate that is a member of the SEGC; or
 - (b) a body corporate that is a subsidiary of such a member.
- (2) However, this Division does not apply to a market mentioned in subsection (1):
 - (a) that the regulations state is not covered by this Division; or
 - (b) to the extent that it involves financial products covered by the compensation regime constituted by Division 3.

9 After subsection 889J(1)

insert

- (1A) However, a levy is payable only by an operator or a participant (including a participant who is suspended), in a financial market to which this Division applies, who is permitted to trade on that market a financial product to which this Division applies.

10 After subsection 889K(2)

insert

- (2A) However, a levy is payable only by a participant (including a participant who is suspended), in a financial market to which this Division applies, who is permitted to trade on that market a financial product to which this Division applies.

10A After subsection 892B(1), including the note

insert

- (1A) Nothing in subsection (1) prevents the Minister approving, in accordance with section 884C, a change to Division 3 arrangements that includes the withdrawal of money from an account or accounts holding a fidelity fund.

11 Paragraph 892K(1)(a)

after

report

insert

for a set of compensation arrangements

Schedule 8D—Tables for reporting portfolio holding information

(regulations 7.9.07Z and 7.9.07ZA)

1 Table 1—Assets

Portfolio Holdings Information for Investment Option [A]—Assets			Summary	
Cash				
Name of Institution	Currency		Value (AUD)	Weighting (%)
<i>Individual asset names not required to be disclosed. Only disclose the name of the relevant institution for the asset.</i>			<i>Values and weighting for individual assets not disclosed. Only disclose total values and weighting for the asset aggregated by the institution.</i>	
Total				
Fixed Income				
Held directly or by associated entities or by pooled superannuation trusts				
Internally managed				
Name of Issuer / Counterparty			Value (AUD)	Weighting (%)
<i>Individual asset names not required to be disclosed. Only disclose the name of the issuer / counterparty for the asset.</i>			<i>Values and weighting for individual assets not disclosed. Only disclose total values and weighting aggregated by the issuer or counterparty of the asset.</i>	
Total				
Fixed Income				
Investment in non-associated entities;				
Held directly or by associated entities or by pooled superannuation trusts				
Externally managed				
Name of Fund Manager			Value (AUD)	Weighting (%)
<i>Individual asset names not required to be disclosed. Only disclose the name of the fund manager responsible for managing the asset.</i>			<i>Values and weightings for individual assets not disclosed. Only disclose total values and weighting aggregated by the fund manager responsible for managing the asset.</i>	
Total				
Listed Equity				
Name/kind of investment item	Security Identifier	Units held	Value (AUD)	Weighting (%)
Total				
Unlisted Equity				
Held directly or by associated entities or by pooled superannuation trusts				
Internally managed				
Name/kind of investment item	% Ownership		Value (AUD)	Weighting (%)
<i>Values and weighting for individual assets not</i>				

Schedule 8D Tables for reporting portfolio holding information

					<i>disclosed. Only disclose total value and weighting.</i>
Total					
Unlisted Equity					
Investment in non-associated entities;					
Held directly or by associated entities or by pooled superannuation trusts					
Externally managed					
Name of Fund Manager			Value (AUD)	Weighting (%)	
<i>Individual asset names not required to be disclosed.</i>			<i>Values and weightings for individual assets not disclosed. Only disclose total values and weighting aggregated by the fund manager responsible for managing the assets.</i>		
<i>Only disclose the name of the fund manager responsible for managing the asset.</i>					
Total					
Listed Property					
Name/kind of investment item	Security Identifier	Units held	Value (AUD)	Weighting (%)	
Total					
Unlisted Property					
Held directly or by associated entities or by pooled superannuation trusts					
Internally managed					
Name/kind of investment item	Address	% of property held	Value (AUD)	Weighting (%)	
			<i>Values and weighting for individual assets not disclosed. Only disclose total value and weighting.</i>		
Total					
Unlisted Property					
Investment in non-associated entities;					
Held directly or by associated entities or by pooled superannuation trusts					
Externally managed					
Name of Fund Manager			Value (AUD)	Weighting (%)	
<i>Individual asset names not required to be disclosed.</i>			<i>Values and weightings for individual assets not disclosed. Only disclose total values and weighting aggregated by the fund manager responsible for managing the assets.</i>		
<i>Only disclose the name of the fund manager responsible for managing the asset.</i>					
Total					
Listed Infrastructure					
Name/kind of investment item	Security Identifier	Units held	Value (AUD)	Weighting (%)	
Total					
Unlisted Infrastructure					
Held directly or by associated entities or by pooled superannuation trusts					
Internally managed					

Tables for reporting portfolio holding information **Schedule 8D**

Name/kind of investment item	% Ownership		Value (AUD)	Weighting (%)
			<i>Value and weighting for individual assets not disclosed. Only disclose total value and weighting.</i>	
Total				
Unlisted Infrastructure				
Investment in non-associated entities;				
Held directly or by associated entities or by pooled superannuation trusts				
Externally managed				
Name of Fund Manager			Value (AUD)	Weighting (%)
<i>Individual asset names not required to be disclosed.</i>			<i>Values and weightings for individual assets not disclosed. Only disclose total values and weighting aggregated by the fund manager responsible for managing the assets.</i>	
<i>Only disclose the name of the fund manager responsible for managing the asset.</i>				
Total				
Listed Alternatives				
Name/kind of investment item	Security Identifier	Units held	Value (AUD)	Weighting (%)
Total				
Unlisted Alternatives				
Held directly or by associated entities or by pooled superannuation trusts				
Internally managed				
Name/kind of investment item			Value (AUD)	Weighting (%)
			<i>Value and weighting for individual assets not disclosed. Only disclose total value and weighting.</i>	
Total				
Unlisted Alternative				
Investment in non-associated entities;				
Held directly or by associated entities or by pooled superannuation trusts				
Externally managed				
Name of Fund Manager			Value (AUD)	Weighting (%)
<i>Individual asset names not required to be disclosed.</i>			<i>Values and weightings for individual assets not disclosed. Only disclose total values and weighting aggregated by the fund manager responsible for managing the assets.</i>	
<i>Only disclose the name of the fund manager responsible for managing the asset.</i>				
Total				
Total Investment Items				

2 Table 2—Derivatives by kind of derivative

Portfolio Holdings Information for Investment Option [A]—Derivatives		
Kind of derivative	Value	Weighting
Swaps	<i>Values and weighting for individual derivatives not disclosed. Only disclose total values and weighting for this kind of derivative.</i>	
Forwards	<i>Values and weighting for individual derivatives not disclosed. Only disclose total values and weighting for this kind of derivative.</i>	
Futures	<i>Values and weighting for individual derivatives not disclosed. Only disclose total values and weighting for this kind of derivative.</i>	
Options	<i>Values and weighting for individual derivatives not disclosed. Only disclose total values and weighting for this kind of derivative.</i>	
Total		

3 Table 3—Derivatives by asset class

Portfolio Holdings Information for Investment Option [A]—Derivatives by Asset Class		
Asset class	Actual asset allocation (% of total assets (including derivatives) in the investment option)	Effect of derivatives exposure (% of total assets (including derivatives) in the investment option)
Cash		
Fixed Income		
Equities		
Property		
Infrastructure		
Alternatives		
Total		

4 Table 4—Derivatives by currency

Portfolio Holdings Information for Investment Option [A]—Derivatives by Currency		
Currency exposure	Actual currency exposure (% of assets and derivatives under management)	Effect of derivatives exposure (% of assets and derivatives under management)
AUD		
USD		
Currencies of other developed markets		
Currencies of emerging markets		

Schedule 9—Companies authorised to effect transfers under Part 7.11 of the Act

(regulation 7.11.01, definition of *beneficial owner*)

Item	Companies
1	ANZ Nominees Limited
2	CHESSE Depository Nominees Pty Limited
3	Equity Nominees Limited
4	National Nominees Limited
5	Perpetual Nominees Limited
6	Sepon (Australia) Pty Limited
7	State Street Australia Ltd
8	The Trust Company (Nominees) Limited
9	The Trust Company (PTAL) Limited

Schedule 10—Disclosure of fees and other costs

(regulations 7.9.16K, 7.9.16M and 7.9.16N)

Part 1—Interpretation

101 Definitions

In this Schedule:

activity fee, for a superannuation product, has the meaning given by subsection 29V(7) of the SIS Act.

administration fee, for a superannuation product, has the meaning given by subsection 29V(2) of the SIS Act.

advice fee:

- (a) for a superannuation product—has the meaning given by subsection 29V(8) of the SIS Act; and
- (b) for a collective investment product—means an amount that is:
 - (i) paid or payable to a financial adviser for financial product advice to a retail client or product holder about an investment; and
 - (ii) not included in a contribution fee, withdrawal fee, exit fee, establishment fee or management cost.

balanced investment option means an investment option in which the ratio of investment in growth assets, such as shares or property, to investment in defensive assets, such as cash or bonds, is as close as practicable to 70:30.

brokerage means an amount paid or payable to a broker for undertaking a transaction for the acquisition or disposal of a financial product.

buy-sell spread:

- (a) for a superannuation product—has the meaning given by subsection 29V(4) of the SIS Act; or
- (b) for a collective investment product (other than a security in a retail CCIV)—means an amount, deducted from the value of a financial product of a product holder, that represents an apportionment, among product holders, of the actual or estimated transaction costs incurred by the managed investment scheme; or
- (c) for a collective investment product that is a security in a retail CCIV that is referable to a sub-fund of the CCIV—means an amount, deducted from the value of the security of a product holder, that represents an apportionment, among product holders for the sub-fund, of the actual or estimated transaction costs incurred by the CCIV in respect of sub-fund.

collective investment product means a managed investment product, a security in a retail CCIV or a foreign passport fund product.

contribution fee means an amount paid or payable against the initial, and any subsequent, contributions made into a product by or for a retail client for the product.

Note: A contribution may be made by an employer on behalf of the product holder or retail client.

distribution costs means the costs or amounts paid or payable for the marketing, offer or sale of a product.

Note: This includes any related adviser remuneration component other than an advice fee.

establishment fee means an amount paid or payable for the establishment of a client's interest in a product.

Note: This does not include contribution fees paid or payable against the initial contribution into the product.

exit fee:

- (a) for a superannuation product—has the meaning given by subsection 99BA(2) of the SIS Act; and
- (b) for a collective investment product (other than a security in a retail CCIV)—means an amount paid or payable on the disposal of all interests held in the product; and
- (c) for a collective investment product that is a security in a retail CCIV—means an amount paid or payable on the disposal of the security.

incidental fees means costs or amounts, other than costs or fees defined in this clause, that are:

- (a) paid or payable in relation to the product; and
- (b) not material to a retail client's decision to acquire, hold or dispose of his or her interest in the product.

Example: Cheque dishonour fees.

indirect cost of a MySuper product or an investment option offered by a superannuation entity means any amount that:

- (a) a trustee of the entity knows, or reasonably ought to know, will directly or indirectly reduce the return on the investment of a member of the entity in the MySuper product or investment option; and
- (b) is not charged to the member as a fee.

insurance fee, for a superannuation product, has the meaning given by subsection 29V(9) of the SIS Act.

investment fee, for a superannuation product, has the meaning given by subsection 29V(3) of the SIS Act.

lifecycle MySuper product has the meaning given by regulation 7.9.07N.

lifecycle stage has the meaning given by regulation 7.9.07N.

performance, of a collective investment product, a superannuation product, a MySuper product or an investment option, includes:

Clause 102

- (a) income in relation to the assets of, or attributed to, the collective investment product, the superannuation product, the MySuper product or the investment option; and
- (b) capital appreciation (realised or unrealised) to the value of the collective investment product, the superannuation product, the MySuper product or the investment option.

performance fee means an amount paid or payable, calculated by reference to the performance of a collective investment product, a superannuation product, a MySuper product or an investment option.

service fees means advice fees, special request fees and switching fees.

special request fees includes fees paid or deducted from a product holder's collective investment product for a request made to:

- (a) for a product that is a managed investment product for a managed investment scheme—the managed investment scheme; or
- (b) for a product that is a security in a retail CCIV that is referable to a sub-fund of the CCIV—the CCIV in respect of the sub-fund.

Example: This applies to a fee for a request for additional information from a managed investment scheme.

switching fee:

- (a) for a superannuation product—has the meaning given by subsection 29V(5) of the SIS Act; or
- (b) for a collective investment product—means an amount paid or payable when a product holder transfers all or part of the product holder's interest in the collective investment product from one investment option to another.

withdrawal fee, for a collective investment product, means an amount, other than an exit fee, paid or payable in respect of:

- (a) for a product (other than a security in a retail CCIV)—a withdrawal or the disposal of an interest in the product; or
- (b) for a product that is a security in a retail CCIV—the disposal of the security.

102 Meaning of *management costs*

- (1) **Management costs**, for a collective investment product, means any of the following:
 - (a) for a product that is a managed investment product for a managed investment scheme—an amount payable for administering the managed investment scheme;
 - (aa) for a product that is a security in a retail CCIV that is referable to a sub-fund of the CCIV—the amount payable for administering the sub-fund;
 - (b) for a custodial arrangement—the cost involved, or amount paid or payable, for gaining access to, or participating in, the arrangement;
 - (c) distribution costs;

- (d) for a product that is a managed investment product for a managed investment scheme or is a security in a retail CCIV that is referable to a sub-fund of the CCIV—other expenses and reimbursements in relation to the managed investment scheme or the sub-fund;
 - (e) for a product that is a managed investment product for a managed investment scheme or is a security in a retail CCIV that is referable to a sub-fund of the CCIV—amounts paid or payable for investing in the assets of the managed investment scheme or in the assets of the sub-fund;
 - (f) amounts deducted from a common fund by way of fees, costs, charges or expenses, including:
 - (i) amounts retrieved by an external fund manager or a product issuer; and
 - (ii) amounts deducted from returns before allocation to the fund;
 - (g) estimated performance fees;
 - (h) any other investment-related expenses and reimbursements, including any associated with custodial arrangements.
- (2) The following fees and costs are not management costs for a collective investment product:
- (a) a contribution fee;
 - (b) transactional and operational costs;
 - (c) an additional service fee;
 - (d) an establishment fee;
 - (e) a switching fee;
 - (f) an exit fee;
 - (g) a withdrawal fee;
 - (h) costs (related to a specific asset or activity to produce income) that an investor would incur if he or she invested directly in the asset;
 - (i) incidental fees.

103 Meaning of *transactional and operational costs*

Transactional and operational costs include the following:

- (a) brokerage;
- (b) buy-sell spread;
- (c) settlement costs (including custody costs);
- (d) clearing costs;
- (e) stamp duty on an investment transaction.

104 Meaning of *indirect cost ratio (ICR)*

- (1) The *indirect cost ratio (ICR)*, for a MySuper product or an investment option offered by a superannuation entity, is the ratio of the total of the indirect costs for the MySuper product or investment option, to the total average net assets of the superannuation entity attributed to the MySuper product or investment option.

Clause 104

Note: A fee deducted directly from a member's account is not included in the indirect cost ratio.

- (1A) The **indirect cost ratio (ICR)**, for an investment option offered by a managed investment scheme, is the ratio of the management costs for the option that are not deducted directly from a product holder's account, to the total average net assets of the managed investment scheme that relates to the investment option.

Note: A fee deducted directly from a product holder's account is not included in the indirect cost ratio.

- (1B) For an investment option that is a sub-fund of a retail CCIV, the **indirect cost ratio (ICR)** for the option is the ratio of the management costs for all securities referable to the sub-fund that are not deducted directly from a product holder's account to the total average net assets of the sub-fund.

Note: A fee deducted directly from a product holder's account is not included in the indirect cost ratio.

- (2) The ICR for a Product Disclosure Statement is to be determined for the financial year before the Product Disclosure Statement is issued.
- (3) The ICR for a periodic statement is to be determined over the latest reporting period.

Part 2—Fees and Costs Template, example of annual fees and costs and Consumer Advisory Warning for Product Disclosure Statements

Division 1—The fees and costs template for superannuation products

201 Template for superannuation products

Fees and other costs

This document shows fees and other costs that you may be charged. These fees and other costs may be deducted from your money, from the returns on your investment or from the assets of the superannuation entity as a whole.

Other fees, such as activity fees, advice fees for personal advice and insurance fees, may also be charged, but these will depend on the nature of the activity, advice or insurance chosen by you. Entry fees and exit fees cannot be charged.

Taxes, insurance fees and other costs relating to insurance are set out in another part of this document.

You should read all the information about fees and other costs because it is important to understand their impact on your investment.

[If relevant] The fees and other costs for each MySuper product offered by the superannuation entity, and each investment option offered by the entity, are set out on page *[insert page number]*.

[Name of superannuation product]

Type of fee

Amount

How and when paid

*Investment fee*¹

*Administration fee*¹

Buy-sell spread

Switching fee

Advice fees

relating to all members
investing in a particular
MySuper product or investment
option

*Other fees and costs*²

*Indirect cost ratio*¹

1. If your account balance for a product offered by the superannuation entity is less than \$6,000 at the end of the entity's income year, the total combined amount of administration fees, investment fees and indirect costs charged to you is capped at 3% of the account balance. Any amount charged in excess of that cap must be refunded.
-

Schedule 10 Disclosure of fees and other costs

Part 2 Fees and Costs Template, example of annual fees and costs and Consumer Advisory Warning for Product Disclosure Statements

Division 1 The fees and costs template for superannuation products

Clause 201

2. *[If there are other fees and costs, such as activity fees, advice fees for personal advice or insurance fees, include a cross-reference to the "Additional Explanation of Fees and Costs".]*

Division 2—The fees and costs template for collective investment products

202 Template for a multiple fee structure—collective investment products

Fees and other costs

This document shows fees and other costs that you may be charged. These fees and costs may be deducted from your money, from the returns on your investment or from the assets of the *[managed investment scheme / retail CCIV]* as a whole.

Taxes and insurance costs are set out in another part of this document.

You have 2 different fee payment options:

- (a) to pay contribution fees upfront, at the time when you make each investment into the *[managed investment scheme / retail CCIV]*; or
- (b) to pay contribution fees later (for example, on the termination of your investment or by way of other increased fees).

Note: You may pay more in total fees if you choose to pay contribution fees later.

You should read all the information about fees and costs because it is important to understand their impact on your investment.

[If relevant] Fees and costs for particular investment options are set out on page *[insert page number]*.

<i>[Name of collective investment product]</i>			
Type of fee or cost	Amount		How and when paid
	Option to pay contribution fees upfront	Option to pay contribution fees later	
Fees when your money moves in or out of the product			
<i>Establishment fee</i> The fee to open your investment			
<i>Contribution fee¹</i> The fee on each amount contributed to your investment			
<i>Withdrawal fee¹</i> The fee on each amount you take out of your investment			

Schedule 10 Disclosure of fees and other costs

Part 2 Fees and Costs Template, example of annual fees and costs and Consumer Advisory Warning for Product Disclosure Statements

Division 2 The fees and costs template for collective investment products

Clause 202A

<i>[Name of collective investment product]</i>		
Type of fee or cost	Amount	How and when paid
<i>Exit fee</i> ¹ The fee to close your investment		
Management costs		
<i>The fees and costs for managing your investment</i> ¹ The amount you pay for specific investment options is shown at page <i>[insert page number]</i>		
Service fees ²		
<i>Switching fee</i> The fee for changing investment options		

1. This fee includes an amount payable to an adviser. (See Division 4, “Adviser remuneration” under the heading “Additional Explanation of Fees and Costs”.)
2. *[If there are other service fees, such as advice fees or special request fees, include a cross-reference to the “Additional Explanation of Fees and Costs”.]*

202A Template for single fee structure—collective investment products

Fees and other costs

This document shows fees and other costs that you may be charged. These fees and costs may be deducted from your money, from the returns on your investment or from the assets of the *[managed investment scheme / retail CCIV]* as a whole.

Taxes and insurance costs are set out in another part of this document.

You should read all the information about fees and costs because it is important to understand their impact on your investment.

[If relevant] Fees and costs for particular investment options are set out on page *[insert page number]*.

<i>[Name of collective investment product]</i>		
Type of fee or cost	Amount	How and when paid
Fees when your money moves in or out of the product		
<i>Establishment fee</i> The fee to open your investment		

Disclosure of fees and other costs **Schedule 10**
 Fees and Costs Template, example of annual fees and costs and Consumer Advisory Warning for
 Product Disclosure Statements **Part 2**
 The fees and costs template for collective investment products **Division 2**

Clause 202A

<i>[Name of collective investment product]</i>		
Type of fee or cost	Amount	How and when paid
<i>Contribution fee¹</i> The fee on each amount contributed to your investment		
<i>Withdrawal fee¹</i> The fee on each amount you take out of your investment		
<i>Exit fee¹</i> The fee to close your investment		
Management costs		
<i>The fees and costs for managing your investment¹</i> The amount you pay for specific investment options is shown at page <i>[insert page number]</i>		
Service fees²		
<i>Switching fee</i> The fee for changing investment options		

1. This fee includes an amount payable to an adviser. (See Division 4, “Adviser remuneration” under the heading “Additional Explanation of Fees and Costs”.)
2. *[If there are other service fees, such as advice fees or special request fees, include a cross-reference to the “Additional Explanation of Fees and Costs”.]*

Division 3—How to fill in the template

203 The preamble

The material in the preamble to the template should only include matters that are relevant to the product.

Example: Insurance costs will generally not be relevant to a collective investment product.

204 Column 2—presentation of amounts

- (1) This clause, clause 205 and clause 206 are subject to regulations 7.9.15A, 7.9.15B and 7.9.15C.
- (2) If a particular fee or cost is not charged, 'nil', 'zero', '0' or 'not applicable' (if it would not be misleading) must be written in column 2 opposite the type of fee or cost.
- (3) If it is not possible to determine a single amount or percentage of a fee or cost, it may be written as a range of fees or costs.
- (4) If the exact amount of a fee or cost paid or payable is not known, an amount that is a reasonable estimate of the amount attributable to the retail client must be shown.
- (5) An amount set out in accordance with subclause (4) must be clearly designated as an estimate.
- (6) If an amount or cost has a number of components, the amount of each component must be listed separately.

Example: Management costs: 1.8% of product holder's balance + \$70 per year.

- (7) A cost or amount paid or payable must include (if applicable):
 - (a) for each collective investment product:
 - (i) GST, after being reduced by any reduced input tax credits; and
 - (ii) stamp duty; and
 - (b) for each collective investment product offered by an Australian passport fund or a notified foreign passport fund:
 - (i) any indirect taxes equivalent to GST that are payable in another jurisdiction, after being reduced by any applicable tax credits that are available in that jurisdiction; and
 - (ii) any duties equivalent to stamp duty that are payable in another jurisdiction.

205 Column 2—include information for each MySuper product or investment option

- (1) The fee information must be set out:
-

- (a) for superannuation products—for each MySuper product and each investment option offered by the relevant superannuation entity; and
 - (b) for collective investment products—for each investment option offered by the relevant managed investment scheme or retail CCIV.
- (2) It may be:
- (a) set out in the table; or
 - (b) cross-referenced in the table to another section of the Product Disclosure Statement that contains the relevant fee information.

206 Presentation of multiple fee payment options

If a superannuation entity, managed investment scheme or retail CCIV has more than 2 options for the payment of fees:

- (a) the number of fee payment options must be set out in the preamble; and
- (b) details of all fee payment options must be set out in the template.

207 Column 3—how and when fees and costs are payable

Column 3 of the template must set out:

- (a) how the fee is or will be recovered, for example by deduction from:
 - (i) the member’s investment balance; or
 - (ii) the assets of the superannuation entity or managed investment scheme;
 - (iii) contributions; or
 - (iv) withdrawals; and
- (b) the recurrence of the recovery of the fee; and
- (c) the timing of the recovery of the fee.

208 Other material to be included in the template

- (1) The template must clearly indicate which fees and costs are negotiable (for example, by stating in column 3 ‘The amount of this fee can be negotiated.’).
- (2) An indication that a fee or cost is negotiable must be cross-referenced to an explanation outside the template in the ‘Additional Explanation of Fees and Costs’ part of the fees section.

Division 4—Additional explanation of fees and costs

209 Matters to be included as additional explanation of fees and costs

The following information, if relevant to the particular superannuation product or collective investment product, must be included under the heading ‘Additional Explanation of Fees and Costs’:

- (a) the explanation of the fees mentioned in footnote 2 for superannuation products and footnote 2 for collective investment products;
- (b) information on performance fees including:
 - (i) a statement about how performance fees affect administration fees and investment fees for a superannuation product, or management costs for a collective investment product; and
 - (ii) the method for calculating the fees; and
 - (iii) the amount of the fees, or an estimate of the amount if the amount is not known;
- (c) for tax—a cross reference to the “Tax” part of the Product Disclosure Statement;
- (ca) for insurance fees and other costs relating to insurance (if relevant)—a cross reference to the “Insurance” part of the Product Disclosure Statement;
- (d) if the product is subject to tax—whether the benefit of any tax deduction is passed on to the investor in the form of a reduced fee or cost;
- (e) an explanation of adviser remuneration that forms part of any fee or cost in the table, including (if known to the product issuer):
 - (i) the method of calculation; and
 - (ii) the amounts of commission or the range of amounts; and
 - (iii) whether the amounts are negotiable or rebatable; and
 - (iv) the way in which amounts may be negotiated or rebated;
- (f) an explanation of advice fees;
- (g) for a negotiated fee or cost—contact details of the person or body with whom the fee or cost can be negotiated and the manner of negotiation;
- (h) worked examples (if appropriate);
- (i) additional details of incidental fees (if appropriate);
- (j) details of transactional and operational costs such as brokerage and buy-sell spread, including:
 - (i) a description of the cost; and
 - (ii) the amount, or an estimate if the amount is not known; and
 - (iii) how and when the costs are recovered; and
 - (iv) a statement that the cost is an additional cost to the investor; and
 - (v) whether any part of the buy-sell spread is paid to the product issuer or an external manager;
- (k) the following information about fee changes:

- (i) if applicable, a statement about the issuer's right to change the amount of fees without the investor's consent;
- (ii) any indexation arrangements that apply;
- (iii) the period of advance notice required for fee changes;
- (iv) any change in fee structure that is dependent on a person's employment;
- (l) if the issuer has instituted a flexible charging structure, for each applicable fee, if known:
 - (i) any maximum, and when it would apply; and
 - (ii) any waiver, and when it would not apply;
- (m) for a superannuation product—details regarding the protection of small accounts (member protection rules) unless already included in the Product Disclosure Statement.

Division 4A—Defined fees for superannuation products

209A Defined fees for superannuation products

The following definitions must be included for a superannuation product under the heading “Defined fees”:

Activity fees

A fee is an **activity fee** if:

- (a) the fee relates to costs incurred by the trustee [*OR the trustees*] of the superannuation entity that are directly related to an activity of the trustee [*OR the trustees*]:
 - (i) that is engaged in at the request, or with the consent, of a member; or
 - (ii) that relates to a member and is required by law; and
- (b) those costs are not otherwise charged as an administration fee, an investment fee, a buy-sell spread, a switching fee, an advice fee or an insurance fee.

Administration fees

An **administration fee** is a fee that relates to the administration or operation of the superannuation entity and includes costs incurred by the trustee [*OR the trustees*] of the entity that:

- (a) relate to the administration or operation of the entity; and
- (b) are not otherwise charged as an investment fee, a buy-sell spread, a switching fee, an activity fee, an advice fee or an insurance fee.

Advice fees

A fee is an **advice fee** if:

- (a) the fee relates directly to costs incurred by the trustee [*OR the trustees*] of the superannuation entity because of the provision of financial product advice to a member by:
 - (i) a trustee of the entity; or
 - (ii) another person acting as an employee of, or under an arrangement with, the trustee [*OR the trustees*] of the entity; and
- (b) those costs are not otherwise charged as an administration fee, an investment fee, a switching fee, an activity fee or an insurance fee.

Buy-sell spreads

A **buy-sell spread** is a fee to recover transaction costs incurred by the trustee [*OR the trustees*] of the superannuation entity in relation to the sale and purchase of assets of the entity.

Exit fees

An **exit fee** is a fee, other than a buy-sell spread, that relates to the disposal of all or part of a member's interests in a superannuation entity.

Indirect cost ratio

The **indirect cost ratio (ICR)**, for a MySuper product or an investment option offered by a superannuation entity, is the ratio of the total of the indirect costs for the MySuper product or investment option, to the total average net assets of the superannuation entity attributed to the MySuper product or investment option.

Note: A dollar-based fee deducted directly from a member's account is not included in the indirect cost ratio.

Investment fees

An **investment fee** is a fee that relates to the investment of the assets of a superannuation entity and includes:

- (a) fees in payment for the exercise of care and expertise in the investment of those assets (including performance fees); and
- (b) costs incurred by the trustee *[OR the trustees]* of the entity that:
 - (i) relate to the investment of assets of the entity; and
 - (ii) are not otherwise charged as an administration fee, a buy-sell spread, a switching fee, an activity fee, an advice fee or an insurance fee.

Switching fees

A **switching fee** is a fee to recover the costs of switching all or part of a member's interest in the superannuation entity from one class of beneficial interest in the entity to another.

Schedule 10 Disclosure of fees and other costs

Part 2 Fees and Costs Template, example of annual fees and costs and Consumer Advisory Warning for Product Disclosure Statements

Division 5 Example of annual fees and costs

Clause 210

Division 5—Example of annual fees and costs

210 Example of annual fees and costs

The example of annual fees and costs:

- (a) must contain fees and costs in accordance with the table in clause 211 or 212; and
- (b) must be set out using the headings and the form in clause 211 or 212; and
- (c) must be included in the 'Fees' section of a Product Disclosure Statement, following the fees and costs template.

211 Superannuation products—Example of annual fees and costs for a MySuper product

This table gives an example of how the fees and costs for the generic MySuper product for this superannuation product can affect your superannuation investment over a 1 year period. You should use this table to compare this superannuation product with other superannuation products.

EXAMPLE—MySuper product		BALANCE OF \$50 000
Investment fees	1.6%	For every \$50 000 you have in the MySuper product you will be charged \$800 each year
PLUS Administration fees	\$52 (\$1 per week)	And , you will be charged \$52 in administration fees regardless of your balance
PLUS Indirect costs for the MySuper product	1.2%	And , indirect costs of \$600 each year will be deducted from your investment
EQUALS Cost of product		If your balance was \$50 000, then for that year you will be charged fees of \$1 452 for the MySuper product.

Note: Additional fees may apply.

212 Collective investment products—Example of annual fees and costs for a balanced investment option

Example of annual fees and costs for a balanced investment option

This table gives an example of how the fees and costs in the balanced investment option for this product can affect your investment over a 1 year period. You should use this table to compare this product with other products offered by *[managed investment schemes / retail CCIVs]*.

EXAMPLE—the Balanced Investment Option		BALANCE OF \$50 000 WITH A CONTRIBUTION OF \$5 000 DURING YEAR
Contribution Fees	0-4%	For every additional \$5 000 you put in, you will be charged between \$0 and \$200.

PLUS Management Costs	1.3%	And , for every \$50 000 you have in the balanced investment option you will be charged \$650 each year.
EQUALS Cost of balanced investment option		If you had an investment of \$50 000 at the beginning of the year and you put in an additional \$5 000 during that year, you would be charged fees of from: \$650 to \$850* What it costs you will depend on the investment option you choose and the fees you negotiate.

* Additional fees may apply:

Establishment fee—\$50

And, if you leave the *[managed investment scheme / retail CCIV]* early, you may also be charged **exit fees** of between 0 and 5% of your total account balance (between \$0 and \$2 500 for every \$50 000 you withdraw)

213 Defined benefit funds

An example of fees and costs is not required in a Product Disclosure Statement for a defined benefit fund.

Note: **Defined benefit fund** is defined in subregulation 1.03(1) of the SIS Regulations.

Division 6—How to fill in the example of annual fees and costs

214 Fees and costs must be ongoing amounts

The fees and costs stated in the example must be typical ongoing fees that apply to the MySuper product or investment option.

Note: The example should not be based on “honeymoon rates”. It must be consistent with the statement for an existing member or product holder having the stated balance and level of contributions each year.

214A Example of annual fees and costs for a MySuper product—lifecycle MySuper product

If the example of fees and costs for a MySuper product uses a lifecycle MySuper product, the investment fee quoted in the example must be the highest investment fee for a lifecycle stage of the lifecycle MySuper product.

215 Minimum entry balance rule

If the minimum balance required to enter a superannuation entity, a managed investment scheme or a retail CCIV is greater than \$50 000, the example of annual fees and costs must be based on an amount that is the lowest multiple of \$50 000 that exceeds the minimum entry balance.

Example: If a superannuation entity, a managed investment scheme or a retail CCIV has a minimum entry balance of \$65 000, the relevant amount for the example of annual fees and costs is \$100 000.

216 Exit fees

If an exit fee may be charged in relation to a collective investment product, the fee must be described in footnote to the table, based on:

- (a) a balance of \$50 000; or
- (b) if clause 215 applies—an amount that is a multiple of \$50 000.

217 Contribution fees

- (1) The amounts of contribution fees to be inserted in the example of annual fees and costs for a collective investment product, are applied against a \$5 000 investment.
- (2) If a Product Disclosure Statement relates to a product:
 - (a) that is paid for by a single lump sum amount; and
 - (b) for which no additional contributions can be made;the example of annual fees and costs should be modified by removing references to contributions or contribution fees.
- (3) The example must be based on a balance:

- (a) of \$50 000; or
- (b) worked out in accordance with clause 215.

Note: If there is a fee paid for the initial contribution, it should be described as the establishment fee.

218 Administration fees and investment fees for a superannuation product

Administration fees

- (1) The example of administration fees for a MySuper product or an investment option offered by a superannuation entity is applied to an amount of \$50 000 or an amount that is a multiple of \$50 000 if clause 215 applies.

Note: In calculating the amount, do not include contributions that may be made during the year.

- (2) If there is a range in the amount of administration fees that may be charged for a MySuper product or an investment option offered by a superannuation entity, the example must use the highest administration fees in the range.

Investment fees

- (3) The example of investment fees for a MySuper product or an investment option offered by a superannuation entity is applied to an amount of \$50 000 or an amount that is a multiple of \$50 000 if clause 215 applies.

Note: In calculating the amount, do not include contributions that may be made during the year.

- (4) If there is a range in the amount of investment fees that may be charged for a MySuper product or an investment option offered by a superannuation entity, the example must use the highest investment fees in the range.

Indirect costs for a MySuper product or investment option

- (5) The example of indirect costs for a MySuper product or an investment option offered by a superannuation entity must be worked out by applying the indirect cost ratio for the MySuper product or the investment option to an amount of \$50,000 or an amount that is a multiple of \$50,000 if clause 215 applies.

218A Management costs for a collective investment product

- (1) The example of management costs for an investment option offered by a managed investment scheme or a retail CCIV is applied to an amount of \$50 000 or an amount that is a multiple of \$50 000 if clause 215 applies.

Note: In calculating the amount, do not include contributions that may be made during the year.

- (2) If there is a range in the amount of management costs that may be charged for an investment option offered by a managed investment scheme or a retail CCIV, the example must use the highest management costs in the range.

Schedule 10 Disclosure of fees and other costs

Part 2 Fees and Costs Template, example of annual fees and costs and Consumer Advisory Warning for Product Disclosure Statements

Division 6 How to fill in the example of annual fees and costs

Clause 219

- (3) Management costs that are not deducted directly from a product holder's account must be calculated using the indirect cost ratio for the relevant investment option offered by the managed investment scheme or the retail CCIV.
- (4) Any percentage based management costs that are deducted directly from a product holder's account should be added to the percentage amount calculated under subclause (3).
- (5) Any dollar based management costs that are deducted directly from a product holder's account must be shown separately in the management costs cell.

Example 1: Management costs: 2 % deducted directly from your account + 1.6% deducted indirectly.

Example 2: Management costs: \$52 per year (\$1 per week) deducted directly from your account + 1.6% deducted indirectly.

Example 3: Management costs: \$52 per year (\$1 per week) + 1% deducted directly from your account + 1.6% deducted indirectly.

219 Withdrawal fees and exit fees

- (1) The example of a withdrawal fee or an exit fee for a collective investment product is applied against an amount of \$50 000 or an amount that is a multiple of \$50 000 if clause 215 applies.
- (2) In calculating the amount, do not include contributions that may be made during the year.

220 If there is no generic MySuper product or balanced investment option

Superannuation entities

- (1) If a superannuation entity does not offer a generic MySuper product, the example should be based on:
 - (a) where the superannuation entity offers a balanced investment option—the balanced investment option under which most assets of the superannuation entity are invested; and
 - (b) where the superannuation entity does not offer a balanced investment option—the investment option under which most assets of the superannuation entity are invested.

Managed investment schemes

- (2) If a managed investment scheme does not offer a balanced investment option, the example should be based on:
 - (a) where the scheme offers a default investment option—that option; and
 - (b) where the scheme does not offer a default investment option—the investment option under which most assets of the scheme are invested.

CCIVs

- (3) If a retail CCIV does not offer a balanced investment option, the example should be based on:
- (a) where the CCIV offers a default investment option—that option; and
 - (b) where the CCIV does not offer a default investment option—the investment option under which the CCIV has the most funds invested.

Division 7—Consumer Advisory Warning

221 Consumer advisory warning

DID YOU KNOW?

Small differences in both investment performance and fees and costs can have a substantial impact on your long term returns.

For example, total annual fees and costs of 2% of your account balance rather than 1% could reduce your final return by up to 20% over a 30 year period (for example, reduce it from \$100 000 to \$80 000).

You should consider whether features such as superior investment performance or the provision of better member services justify higher fees and costs.

Your employer may be able to negotiate to pay lower administration fees. Ask the fund or your financial adviser.

TO FIND OUT MORE

If you would like to find out more, or see the impact of the fees based on your own circumstances, the **Australian Securities and Investments Commission (ASIC)** website (www.moneysmart.gov.au) has a [*superannuation or managed investment fee*] calculator to help you check out different fee options.

222 Where to place the Consumer Advisory Warning

The Consumer Advisory Warning must be located at the beginning of the fees section of the Product Disclosure Statement.

Part 3—Fees and costs in periodic statements

Division 1—Other Management Costs

301 Indirect costs related to investment and administration of accounts

- (1) The following text and the appropriate amount, in dollars, must be inserted after the part of the periodic statement that itemises transactions during the period.

Indirect costs of your investment

This approximate amount has been deducted from your investment and includes amounts that have reduced the return on your investment but are not charged directly to you as a fee.

- (2) The amount inserted must include:
- (a) for a MySuper product or an investment option offered by a superannuation entity—the indirect costs for the MySuper product or investment option; and
 - (b) for an investment option offered by a managed investment scheme or a retail CCIV—all management costs not deducted directly from a product holder's account during the reporting period.
- (3) The amount must be shown as a single total amount in dollars.
- (4) The amount for a collective investment product must be calculated by multiplying the indirect cost ratio for the relevant investment option by the product holder's average account balance for the option over the reporting period.

Division 2—Total fees

302 Total of fees in the periodic statement

- (1) The following text and the appropriate amount, in dollars, must be displayed:
 - (a) at the end of the part of the periodic statement that itemises transactions during the period; or
 - (b) in a summary part of the periodic statement.

TOTAL FEES YOU PAID

This approximate amount includes all the fees and costs which affected your investment during the period.

- (2) The total fees you paid are the total of all fees and costs disclosed in the periodic statement.

Division 3—Additional Explanation of Fees and Costs

303 Matters to be included as additional explanation of fees and costs

Superannuation products

- (1) The following information must be included in the periodic statement for a superannuation product under the heading “Additional Explanation of Fees and Costs”, if it has not been included in another part of the periodic statement:
 - (a) details of any activity fees, advice fees and insurance fees that were incurred by the member during the period;
 - (b) for a superannuation product that is subject to tax—whether the benefit of any tax deduction has been passed on to the investor in the form of a reduced fee or cost;
 - (c) a statement that if the account balance for a MySuper product or a choice product offered by the superannuation entity is less than \$6,000 at the end of the entity’s income year:
 - (i) the total combined amount of administration fees, investment fees and indirect costs charged in relation to the MySuper product or a choice product is capped at 3% of the account balance; and
 - (ii) any amount charged in excess of that cap must be refunded.

Collective investment products

- (2) The following information must be included in the periodic statement under the heading “Additional Explanation of Fees and Costs”, if it has not been included in another part of the periodic statement:
 - (a) details of incidental fees, such as cheque dishonour fees, that were incurred by the product holder during the period;
 - (b) details of any service fees that may have been incurred by the product holder;
 - (c) for a collective investment product that is subject to tax—whether the benefit of any tax deduction has been passed on to the investor in the form of a reduced fee or cost.

Schedule 10A—Modifications of Part 7.9 of the Act

(regulations 7.9.02, 7.9.04, 7.9.05, 7.9.06, 7.9.09C, 7.9.11C, 7.9.11N, 7.9.11V, 7.9.12, 7.9.24, 7.9.27, 7.9.30, 7.9.43, 7.9.47, 7.9.51, 7.9.56, 7.9.60, 7.9.61, 7.9.63, 7.9.73 and 8.4.02)

Part 1—Modifications relating to sub-plans

1.1 Paragraph 1012D(10)(b)

substitute

- (b) a superannuation product is the same as another superannuation product only if the other superannuation product is:
 - (i) an interest in the same sub-plan; or
 - (ii) if there is no sub-plan—an interest in the same fund.

Part 2—Modifications relating to Product Disclosure Statements for RSAs

2.1 After subsection 1012D(9B)

insert

Recommendation, issue or sale situation—takeover or merger

- (9C) In a recommendation situation, issue situation or sale situation, the issuer does not have to give a Product Disclosure Statement if a person:
- (a) becomes the holder of an RSA with an RSA institution; and
 - (b) does so as a direct result of:
 - (i) the takeover of the RSA provider with which the person previously held an RSA by:
 - (A) the RSA institution; or
 - (B) a corporation that is a related corporation of the RSA institution; or
 - (ii) a merger involving the RSA provider with which the person previously held an RSA and which results in the creation of the RSA institution; or
 - (iii) the transfer of any, or all of, the assets and liabilities of the RSA provider with which the person previously held an RSA to the RSA institution:
 - (A) under a provision of the *Banking Act 1959*, the *Life Insurance Act 1995* or of any other law of the Commonwealth, a State or a Territory; or
 - (B) under a voluntary transfer of engagements; or
 - (C) on the request of the Australian Prudential Regulation Authority.

Part 3—Modifications relating to insurance options under contract associated with superannuation interest

3.1 After subsection 1012D(9B)

insert

Insurance options

- (9C) A product issuer does not have to give a Product Disclosure Statement to a person if:
- (a) a product holder seeks to change the coverage of insurance options under a contract associated with a superannuation interest; and
 - (b) information in relation to the change of insurance options has not already been given in a periodic statement or in accordance with other periodic reporting requirements under Division 3.
- (9D) If subsection (9C) applies:
- (a) the product issuer must ensure that the product holder has sufficient information to enable the product holder to make an informed decision; and
 - (b) that subsection does not prevent the product issuer from complying with paragraph (a) by giving the product holder a Product Disclosure Statement.

Part 5A—Modifications for standard margin lending facilities

5A.2 Subsection 1013C(1)

substitute

- (1) A Product Disclosure Statement for a standard margin lending facility to which Subdivision 4.2A of Division 4 of Part 7.9 of the *Corporations Regulations 2001* applies must:
- (a) include the statements and information required by regulations made for this paragraph; and
 - (b) be in the form required by regulations made for this paragraph.
- (1A) If a law other than this Act or regulations under this Act requires the responsible person for the Product Disclosure Statement:
- (a) to give, disclose or provide a matter; or
 - (b) to include a matter in the Statement;
- the Statement may make provision for the matter by applying, adopting or incorporating the matter as in force at a particular time or as in force from time to time.
- (1B) In addition to subsection (1A), a Product Disclosure Statement may make provision for a matter contained in writing by applying, adopting or incorporating the matter as in force at a particular time or as in force from time to time.
- (1C) If a Product Disclosure Statement applies, adopts or incorporates a matter contained in writing:
- (a) the applied, adopted or incorporated matter forms part of the Statement; and
 - (b) the responsible person for the Statement is not required to give the document which provides for the matter to a person (as part of giving the Statement or later) if that person has not asked for the document; and
 - (c) the responsible person for the Statement must give the document which provides for the matter to a person if that person asks for the document.
- (1D) The regulations may prescribe requirements for applying, adopting, or incorporating a matter contained in writing in a Product Disclosure Statement.
- (1E) A Product Disclosure Statement may refer to information, other than information to which subsection (1A) or (1B) applies, that is set out in another document; and
- (1F) If the Product Disclosure Statement refers to other information as permitted by subsection (1E), that information does not form part of the Statement.

Note: Although the information mentioned in subsection (1F) would not form part of the Product Disclosure Statement, it would be subject to requirements imposed by the Act

or these Regulations such as the prohibition on making misleading or deceptive statements.

5A.3 Section 1013D

omit

5A.4 Section 1013E

omit

5A.5 Section 1013L

substitute

1013L When Product Disclosure document may consist of 2 or more documents

A Product Disclosure Statement may consist of 2 or more documents, only if:

- (a) one of the documents is a document that complies with the requirements for a Product Disclosure Statement under this Act and the Regulations; and
- (b) the other document or documents contain a matter in writing that is applied, adopted or incorporated by the document mentioned in paragraph (a).

5A.6 Subdivision D, Division 2

omit

5A.7 Subsection 1015D(3)

omit

Part 5B—Modifications for superannuation products to which Subdivision 4.2B of Division 4 of Part 7.9 applies

5B.2 Subsection 1013C(1)

substitute

- (1) A Product Disclosure Statement for a superannuation product to which Subdivision 4.2B of Division 4 of Part 7.9 of the *Corporations Regulations 2001* applies must:
 - (a) include the statements and information required by regulations made for this paragraph; and
 - (b) be in the form required by regulations made for this paragraph.
- (1A) If a law other than this Act or regulations under this Act requires the responsible person for the Product Disclosure Statement:
 - (a) to give, disclose or provide a matter; or
 - (b) to include a matter in the Statement;the Statement may make provision for the matter by applying, adopting or incorporating the matter as in force at a particular time or as in force from time to time.
- (1B) In addition to subsection (1A), a Product Disclosure Statement may make provision for a matter contained in writing by applying, adopting or incorporating the matter as in force at a particular time or as in force from time to time.
- (1C) If a Product Disclosure Statement applies, adopts or incorporates a matter contained in writing:
 - (a) the applied, adopted or incorporated matter forms part of the Statement; and
 - (b) the responsible person for the Statement is not required to give the document which provides for the matter to a person (as part of giving the Statement or later) if that person has not asked for the document; and
 - (c) the responsible person for the Statement must give the document which provides for the matter to a person if that person asks for the document.
- (1D) The regulations may prescribe requirements for applying, adopting, or incorporating a matter contained in writing in a Product Disclosure Statement.
- (1E) A Product Disclosure Statement may refer to information, other than information to which subsection (1A) or (1B) applies, that is set out in another document; and
- (1F) If the Product Disclosure Statement refers to other information as permitted by subsection (1E), that information does not form part of the Statement.

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Part 5B Modifications for superannuation products to which Subdivision 4.2B of Division 4 of Part 7.9 applies

Note: Although the information mentioned in subsection (1F) would not form part of the Product Disclosure Statement, it would be subject to requirements imposed by the Act or these Regulations such as the prohibition on making misleading or deceptive statements.

5B.3 Section 1013D

omit

5B.4 Section 1013E

omit

5B.5 Section 1013L

substitute

1013L When Product Disclosure Statement may consist of 2 or more documents

A Product Disclosure Statement may consist of 2 or more documents only if:

- (a) one of the documents is a document that complies with the requirements for a Product Disclosure Statement under this Act and the Regulations; and
- (b) the other document or documents contain a matter in writing that is applied, adopted or incorporated by the document mentioned in subparagraph (a).

5B.6 Subsection 1015D(3)

omit

Part 5C—Modifications for simple managed investment scheme

5C.2 Subsection 1013C(1)

substitute

- (1) A Product Disclosure Statement for a simple managed investment scheme to which Subdivision 4.2C of Division 4 of Part 7.9 of the *Corporations Regulations 2001* applies must:
- (a) include the statements and information required by regulations made for this paragraph; and
 - (b) be in the form required by regulations made for this paragraph; and
 - (c) relate only to 1 simple managed investment scheme.
- (1A) If a law other than this Act or regulations under this Act requires the responsible person for the Product Disclosure Statement:
- (a) to give, disclose or provide a matter; or
 - (b) to include a matter in the Statement;
- the Statement may make provision for the matter by applying, adopting or incorporating the matter as in force at a particular time or as in force from time to time.
- (1B) In addition to subsection (1A), a Product Disclosure Statement may make provision for a matter contained in writing by applying, adopting or incorporating the matter as in force at a particular time or as in force from time to time.
- (1C) If a Product Disclosure Statement applies, adopts or incorporates a matter contained in writing:
- (a) the applied, adopted or incorporated matter forms part of the Statement; and
 - (b) the responsible person for the Statement is not required to give the document which provides for the matter to a person (as part of giving the Statement or later) if that person has not asked for the document; and
 - (c) the responsible person for the Statement must give the document which provides for the matter to a person if that person asks for the document.
- (1D) The regulations may prescribe requirements for applying, adopting, or incorporating a matter contained in writing in a Product Disclosure Statement.
- (1E) A Product Disclosure Statement may refer to information, other than information to which subsection (1A) or (1B) applies, that is set out in another document; and
- (1F) If the Product Disclosure Statement refers to other information as permitted by subsection (1E), that information does not form part of the Statement.

Note: Although the information mentioned in subsection (1F) would not form part of the Product Disclosure Statement, it would be subject to requirements imposed by the Act or these Regulations such as the prohibition on making misleading or deceptive statements.

5C.2 Section 1013D

omit

5C.3 Section 1013E

omit

5C.4 Section 1013L

substitute

1013L When Product Disclosure Statement may consist of 2 or more documents

A Product Disclosure Statement may consist of 2 or more documents only if:

- (a) one of the documents is a document that complies with the requirements for a Product Disclosure Statement under this Act and the Regulations; and
- (b) the other document or documents contain a matter in writing that is applied, adopted or incorporated by the document mentioned in subparagraph (a).

5C.5 Subsection 1015D(3)

omit

Part 5D—Modifications for simple sub-fund product

5D.2 Subsection 1013C(1)

substitute

- (1) A Product Disclosure Statement for a simple sub-fund product, to which Subdivision 4.2D of Division 4 of Part 7.9 of the Regulations applies, for a retail CCIV must:
- (a) include the statements and information required by regulations made for the purposes of this paragraph; and
 - (b) be in the form required by regulations made for the purposes of this paragraph; and
 - (c) relate only to one sub-fund of the CCIV.
- (1A) If a law other than this Act or regulations under this Act requires the responsible person for the Product Disclosure Statement:
- (a) to give, disclose or provide a matter; or
 - (b) to include a matter in the Statement;
- the Statement may make provision for the matter by applying, adopting or incorporating the matter as in force at a particular time or as in force from time to time.
- (1B) In addition to subsection (1A), a Product Disclosure Statement may make provision for a matter contained in writing by applying, adopting or incorporating the matter as in force at a particular time or as in force from time to time.
- (1C) If a Product Disclosure Statement applies, adopts or incorporates a matter contained in writing:
- (a) the applied, adopted or incorporated matter forms part of the Statement; and
 - (b) the responsible person for the Statement is not required to give the document that provides for the matter to a person (as part of giving the Statement or later) if that person has not asked for the document; and
 - (c) the responsible person for the Statement must give the document that provides for the matter to a person if that person asks for the document.
- (1D) The regulations may prescribe requirements for applying, adopting or incorporating a matter contained in writing in a Product Disclosure Statement.
- (1E) A Product Disclosure Statement may refer to information, other than information to which subsection (1A) or (1B) applies, that is set out in another document.
- (1F) If the Product Disclosure Statement refers to other information as permitted by subsection (1E), that information does not form part of the Statement.

Note: Although the information mentioned in subsection (1F) would not form part of the Product Disclosure Statement, it would be subject to requirements imposed by the Act

or the Regulations such as the prohibition on making misleading or deceptive statements.

5D.3 Section 1013D

omit

5D.4 Section 1013E

omit

5D.5 Section 1013L

substitute

1013L When Product Disclosure Statement may consist of 2 or more documents

A Product Disclosure Statement may consist of 2 or more documents only if:

- (a) one of the documents is a document that complies with the requirements for a Product Disclosure Statement under this Act and the Regulations; and
- (b) the other document or documents contain a matter in writing that is applied, adopted or incorporated by the document mentioned in subparagraph (a).

5D.6 Subsection 1015D(3)

omit

Part 6—Modifications relating to application forms and Product Disclosure Statements for standard employer-sponsor arrangements and successor funds

6.1 After subsection 1016A(2)

insert

- (2A) Subsection (2) does not apply in relation to a member who:
- (a) held an interest in a superannuation fund as a standard employer-sponsored member; and
 - (b) is issued with an interest in relation to another sub-plan of the superannuation fund as a result of a transfer related to the cessation of the member's employment with the employer-sponsor.

6.2 After subsection 1016A(3)

insert

- (3A) Subsection (3) does not apply in relation to a superannuation product if:
- (a) the issuer is a public offer entity that is a successor fund; and
 - (b) an employer became a standard employer-sponsor of a fund in the following way:
 - (i) the employer was a standard employer-sponsor of a fund (***fund 1***);
 - (ii) the benefits of members in fund 1 were transferred to a successor fund;
 - (iii) the employer was a standard employer-sponsor of fund 1 immediately before those benefits were so transferred;
 - (iv) the employer was a standard employer-sponsor of the successor fund immediately after those benefits were so transferred.

6.3 After subsection 1012D(9)

insert

Recommendation, issue or sale situation—successor fund

- (9A) In a recommendation situation, issue situation or sale situation, a regulated person does not have to give the client a Product Disclosure Statement if:
- (a) the financial product is an RSA; and
 - (b) subsection 1012I(2) applies.

Part 6A—Modifications relating to MySuper measures

6A.1 After subsection 1017BA(4)

Insert:

- (4AA) Despite paragraph 1539(a) of the Act, this section applies, to the extent that it relates to MySuper products, on and after 31 December 2013.

Part 7—Modifications relating to life pensioners, members subject to compulsory protection of small amounts and members with small amounts that are expected to grow quickly

7.1 After subsection 1017D(7)

insert

- (8) The trustee of a fund need not give a periodic statement or other information to a member:
 - (a) in relation to any period during which the member is a life pensioner of the fund; or
 - (b) if the member is a pensioner of the fund, and has requested that that information not be provided.
- (9) Subsection (8) does not apply to information mentioned in subregulation 7.9.21A(1) of the *Corporations Regulations 2001*.
- (10) If, at the end of a reporting period, a member of a regulated superannuation fund is a protected member, the trustee need give the member only the following information in the periodic statement for that reporting period:
 - (a) the contact details of the fund;
 - (b) either:
 - (i) the amount of the member's withdrawal benefit at the end of the reporting period; or
 - (ii) the total of the amounts that have been received by the fund in respect of the member;
 - (c) in so far as applicable, the information mentioned in subregulation 7.9.21(1) of the *Corporations Regulations 2001*.
- (11) If, in relation to a member of a fund, the trustee of the fund takes advantage of subsections (12) to (15), the trustee must not, in relation to that member, take advantage of subsection (10).
- (12) If, at the end of a reporting period, the trustee of a fund has a reasonable expectation that a particular protected member will have a withdrawal benefit of at least \$1 500 within 12 months after the end of that reporting period, the trustee need not show, in the periodic statement, the effect of the member-protection standards.
- (13) For subsection (12), a trustee is not taken to have a reasonable expectation that a member will have a withdrawal benefit of at least \$1 500 within the period of 12 months referred to in that subsection if termination of the member's employment with a current employer (not being an employer who or that is an associate, within the meaning of paragraph 70(a) of the SIS Act, of the member) would be

Schedule 10A Modifications of Part 7.9 of the Act

Part 7 Modifications relating to life pensioners, members subject to compulsory protection of small amounts and members with small amounts that are expected to grow quickly

likely to result in the member's withdrawal benefit being below \$1 500 at the end of that period.

- (14) If, at the end of the 12-month period, the member's withdrawal benefit has not reached \$1 500, the trustee must show, in the periodic statement provided to the member for each reporting period ending on or after the end of the 12-month period, the effect of the member-protection standards.
- (15) The trustee of a fund must not take advantage of subsection (12) in respect of a person more than once unless, after an occasion on which the trustee does so but before the next occasion, the member leaves and rejoins the fund.
- (16) In this section:
- mandated employer-financed benefits* has the same meaning as in subregulation 5.01(1) of the *Superannuation Industry (Supervision) Regulations 1994*.
- member protection standards* has the same meaning as in the *Superannuation Industry (Supervision) Regulations 1994*.
- protected member* has the same meaning as in the *Superannuation Industry (Supervision) Regulations 1994*.
- (17) For the definition of *protected member* in subsection (16), a benefit in a fund is taken to contain or to have contained mandated employer-financed benefits unless:
- (a) if the benefits arose in relation to contributions made before 1 July 1995—the trustee of the fund reasonably believes otherwise; or
 - (b) if the benefits arose in relation to contributions made on or after 1 July 1995—the trustee of the fund knows otherwise.

Part 8—Modifications relating to periodic statements for RSA providers

8.1 After subsection 1017D(7)

insert

- (8) If:
- (a) a person ceases to be an RSA holder before RSA information in respect of a particular reporting period (the *relevant period*) is given; and
 - (b) either:
 - (i) the RSA provider gives, or intends to give, information to the person in respect of a reporting period that is the same as, or includes the whole of, the relevant period; or
 - (ii) if the person ceases to be an RSA holder by reason of death—the RSA provider complies in relation to the person with the relevant requirements of this Act and the regulations;
- the RSA provider need not give RSA information, in respect of the relevant period, to or in relation to the person.
- (9) If, at the end of a reporting period, an RSA holder is a protected RSA holder, the RSA provider need give the RSA holder only the following information for the reporting period:
- (a) the contact details of the RSA provider;
 - (b) either:
 - (i) the amount of the RSA holder’s withdrawal benefit at the end of the reporting period; or
 - (ii) the total of the amounts that have been received by the RSA provider in respect of the RSA holder;
 - (c) the effective rate of net interest applied to the RSA for each year of the previous 5 years ending at the end of the reporting period;
 - (d) the compound average of the annual effective rate of net interest applied to the RSA for each year of the previous 5 years ending at the end of the reporting period;
 - (e) details (in summary form) of arrangements that the RSA provider has to deal with inquiries or complaints;
 - (f) a statement that other information is available on request;
 - (g) a suggestion that the RSA holder may wish to consider:
 - (i) other superannuation arrangements that may provide a greater return over the long term; and
 - (ii) seeking advice on alternative investment strategies that may be more suitable;
 - (h) if the RSA provider reduced the RSA holder’s benefits in connection with payment of a superannuation contributions surcharge or an advance instalment of surcharge:

- (i) the amount deducted; and
 - (ii) if there is a difference between the amount deducted and the amount assessed under subsection 15(1) of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* or between the amount deducted and the amount determined under subsection 15(2) of that Act—a statement explaining the difference.
- (10) A nil amount need not be disclosed.
- (11) If, in relation to an RSA holder, the RSA provider takes advantage of subsections (13) to (16), the RSA provider must not, in relation to the RSA holder, take advantage of subsection (9).
- (12) If, at the end of a reporting period, an RSA has not been in existence for 5 years, the references in paragraphs (9)(c) and (d) to 5 years are taken to be references to the whole period of existence of the RSA.
- (13) If, at the end of a reporting period, an RSA provider has a reasonable expectation that an RSA holder will have a withdrawal benefit of at least \$1 500 within 12 months after the end of the reporting period, the RSA provider need not show, in RSA information provided to the RSA holder, the effect of the RSA holder-protection standards.
- (14) For subsection (12), an RSA provider is not taken to have a reasonable expectation that the RSA holder will have a withdrawal benefit of \$1 500 within the period of 12 months mentioned in that subsection if termination of the RSA holder's employment with a current employer would be likely to result in the RSA holder's withdrawal benefit being below \$1 500 at the end of that period.
- (15) If, at the end of the 12-month period, the RSA holder's withdrawal benefit has not reached \$1 500, the RSA provider must show, in RSA information provided to the RSA holder for each reporting period ending on or after the end of the 12-month period, the effect of the RSA holder-protection standards.
- (16) An RSA provider must not take advantage of subsection (13) in respect of a person more than once unless, after an occasion on which the RSA provider does so but before the next occasion, the person ceases to be the holder of the RSA and subsequently becomes the holder of an RSA provided by the same RSA provider.
- (17) In this section:

mandated employer-financed benefits has the same meaning as in the *Retirement Savings Accounts Regulations 1997*.

protected member has the same meaning as in the *Retirement Savings Accounts Regulations 1997*.

RSA holder-protection standards has the same meaning as in the *Retirement Savings Accounts Regulations 1997*.

Part 9—Modifications relating to periodic statements for superannuation entities and RSA providers

9.1 After subsection 1017C(7)

insert

(7A) If:

- (a) a concerned person requests information under subsection (2) or (3) in relation to a facility, under the concerned person's existing holding of a superannuation product, to modify:
 - (i) an investment strategy; or
 - (ii) a contribution level; or
 - (iii) insurance coverage; and
- (b) the information has not already been given in a periodic statement or in accordance with other periodic reporting requirements under Division 3; it is sufficient compliance with a requirement imposed by this section if the responsible person provides an up to date Product Disclosure Statement that includes information on the ability and effect of making the modification.

Part 10—Modifications relating to ongoing disclosure of material changes and significant events in relation to superannuation products and RSAs

10.1 After subsection 1017B(5)

insert

Provision of advice before event

- (5A) For a superannuation product or an RSA, if a product holder would reasonably be expected to be informed of:
- (a) a decision of the issuer; or
 - (b) the winding-up or termination of the superannuation entity;
- before it occurs, the issuer must give the product holder information about the event as soon as practicable after it becomes reasonable for the issuer to expect that the event will happen (except that the information does not need to be given more than 3 months before the expected date of the event).

Changes to governing rules or terms and conditions

- (5B) For subsections 1017B(5), (6) and (7) a reference to an event includes the following:
- (a) a change to the governing rules of a superannuation entity (other than a change that gives effect to a payment split) of a kind that has an adverse effect on:
 - (i) the amount of the relevant financial product; or
 - (ii) the benefits to which the holder of the relevant financial product may become entitled; or
 - (iii) the circumstances in which the benefits to which the holder of the relevant financial product may become entitled would become payable;
 - (b) a change to the terms and conditions of an RSA (other than a change that gives effect to a payment split) of a kind that has an adverse effect on:
 - (i) the amount of the RSA; or
 - (ii) the benefits to which the RSA holder may become entitled; or
 - (iii) the circumstances in which the benefits to which the RSA holder may become entitled would become payable;
 - (c) any other change in relation to an RSA, caused by any other act carried out or consented to by the issuer, of a kind that has an adverse effect on:
 - (i) the amount of the RSA; or
 - (ii) the benefits to which the RSA holder may become entitled; or
 - (iii) the circumstances in which the benefits to which the RSA holder may become entitled would become payable.

Notice of non-compliance

- (5C) If the issuer of a superannuation product receives a notice of non-compliance, the issuer must give to each product holder:
- (a) a statement of the circumstances (including details of the non-compliance) that gave rise to the issue of the notice; and
 - (b) a statement of the effect on the fund of the issue of the notice (including details of the effect on the entity's taxation position); and
 - (c) details of action that the issuer has taken, or proposes to take, to have the entity become a complying fund or a pooled superannuation trust for the purposes of Division 2 of Part 5 of the Act.
- (5D) For subsection (5C), a **notice of non-compliance** means a notice issued under section 40 of the SIS Act to the trustee of a fund stating that the fund is not a complying fund or a pooled superannuation trust.

Fund and RSA transfers

- (5E) For subsections (5), (6) and (7), a reference to an event includes:
- (a) in relation to a superannuation product:
 - (i) the transfer of a member to a different category of membership or to a different fund; and
 - (ii) the transfer of the benefits of a member to an RSA or exempt public sector superannuation scheme (otherwise than under a payment split); and
 - (b) in relation to an RSA—the transfer of an amount of an RSA (otherwise than under a payment split) to:
 - (i) another RSA offered by an RSA issuer; or
 - (ii) a superannuation entity; or
 - (iii) an exempt public sector superannuation scheme.

10.2 After subsection 1017B(9)

insert

- (10) This section does not apply to a change or event in relation to a superannuation product or an RSA that relates to a payment split in respect of the product.
- (11) This section does not apply to a change or event in relation to a superannuation product or an RSA if the change or event happens because of a transfer in accordance with paragraph 6.29(1)(ba) of the *Superannuation Industry (Supervision) Regulations 1994* in respect of the product.

Part 11—Modifications relating to charges for information requested

11.1 After subsection 1017C(8)

insert

- (8A) The obligation of a responsible person under this section to give information on request by a person arises only if the person pays the amount specified by the responsible person as the charge for giving the information.
- (8B) The amount of the charge must not exceed the reasonable cost to the responsible person of giving the information (including all reasonably related costs—for example, costs of searching for, obtaining and collating the information).
- (8C) A member who acts as a representative for or on behalf of a policy committee is not liable to any charge for information given to the member in that capacity.
- (8D) In the case of information to be supplied to a concerned person under Subdivision 5.9 of Part 7.9 of the *Corporations Regulations 2001*, a charge may be made only if:
 - (a) the person to whom the information is to be given has requested the information; and
 - (b) the person had been given the same information during the period of 12 months immediately preceding the date on which the request is made.

Part 12—Modifications relating to information when member leaves a fund

12.1 After subsection 1017D(3)

insert

- (3A) For a superannuation product or an RSA, the periodic statement in relation to the reporting period mentioned in paragraph 1017D(2)(d) must be given as soon as the issuer becomes aware that that person or another person (the ***former product holder***) has ceased to hold the product, and, in particular, the issuer must make reasonable efforts to give the information within 1 month after becoming aware that the former product holder has ceased to hold the product.
- (3B) The issuer of a superannuation product or an RSA must make all reasonable efforts:
- (a) to give the information about the amount of insured death or disability benefits to which the former product holder may have been entitled; and
 - (b) to give the information about a continuation option (if any) applying to those benefits (as mentioned in either paragraph 7.9.54(b) or 7.9.65(b) of the *Corporations Regulations 2001*) in a reasonable time before the option lapses.
- (3C) Subject to subsection (3D), if a person ceases to hold a superannuation product or an RSA:
- (a) after the end of the completed reporting period (the ***completed period***); and
 - (b) before the periodic report is issued for that period;
- the information required by this section to be given to or in relation to the person may be given in respect of the period consisting of the completed period and the period mentioned in paragraph 1017D(2)(d) instead of the period in respect of the person's periodic statement for the period mentioned in paragraph 1017D(2)(d).
- (3D) Subsection (3C) does not apply if the period mentioned in paragraph 1017D(2)(d) is greater than:
- (a) for a particular superannuation product—6 months; or
 - (b) for a particular RSA—3 months.

Part 13—Modifications relating to exceptions to exit reporting period provisions

13.1 After subsection 1017D(7)

insert

- (8) An RSA provider need not give information under this section to the holder of an RSA who is transferring the amount of the RSA to another RSA, a superannuation entity or an exempt public sector superannuation scheme if:
- (a) the RSA holder has received sufficient information under Subdivision 5.8 of Part 7.9 of the *Corporations Regulations 2001* to enable the RSA holder to understand the effect of the transfer; and
 - (b) the RSA provider reasonably believes that the RSA holder does not need the information because the RSA holder has received or will receive from the RSA institution, or the trustee of the superannuation entity or exempt public sector superannuation scheme to which the amount is being transferred, information relevant to the RSA holder in respect of the exit reporting period, to the same general effect as that required under Subdivisions 5.2 and 5.3 of Part 7.9 of the *Corporations Regulations 2001*.
- (9) A superannuation product provider need not give information under this section to the holder of a superannuation product who is transferring to another superannuation entity or to an exempt public sector superannuation scheme, or whose benefits are being transferred into an RSA if:
- (a) the product holder has received sufficient information under Subdivision 5.8 of Part 7.9 of the *Corporations Regulations 2001* to enable the product holder to understand the effect of the transfer; and
 - (b) the superannuation product provider reasonably believes that the product holder does not need the information because the product holder has received or will receive, from the RSA institution, or from the trustee of the superannuation entity or exempt public sector superannuation scheme to which the amount is being transferred, information relevant to the product holder in respect of the exit reporting period, to the same general effect as that required under Subdivision 5.2 of Part 7.9 of the *Corporations Regulations 2001*.

Part 14—Modifications relating to obligation to give information about financial products

14.1 After subsection 1017B(7)

insert

- (7A) Subject to subsections (7B) and (7C), this section does not apply if:
- (a) the responsible person has an address for a concerned person, and:
 - (i) is satisfied on reasonable grounds that that address is incorrect; and
 - (ii) has taken reasonable steps to locate the concerned person but has been unable to do so; or
 - (b) the responsible person has no address for the concerned person, and:
 - (i) has been unable to obtain an address for the concerned person; and
 - (ii) has taken reasonable steps to locate the concerned person, but has been unable to do so.
- (7B) If the responsible person has refrained, in reliance on subsection (7A), from giving information to a concerned person, the responsible person must give information to the concerned person if the responsible person later becomes aware of the concerned person's address or location.
- (7C) Subsection (7B) applies only in respect of information that the responsible person becomes liable to give to the concerned person after becoming aware of the concerned person's address or location.

14.2 After subsection 1017C(8)

insert

- (8A) Subject to subsections (8B) and (8C), this section does not apply if:
- (a) the responsible person has an address for a concerned person, and:
 - (i) is satisfied on reasonable grounds that that address is incorrect; and
 - (ii) has taken reasonable steps to locate the concerned person but has been unable to do so; or
 - (b) the responsible person has no address for the concerned person, and:
 - (i) has been unable to obtain an address for the concerned person; and
 - (ii) has taken reasonable steps to locate the concerned person, but has been unable to do so.
- (8B) If the responsible person has refrained, in reliance on subsection (8A), from giving information to a concerned person, the responsible person must give information to the concerned person if the responsible person later becomes aware of the concerned person's address or location.
- (8C) Subsection (8B) applies only in respect of information that the responsible person becomes liable to give to the concerned person after becoming aware of the concerned person's address or location.

14.3 After subsection 1017D(7)

insert

- (8) Subject to subsections (9) and (10), this section does not apply if:
- (a) the issuer has an address for a holder, and:
 - (i) is satisfied on reasonable grounds that that address is incorrect; and
 - (ii) has taken reasonable steps to locate the holder but has been unable to do so; or
 - (b) the issuer has no address for the holder, and:
 - (i) has been unable to obtain an address for the holder; and
 - (ii) has taken reasonable steps to locate the holder, but has been unable to do so.
- (9) If the issuer has refrained, in reliance on subsection (8), from giving information to a holder, the issuer must give information to the holder if the issuer later becomes aware of the holder's address or location.
- (10) Subsection (9) applies only in respect of information that the issuer becomes liable to give to the holder after becoming aware of the holder's address or location.

14.4 After subsection 1017DA(3)

insert

- (3A) Subject to subsections (3B) and (3C), this section does not apply if:
- (a) the trustee has an address for a holder or former holder, and:
 - (i) is satisfied on reasonable grounds that that address is incorrect; and
 - (ii) has taken reasonable steps to locate the holder or former holder but has been unable to do so; or
 - (b) the trustee has no address for the holder or former holder, and:
 - (i) has been unable to obtain an address for the holder or former holder; and
 - (ii) has taken reasonable steps to locate the holder or former holder, but has been unable to do so.
- (3B) If the trustee has refrained, in reliance on subsection (3A), from giving information to a holder or former holder, the trustee must give information to the holder or former holder if the trustee later becomes aware of the holder's or former holder's address or location.
- (3C) Subsection (3B) applies only in respect of information that the trustee becomes liable to give to the holder or former holder after becoming aware of the holder's or former holder's address or location.

Part 15—Modifications for confirmation of transactions

15.1 After subsection 1017F(5A)

insert

(5B) Despite subsection (5), if:

- (a) the cost of a transaction (including taxes and charges) is not known at the time at which confirmation of the transaction would be required to be given; and
- (b) all of the other information required under subsection (7) in relation to confirmation of the transaction is known at that time;

the confirmation of the transaction is to be provided in accordance with subsection (5C).

(5C) Confirmation is to be provided as follows:

- (a) all of the information required, except for the cost of the transaction, is to be provided as soon as practicable in accordance with subsection (5);
- (b) the cost of the transaction may be provided in whichever of the following can be done first:
 - (i) a secondary confirmation notice provided as soon as practicable after the cost is known;
 - (ii) a standing facility mentioned in paragraph 1017F(5)(b);
 - (iii) the first periodic report under section 1017D after the cost is known.

Part 16—Modifications relating to reporting periods

16.1 Paragraph 1017D(2)(a)

substitute

- (a) each reporting period lasts for:
 - (i) a period, not exceeding 1 year, fixed by the issuer; or
 - (ii) a longer period fixed by ASIC on the application of the issuer to which the period relates;

Part 17—Modifications relating to application forms for specified superannuation products

17.1 After subsection 1012B(4)

insert

- (4A) A regulated person:
- (a) need not give a client a Product Disclosure Statement for a financial product at or before the time when it would otherwise be required to be given; and
 - (b) must give the client the Product Disclosure Statement as soon as is reasonably practical and in any event within 3 months after the product is issued to the client; and
 - (c) need not give the client the Product Disclosure Statement at all if the client ceases to be a member of the superannuation fund concerned before the regulated person is required to give the Product Disclosure Statement under paragraph (b).
- (4B) Subsections (3), (4) and (4A) apply only in respect of:
- (a) in the case of an eligible rollover fund:
 - (i) persons who become members of the fund by being issued with a superannuation interest under section 243 of the SIS Act; and
 - (ii) persons who become members of the fund in circumstances mentioned in section 89 of the RSA Act; and
 - (b) in the case of a public offer superannuation fund that is not a successor fund in relation to the financial product issued to the client:
 - (i) standard employer-sponsored members of the fund; and
 - (ii) persons who become members of the fund in circumstances mentioned in regulation 7.9.06B of the *Corporations Regulations 2001*.

17.2 After subsection 1012I(2B)

insert

- (2C) If a trustee of an exempt public sector superannuation scheme:
- (a) applies, in circumstances mentioned in regulation 7.9.06B of the *Corporations Regulations 2001*, on behalf of a person for the issue of an interest in a relevant superannuation entity; and
 - (b) has not previously applied in those circumstances for the issue of an interest in that entity on behalf of any person;
- the person (the *issuer*) who is to issue the interest to the person must, at or before the time when the interest is issued to the person, give the trustee a Product Disclosure Statement in accordance with this Division for the interest.

Part 18—Modification of Part 7.9 of the Act—New Zealand offer documents replace Product Disclosure Statements where an offer relates to interests in a New Zealand managed investment scheme

18.1 After subsection 1012D(9D)

insert

Recommendation, issue or sale situation—New Zealand mutual recognition scheme for securities

- (9E) In a recommendation situation, issue situation or sale situation, the regulated person does not have to give the client a Product Disclosure Statement for a financial product if:
- (a) the regulated person reasonably believes that there is a recognised offer under Chapter 8 in relation to offer of the financial product; and
 - (b) the financial product is an interest in a managed investment scheme governed by the laws of New Zealand; and
 - (c) the regulated person has provided the client the documents and information required to accompany that offer by the Financial Markets Conduct Act 2013 of New Zealand and the Financial Markets Conduct Regulations 2014 of New Zealand; and
 - (d) the regulated person has provided the client any warning statement or details prescribed under section 1200E in relation to the offer.
- (9F) For paragraph (9E)(c), section 1015C applies to the providing of documents and information, as if the documents and information were a Statement.
- (9G) For paragraph (9E)(d), section 1015C applies to the providing of warning statement or details prescribed under section 1200E, as if the warning statement or details were a Statement.

Part 19—Modifications for carbon units, Australian carbon credit units and eligible international emissions units

19.1 Subsections 1012D(1) to (3), including the subheadings

substitute

Recommendation, issue or sale situation for carbon unit—statements on Clean Energy Regulator’s website

- (1) Subject to subsections (2) and (3), in a recommendation situation, issue situation or sale situation for a carbon unit, the regulated person:
 - (a) does not have to give the client a Product Disclosure Statement; and
 - (b) must inform the client that the client should consider each statement about the carbon unit that is mentioned in section 202 of the *Clean Energy Act 2011*.

Recommendation, issue or sale situation for carbon unit—client has considered statements on Clean Energy Regulator’s website

- (2) In a recommendation situation, issue situation or sale situation for a carbon unit, the regulated person does not have to inform the client as described in paragraph (1)(b) if the regulated person believes, on reasonable grounds, that the client has already considered each statement about the carbon unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*.

Recommendation, issue or sale situation for carbon unit—specified persons

- (3) In a recommendation situation, issue situation or sale situation for a carbon unit, the regulated person does not have to inform the client as described in paragraph (1)(b) if the person is:
 - (a) the Clean Energy Regulator; or
 - (b) the Clean Development Mechanism Executive Board; or
 - (c) the government of a country other than Australia; or
 - (d) an authority acting on behalf of the government of a country other than Australia.

Recommendation, issue or sale situation for Australian carbon credit unit—statements on Clean Energy Regulator’s website

- (3A) Subject to subsections (3B) and (3C), in a recommendation situation, issue situation or sale situation for an Australian carbon credit unit, the regulated person:
 - (a) does not have to give the client a Product Disclosure Statement; and

-
- (b) must inform the client that the client should consider each statement about the Australian carbon credit unit that is mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

Recommendation, issue or sale situation for Australian carbon credit unit—client has considered statements on Clean Energy Regulator’s website

- (3B) In a recommendation situation, issue situation or sale situation for an Australian carbon credit unit, the regulated person does not have to inform the client as described in paragraph (3A)(b) if the regulated person believes, on reasonable grounds, that the client has already considered each statement about the Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*.

Recommendation, issue or sale situation for Australian carbon credit unit—specified persons

- (3C) In a recommendation situation, issue situation or sale situation for an Australian carbon credit unit, the regulated person does not have to inform the client as described in paragraph (3A)(b) if the person is:
- (a) the Clean Energy Regulator; or
 - (b) the Clean Development Mechanism Executive Board; or
 - (c) the government of a country other than Australia; or
 - (d) an authority acting on behalf of the government of a country other than Australia.

Recommendation, issue or sale situation for eligible international emissions unit—statements on Clean Energy Regulator’s website

- (3D) Subject to subsections (3E) and (3F), in a recommendation situation, issue situation or sale situation for an eligible international emissions unit, the regulated person:
- (a) does not have to give the client a Product Disclosure Statement; and
 - (b) must inform the client that the client should consider each statement about the eligible international emissions unit that is mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*.

Recommendation, issue or sale situation for eligible international emissions unit—client has considered statements on Clean Energy Regulator’s website

- (3E) In a recommendation situation, issue situation or sale situation for an eligible international emissions unit, the regulated person does not have to inform the client as described in paragraph (3D)(b) if the regulated person believes, on reasonable grounds, that the client has already considered each statement about the eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*.

Recommendation, issue or sale situation for eligible international emissions unit—specified persons

- (3F) In a recommendation situation, issue situation or sale situation for an eligible international emissions unit, the regulated person does not have to inform the client as described in paragraph (3D)(b) if the person is:
- (a) the Clean Energy Regulator; or
 - (b) the Clean Development Mechanism Executive Board; or
 - (c) the government of a country other than Australia; or
 - (d) an authority acting on behalf of the government of a country other than Australia.

19.2 Subsection 1012D(5)

omit

give the client a Product Disclosure Statement

insert

inform the client as described in paragraph (1)(b), (3A)(b) or (3D)(b)

19.3 Subsection 1012D(6)

omit

give the client a Product Disclosure Statement

insert

inform the client as described in paragraph (1)(b), (3A)(b) or (3D)(b)

19.4 Subsections 1012D(7) to (10), including the subheading

omit

19.5 Subsection 1012IA(1), definition of *regulated acquisition*

substitute

regulated acquisition means an acquisition of a financial product pursuant to an instruction by the client under a custodial arrangement, being an acquisition:

- (a) by way of issue by the issuer (the ***regulated person***); or
- (b) pursuant to a sale by a person (the ***regulated person***) in circumstances:
 - (i) described in subsection 1012C(5) or (8); or
 - (ii) to which subsection 1012B(3), 1012C(3) or 1012C(6) would apply if those subsections were applicable in relation to a carbon unit, an Australian carbon credit unit or an eligible international emissions unit.

19.6 Subsection 1012IA(2), subheading

substitute

Obligation on provider to inform client about statements on Clean Energy Regulator's website

19.7 Subsection 1012IA(2)

omit

must give the client a Product Disclosure Statement for the product if a Product Disclosure Statement for the product would

insert

must inform the client that the client should consider each statement about the carbon unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, or each statement about the Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*, or each statement about the eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*, if the statement would

19.8 Subsection 1012IA(3), subheading

substitute

Determining whether client should be informed about statements on Clean Energy Regulator's website for an equivalent direct acquisition

19.9 Subsection 1012IA(3)

omit

give the client a Product Disclosure Statement for the financial product

insert

inform the client that the client should consider each statement about the carbon unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, or each statement about the Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*, or each statement about the eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*

19.10 Paragraph 1017E(1)(b)

substitute

- (b) a seller (the ***product provider***) of a carbon unit in relation to which the seller has informed the client that the client should consider each statement about the carbon unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*; or
- (ba) a seller (the ***product provider***) of an Australian carbon credit unit in relation to which the seller has informed the client that the client should consider each statement about the Australian carbon credit unit that is

published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*;
or

- (bb) a seller (the **product provider**) of an eligible international emissions unit in relation to which the seller has informed the client that the client should consider each statement about the eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*;

19.11 Subsection 1017G(1)

substitute

- (1) This section does not apply to:
- (a) the Regulator; or
 - (b) the CDM Executive Board; or
 - (c) the government of a country other than Australia; or
 - (d) an authority acting on behalf of the government of a country other than Australia.

(1A) If:

- (a) carbon units are, or have been, available for acquisition (whether by issue or sale) by a person or persons as retail clients; and
- (b) the issue or sale of the carbon units is not covered by an Australian financial services licence;

the issuer and any regulated person who is required, under subsection 1012D(1), to inform a client that the client should consider each statement about the carbon unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, must both have a dispute resolution system complying with subsection (2).

Note 1: If the issue of the carbon units is covered by an Australian financial services licence, the requirement to have a dispute resolution system relating to the issue of the units is imposed by paragraph 912A(1)(g).

Note 2: Failure to comply with this subsection is an offence (see subsection 1311(1)).

(1B) If:

- (a) Australian carbon credit units are, or have been, available for acquisition (whether by issue or sale) by a person or persons as retail clients; and
- (b) the issue or sale of the Australian carbon credit units is not covered by an Australian financial services licence;

the issuer and any regulated person who is required, under subsection 1012D(3A), to inform a client that the client should consider each statement about the Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*, must both have a dispute resolution system complying with subsection (2).

Schedule 10A Modifications of Part 7.9 of the Act

Part 19 Modifications for carbon units, Australian carbon credit units and eligible international emissions units

Note 1: If the issue of the Australian carbon credit units is covered by an Australian financial services licence, the requirement to have a dispute resolution system relating to the issue of the units is imposed by paragraph 912A(1)(g).

Note 2: Failure to comply with this subsection is an offence (see subsection 1311(1)).

(1C) If:

- (a) eligible international emissions units are, or have been, available for acquisition (whether by issue or sale) by a person or persons as retail clients; and
- (b) the issue or sale of the eligible international emissions units is not covered by an Australian financial services licence;

the issuer and any regulated person who is required, under subsection 1012D(3D), to inform a client that the client should consider each statement about the eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*, must both have a dispute resolution system complying with subsection (2).

Note 1: If the issue of the eligible international emissions units is covered by an Australian financial services licence, the requirement to have a dispute resolution system relating to the issue of the units is imposed by paragraph 912A(1)(g).

Note 2: Failure to comply with this subsection is an offence (see subsection 1311(1)).

19.12 Section 1018A, heading

substitute

1018A Advertising or other promotional material for financial product must refer to statements on Clean Energy Regulator's website

19.13 Subsection 1018A(1), subheading

substitute

Advertisements and promotional material must identify issuer (or issuer and seller) and refer to statements on Clean Energy Regulator's website

19.14 Subsection 1018A(1)

omit

if a particular financial product is available for acquisition by persons as retail clients (whether or not it is also available for acquisition by persons as wholesale clients) by way of issue, or pursuant to sale offers to which section 1012C applies or will apply,

insert

in an issue situation or sale situation for a carbon unit, an Australian carbon credit unit or an eligible international emissions unit that is available for acquisition by persons as retail clients (whether or not it is also available for acquisition by persons as wholesale clients),

19.15 Subparagraph 1018A(1)(c)(ii)

omit

to which section 1012C applies or will apply

insert

to which paragraphs 1012C(3)(b) and (4)(c), and subsection 1012C(6), would apply if section 1012C were applicable in relation to a carbon unit, an Australian carbon credit unit or an eligible international emissions unit

19.16 Paragraphs 1018A(1)(d) and (e)

substitute

(d) informs the person that the person should consider:

- (i) each statement about the carbon unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011* in deciding whether to acquire, or to continue to hold, the carbon unit; or
- (ii) each statement about the Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* in deciding whether to acquire, or to continue to hold, the Australian carbon credit unit; or
- (iii) each statement about the eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011* in deciding whether to acquire, or to continue to hold, the eligible international emissions unit.

19.17 Subsection 1018A(2)

omit

if a particular financial product, or proposed financial product, is not available for acquisition by persons as retail clients but it is reasonably likely that the product will become so available (whether or not it is, or will also become, available for acquisition by persons as wholesale clients) by way of issue, or pursuant to sale offers to which section 1012C will apply,

insert

in an issue situation or sale situation for a financial product that is a carbon unit, an Australian carbon credit unit or an eligible international emissions unit and is not available for acquisition by persons as retail clients, but is reasonably likely to become so available (whether or not it is, or will also become, available for acquisition by persons as wholesale clients),

19.18 Subparagraph 1018A(2)(c)(ii)

omit

to which section 1012C will apply

insert

to which paragraphs 1012C(3)(b) and (4)(c), and subsection 1012C(6), would apply if section 1012C were applicable in relation to a carbon unit, an Australian carbon credit unit or an eligible international emissions unit

19.19 Paragraphs 1018A(2)(d) to (f)

substitute

- (d) informs the person that:
- (i) a statement about the carbon unit is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*; or
 - (ii) a statement about the Australian carbon credit unit is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*; or
 - (iii) a statement about the eligible international emissions unit is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*; and
- (e) informs the person that the person should consider each statement about the carbon unit, Australian carbon credit unit or eligible international emissions unit that is published on that website in deciding whether to acquire, or to continue to hold, the carbon unit, Australian carbon credit unit or eligible international emissions unit.

19.20 Subsection 1018A(3)

omit

distribute a Product Disclosure Statement

insert

inform a person that the person should consider each statement about the carbon unit, Australian carbon credit unit or eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011*

19.21 Subparagraph 1018A(4)(c)(i)

substitute

- (i) does not contain information that materially affects affairs of the issuer, other than information about the carbon unit, Australian carbon credit unit or eligible international emissions unit that is published:
- (A) on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011*; or
 - (B) in a disclosure document that has been lodged with ASIC; or

- (C) in an annual report or in a notice or report referred to in paragraph (a) or (b); and

19.22 Subparagraphs 1018A(4)(d)(i) and (ii)

substitute

- (i) information about the carbon unit, Australian carbon credit unit or eligible international emissions unit that is published:
- (A) on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011*; or
- (B) in a disclosure document that has been lodged with ASIC; or

19.23 Paragraph 1020D(b)

substitute

- (b) if the acquisition occurs in circumstances in which the party is required by a provision of this Part to have been informed that the party should consider each statement about the carbon unit, Australian carbon credit unit or eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011*—taken to have notice of any contract, document or matter not specifically referred to in those statements.

19.24 Paragraph 1020E(7)(b)

omit

the document, advertisement or statement

insert

the statement or advertisement

19.25 Section 1021C, heading

substitute

1021C Offence of failing to refer to statements on Clean Energy Regulator's website

19.26 Subparagraph 1021C(1)(a)(i)

substitute

- (i) is required by a provision of this Part to inform a person that the person should consider each statement about a carbon unit, an Australian carbon credit unit or an eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162

of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011* (the *required statement*); or

19.27 Subparagraph 1021C(1)(b)(i)

substitute

- (i) if subparagraph (a)(i) applies—inform the person that the person should consider each required statement; or

19.28 Subparagraph 1021C(3)(a)(i)

substitute

- (i) is required by a provision of this Part to inform a person that the person should consider each statement about a carbon unit, an Australian carbon credit unit or an eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011* (the *required statement*); or

19.29 Subparagraph 1021C(3)(b)(i)

substitute

- (i) if subparagraph (a)(i) applies—inform the person that the person should consider each required statement; or

19.30 Paragraph 1021C(4)(b)

substitute

- (b) the representative's failure to inform the person that the person should consider each required statement occurred because the representative was acting in reliance on that information or those instructions; and

19.31 Section 1021G

omit

to give or communicate disclosure documents or statements as and when required by this Part.

insert

to inform a person that the person should consider each statement about a carbon unit, an Australian carbon credit unit or an eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*, section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011* or section 61 of the *Australian National Registry of Emissions Units Act 2011* as and when required by this Part.

19.32 After paragraph 1022B(1)(ac)

insert

- (ad) a person:
- (i) is required to inform another person (the *client*) that the client should consider each statement about a carbon unit that is published on the website of the Clean Energy Regulator as mentioned in section 202 of the *Clean Energy Act 2011*; and
 - (ii) does not inform the client by the time the person is required to do so;
or
- (ae) a person:
- (i) is required to inform another person (the *client*) that the client should consider each statement about an Australian carbon credit unit that is published on the website of the Clean Energy Regulator as mentioned in section 162 of the *Carbon Credits (Carbon Farming Initiative) Act 2011*; and
 - (ii) does not inform the client by the time the person is required to do so;
or
- (af) a person:
- (i) is required to inform another person (the *client*) that the client should consider each statement about an eligible international emissions unit that is published on the website of the Clean Energy Regulator as mentioned in section 61 of the *Australian National Registry of Emissions Units Act 2011*; and
 - (ii) does not inform the client by the time the person is required to do so;
or

Schedule 10AA Modifications of the Act in relation to their application in respect of a recognised offer or a proposed offer of securities that may become a recognised offer

Part 1 Modification of Part 6D.2 of the Act—disclosure to investors not required for recognised offer under Chapter 8

Schedule 10AA—Modifications of the Act in relation to their application in respect of a recognised offer or a proposed offer of securities that may become a recognised offer

(regulation 8.4.02)

Part 1—Modification of Part 6D.2 of the Act—disclosure to investors not required for recognised offer under Chapter 8

1.1 After subsection 707(3)

insert

- (3A) Subsection (3) does not apply to an offer of a body’s securities for sale if the body issued the securities as part of a recognised offer under Chapter 8.
- (3B) Subsection (3) does not apply to an offer of a body’s securities for sale if:
 - (a) the securities were issued by reason of the exercise of options or the conversion of convertible or converting securities; and
 - (b) the options or other convertible or converting securities were issued as part of a recognised offer under Chapter 8; and
 - (c) the exercise of the option, or the conversion of the security, did not involve any further offer.

1.2 After subsection 707(5)

insert

- (5A) Subsection (5) does not apply to an offer of a body’s securities for sale if the controller sold the securities as part of a recognised offer under Chapter 8.

Part 2—Modification of Part 7.9 of the Act—disclosure to investors not required for recognised offer under Chapter 8

2.1 After subsection 1012C(6)

insert

- (6A) Subsection (6) does not apply to an offer of a financial product for sale if the issuer issued the financial product as part of a recognised offer under Chapter 8.
- (6B) Subsection (6) does not apply to an offer of a financial product for sale if:
 - (a) the financial product was issued by reason of the exercise of an option or the conversion of another convertible or converting security; and
 - (b) the option or convertible or converting security was issued as part of a recognised offer under Chapter 8; and
 - (c) the exercise of the option, or the conversion of the security, did not involve a further offer.

2.2 After subsection 1012C(8)

insert

- (8A) Subsection (8) does not apply to the offer of a financial product for sale if the controller sold the financial product as part of a recognised offer under Chapter 8.

2.3 After subsection 1012IA(3)

insert

- (3A) In determining whether this section requires a provider to give a client a Product Disclosure Statement, Chapter 8 is to be disregarded.
- (3B) A provider is not required to give a client a Product Disclosure Statement for a financial product if:
 - (a) the provider reasonably believes there is a recognised offer under Chapter 8 in relation to the financial product; and
 - (b) the financial product is an interest in a managed investment scheme governed by the laws of New Zealand; and
 - (c) the provider has provided the client the documents and information required to accompany that offer by the Financial Markets Conduct Act 2013 of New Zealand and the Financial Markets Conduct Regulations 2014 of New Zealand; and
 - (d) the provider has provided the client any warning statement or details prescribed under section 1200E in relation to the offer.

Schedule 10AA Modifications of the Act in relation to their application in respect of a recognised offer or a proposed offer of securities that may become a recognised offer

Part 2 Modification of Part 7.9 of the Act—disclosure to investors not required for recognised offer under Chapter 8

(3C) For paragraph (3B)(c), section 1015C applies to the providing of documents and information, as if the documents and information were a Statement.

(3D) For paragraph (3B)(d), section 1015C applies to the providing of warning statement or details prescribed under section 1200E, as if the warning statement or details were a Statement.

Note: Subsection 1012D(9E) of the Act is a modification of the Act that relates to Chapter 8 of the Act. The modification applies by force of:

- (a) regulation 8.4.01 of the *Corporations Regulations 2001*; and
- (b) item 18.1 of Part 18 of Schedule 10A to those Regulations.

Schedule 10BA—Modifications of the Act relating to Short-Form Product Disclosure Statements

(regulation 7.9.61AA)

Part 1—Modifications of Part 7.7 of the Act

1.1 Paragraph 949A(2)(c)

after

Part 7.9)

insert

or a Short-Form PDS (see Division 3A of Part 7.9)

Part 3—Modifications of Part 7.9 of the Act

3.1 After Division 3 of Part 7.9

insert

Division 3A—Short-Form Product Disclosure Statements

1017H Short-Form PDS

Short-Form PDS may be given instead of a Product Disclosure Statement in most cases

- (1) If a regulated person is required or obliged by this Act to give a Product Disclosure Statement for a financial product (but see subsection (4)) to another person, the regulated person may instead provide a Short-Form PDS for the product.

Product Disclosure Statement must be given in certain circumstances

- (2) However, if the regulated person is requested by the other person to provide the Product Disclosure Statement the regulated person must provide the Product Disclosure Statement.

Responsible person

- (3) The **responsible person** for a Short-Form PDS for a financial product is the person who is the responsible person for the Product Disclosure Statement for the product.

Short-Form PDS not to be given for certain products

- (4) Subsection (1) does not apply in relation to the following:
 - (a) a general insurance product;
 - (b) a managed investment product in relation to an Australian passport fund;
 - (ba) a security in a retail CCIV that is referable to a sub-fund of the CCIV that is an Australian passport fund;
 - (c) a foreign passport fund product.
- (5) To avoid doubt, nothing in Division 5AB of Part 7.9 of the regulations or in Part 3 of Schedule 10BA to the regulations permits a regulated person to give a Short-Form PDS or a Supplementary Short-Form PDS in relation to a financial product mentioned in subsection (4).

1017I Contents of a Short-Form PDS

Contents

- (1) The Short-Form PDS for a financial product must contain the following:
 - (a) a summary of the statements and information referred to in paragraphs 1013D(1)(a), (b), (c), (d), (e), (g) and (i) that were included in a Product Disclosure Statement for the product;
 - (b) a statement:
 - (i) notifying the retail client in relation to the product that the client may ask for the Product Disclosure Statement for the product; and
 - (ii) setting out the means by which the client may ask for the Product Disclosure Statement.

Extra contents for certain products

- (2) If the Short-Form PDS is for a superannuation product, managed investment product or a security in a retail CCIV the Short-Form PDS must also set out in full the information in:
 - (a) any regulations made for the purposes of paragraph 1013D(4)(c) relating to the details of fees and costs; and
 - (b) any regulations made for the purposes of paragraph 1015C(5)(b) that relate to the presentation, structure and format of information required by paragraphs 1013D(1)(d) and (e).

Other information may be included in Short-Form PDS

- (3) The Short-Form PDS may also:
 - (a) include other information; and
 - (b) refer to other information that is set out in the Product Disclosure Statement or Financial Services Guide for the product.

Reference to identify incorporated information

- (4) If under paragraph (3)(b) information is referred to in the Short-Form PDS, the reference must identify the document or the part of the document that contains the information.

Incorporated document forms part of Short-Form PDS

- (5) The document or part referred to in subsection (4) is taken to be included in the Short-Form PDS.

Rule as to statements in a Short-Form PDS

- (6) If a Product Disclosure Statement for a financial product may include a statement made by a person (see section 1013K), the statement may also be included in the Short-Form PDS for the product.

1017J Title of Short-Form Product Disclosure Statement

- (1) The title “Short-Form Product Disclosure Statement” must be used on the cover of, or at or near the front of, a Short-Form PDS.
- (2) In any other part of a Short-Form PDS, “Short-Form Product Disclosure Statement” may be abbreviated to “Short-Form PDS”.

1017K References in sections to Product Disclosure Statement to include references to Short-Form PDS

The following provisions apply to a Short-Form PDS and so apply as if a reference to a Product Disclosure Statement in the provisions included a reference to a Short-Form PDS:

- (a) sections 942DA, 947E, 1012F, 1012G, 1012H, 1012J, 1013A, 1013G, 1013H, 1013I, 1013L, 1013M, 1016A, 1016B, 1016C, 1016D, 1016E and 1017A and subsections 1013C(3) and 1013C(4) to (7);
- (b) any regulations made under those sections or subsections;
- (c) any regulations that modify those sections or subsections.

Division 3B—Supplementary Short-Form Product Disclosure Statements

1017L What a Supplementary Short-Form Product Disclosure Statement is

A *Supplementary Short-Form PDS* is a document by which a person who has prepared a Short-Form PDS can:

- (a) correct a misleading or deceptive statement in the Short-Form PDS; or
- (b) correct an omission from the Short-Form PDS of information it is required to contain; or
- (c) update, or add to, the information contained in the Short-Form PDS; or
- (d) change a statement of a kind referred to in paragraph 1016E(1)(a) or (b) (as applied by section 1017K).

1017M Title of Supplementary Short-Form Product Disclosure Statement

- (1) The title “Supplementary Short-Form Product Disclosure Statement” must be used on the cover of, or at or near the front of, a Supplementary Short-Form PDS.
- (2) In any other part of a Supplementary Short-Form PDS, “Supplementary Short-Form Product Disclosure Statement” may be abbreviated to “Supplementary Short-Form PDS”.

1017N Form of Supplementary Short-Form Product Disclosure Statement

At the beginning of a Supplementary Short-Form PDS there must be:

- (a) a statement that it is a Supplementary Short-Form PDS; and

- (b) an identification of the Short-Form PDS that it supplements; and
- (c) a statement that it is to be read together with that Short-Form PDS and any other specified Supplementary Short-Form PDS.

1017O Effect of giving person a Supplementary Short-Form Product Disclosure Statement

If:

- (a) a person is given a Short-Form PDS; and
- (b) at the same time, or later, they are given a Supplementary Short-Form PDS that supplements the Short-Form PDS;

the Short-Form PDS is taken, from when the Supplementary Short-Form PDS is given to the person, to include the information and statements contained in the Supplementary Short-Form PDS.

1017P Situation in which only a Supplementary Short-Form Product Disclosure Statement need be given

If:

- (a) apart from this section, a person would be required to give another person (the *client*) a Product Disclosure Statement (the *new PDS*) relating to a financial product; and
- (b) the client has, because of some previous conduct, already received a Short-Form PDS (the *earlier Short-Form PDS*) relating to the financial product; and
- (c) the earlier Short-Form PDS contains summaries of some, but not all, of the information that the new PDS is required to contain (see paragraph 1017I(1)(a));

the person may, instead of giving the client the new PDS, give the client a Supplementary Short-Form PDS that contains summaries of the additional information.

1017Q Application of other provisions in relation to Supplementary Short-Form Product Disclosure Statements

The following provisions apply in relation to a Supplementary Short-Form PDS in the same way as those provisions apply to a Product Disclosure Statement:

- (a) sections 1013A, 1013G, 1013H, 1013K and subsections 1013C(3) and 1013C(4) to (7);
- (b) any regulations made under those sections or subsections;
- (c) any regulations that modify those sections or subsections.

3.2 Section 1015A

substitute

1015A Subdivision applies to certain Disclosure Statements

- (1) Subject to subsection (2):
 - (a) this Subdivision applies to:
 - (i) a Product Disclosure Statement; or
 - (ii) a Short-Form PDS; or
 - (iii) a Supplementary PDS; or
 - (iv) a Supplementary Short-Form PDS; and
 - (b) each of those kinds of documents is referred to in this Subdivision as a **Statement**.
- (2) However:
 - (a) section 1015B does not apply to a Short-Form PDS or a Supplementary Short-Form PDS; and
 - (b) in that section, **Statement** does not include a Short-Form PDS or a Supplementary Short-Form PDS.

3.3 Subsection 1015B(1) (after the note)

insert

Note 2: Subsection 1015A(2) provides that **Statement** in this section does not include a Short-Form PDS or a Supplementary Short-Form PDS.

3.4 Paragraph 1018A(1)(e)

after

Statement

insert

or Short-Form PDS, if available,

3.5 Paragraph 1018A(2)(f)

after

Statement

insert

or Short-Form PDS, if available,

3.6 Subsection 1018A(3)

after

Statement

insert

or Short-Form PDS

3.7 Subparagraph 1018A(4)(d)(i)

after

Statement

insert

or Short-Form PDS

3.8 Paragraph 1020D(b)

omit

or Supplementary Product Disclosure Statement

insert

, Supplementary Product Disclosure Statement, Short-Form PDS or Supplementary Short-Form PDS

3.9 After paragraph 1021B(1)(b) (definition of *defective*)

insert

- (ba) if it is a Short-Form PDS—there is an omission from the Short-Form PDS of material required by section 1017I; or

3.10 After paragraph 1021B(1)(c) (definition of *defective*)

insert

- (ca) if it is a Supplementary Short-Form PDS that is given for the purposes of section 1017P—there is an omission from the Short-Form PDS of material required by that section; or

3.11 Subsection 1021B(1), definition of *disclosure document or statement*, after paragraph (b)

insert

- (ba) a Short-Form PDS; or
- (bb) a Supplementary Short-Form PDS; or

3.12 After subsection 1021C(5)

insert

- (6) If a person does not give a Product Disclosure Statement for a financial product because the person has given a Short-Form PDS for the product, the person is taken not to contravene this section.

3.13 Paragraph 1021H(1)(a)

omit

or a Supplementary Product Disclosure Statement

insert

, a Supplementary Product Disclosure Statement, a Short-Form PDS or a Supplementary Short-Form PDS

3.14 Subparagraph 1021H(1)(b)(i)

after

Product Disclosure Statement

insert

or Short-Form PDS

3.15 Subparagraph 1021H(1)(b)(ii)

omit

; and

insert

; or

3.16 After subparagraph 1021H(1)(b)(ii)

insert

- (iii) if it is a Supplementary Short-Form PDS—section 1013G, 1017M or 1017N; and

3.17 After subparagraph 1021J(1)(c)(ii)

insert

- (iia) if it is a Short-Form PDS—a direction not to distribute the Short-Form PDS unless it is accompanied by a Supplementary Short-Form PDS that corrects the deficiency;

3.18 After subparagraph 1021J(1)(c)(iii)

insert

- (iiia) if it is a Short-Form PDS or a Supplementary Short-Form PDS—a direction not to distribute the Short-Form PDS or Supplementary Short-Form PDS without first altering it in a way that is specified in the direction, being a way that corrects the deficiency and that complies with section 1015E.

3.19 Paragraph 1021K(1)(a)

omit

or a Supplementary Product Disclosure Statement

insert

, a Supplementary Product Disclosure Statement, a Short-Form PDS or a Supplementary Short-Form PDS (the *disclosure statement*)

3.20 Paragraph 1021K(1)(b)

omit

Product Disclosure Statement or Supplementary Product Disclosure Statement

insert

disclosure statement

3.21 Subparagraphs 1021K(1)(d)(i), (ii) and (iii)

omit

Product Disclosure Statement or Supplementary Product Disclosure Statement

insert

disclosure statement

3.22 Paragraph 1021L(1)(a)

omit

or a Supplementary Product Disclosure Statement

insert

, a Supplementary Product Disclosure Statement, a Short-Form PDS or a Supplementary Short-Form PDS

3.23 Paragraph 1021L(2)(a)

omit

or a Supplementary Product Disclosure Statement

insert

, a Supplementary Product Disclosure Statement, a Short-Form PDS or a Supplementary Short-Form PDS (the *disclosure statement*)

3.24 Subparagraph 1021L(2)(b)(iv)

omit

Product Disclosure Statement or Supplementary Product Disclosure Statement

insert

disclosure statement

3.25 Subparagraphs 1021M(1)(a)(i), (ii), (iii) and (iv)

omit

or a Supplementary Product Disclosure Statement

insert

, a Supplementary Product Disclosure Statement, a Short-Form PDS or a Supplementary Short-Form PDS

3.26 Subparagraphs 1021M(3)(a)(i), (ii), (iii) and (iv)

omit

or a Supplementary Product Disclosure Statement

insert

, a Supplementary Product Disclosure Statement, a Short-Form PDS or a Supplementary Short-Form PDS

3.27 After paragraph 1022A(1)(b) (definition of *defective*)

insert

(ba) if it is a Short-Form PDS—there is an omission from the Short-Form PDS of material required by section 1017I; or

3.28 After paragraph 1022A(1)(c) (definition of *defective*)

insert

- (ca) if it is a Supplementary Short-Form PDS that is given for the purposes of section 1017P—there is an omission from the Short-Form PDS of material required by that section; or

3.29 Subsection 1022A(1), definition of *disclosure document or statement*, after paragraph (b)

insert

- (ba) a Short-Form PDS; or
- (bb) a Supplementary Short-Form PDS; or

3.30 Subparagraph 1022B(1)(a)(i)

omit

or a Supplementary Product Disclosure Statement

insert

, a Supplementary Product Disclosure Statement, a Short-Form PDS or a Supplementary Short-Form PDS

3.31 Subparagraph 1022B(1)(c)(ii)

omit

or a Supplementary Product Disclosure Statement

insert

, a Supplementary Product Disclosure Statement, a Short-Form PDS or a Supplementary Short-Form PDS

3.32 Subparagraph 1022B(1)(d)(i)

omit

or a Supplementary Product Disclosure Statement

insert

, a Supplementary Product Disclosure Statement, a Short-Form PDS or a Supplementary Short-Form PDS

Schedule 10C—Form and content of Product Disclosure Statement—standard margin lending facility

(regulation 7.9.11D)

1 Length and font size for Product Disclosure Statement for standard margin lending facility

- (1) The length of a Product Disclosure Statement for a standard margin lending facility (not including any title page, table of contents or matter in writing that is applied, adopted or incorporated by the Statement) must not exceed:
 - (a) if it is printed on A4 pages—4 pages; or
 - (b) if it is printed on A5 pages—8 pages; or
 - (c) if it is printed on DL pages—12 pages; or
 - (d) otherwise—if it is formatted to be printed on A4 pages, 4 A4 pages.
- (2) The minimum font size for text in the Statement is:
 - (a) for the name, address, ABN (if applicable), ACN (if applicable) and AFSL (if applicable) of the person giving the Statement—8 points; and
 - (b) for all other text—9 points.

Note 1: The Product Disclosure Statement must be worded and presented in a clear, concise and effective manner—see subsection 1013C(3) of the Act.

Note 2: A person required to give a Product Disclosure Statement to a vision-impaired person must comply with its obligations under the *Disability Discrimination Act 1992*.

2 Minimum content of Product Disclosure Statement for standard margin lending facility

- (1) The Product Disclosure Statement must include the following sections, which must be numbered and titled as follows:
 1. About [name of provider of the standard margin lending facility] and [name of standard margin lending facility]
 2. Benefits of [name of standard margin lending facility]
 3. How [name of standard margin lending facility] works
 4. What is a margin call?
 5. The risk of losing money
 6. The costs
 7. How to apply.
- (2) The Product Disclosure Statement must include:
 - (a) a table of contents that sets out the titles mentioned in subclause (1); and

Clause 3

- (b) the telephone number of the provider of the standard margin lending facility to enable a borrower for the standard margin lending facility to request a copy of the following under regulation 7.9.11G:
 - (i) a copy of the Statement; and
 - (ii) a copy of a matter in writing that is applied, adopted or incorporated by the Statement.
- (3) The Product Disclosure Statement must:
 - (a) advise a person reading the Statement that:
 - (i) it is a summary of significant information and contains a number of references to important information (each of which forms part of the Statement); and
 - (ii) the person should consider that information before making a decision about the product; and
 - (iii) the information provided in the Statement is general information only and does not take account of the person's personal financial situation or needs; and
 - (iv) the person should obtain financial advice tailored to the person's personal circumstances; and
 - (b) display the advice:
 - (i) at or near the beginning of the document; and
 - (ii) in a prominent position and style.
- (4) The Product Disclosure Statement:
 - (a) may include additional sections after sections 1 to 7; and
 - (b) may include other information;to an extent that does not have the effect of contravening subclause 1(1).
- (5) The Product Disclosure Statement does not need to indicate that a particular requirement is not applicable to the standard margin lending facility.

Note: The Act, as modified in accordance with Subdivision 4.2A of Division 4 of Part 7.9, requires information to be included in the Product Disclosure Statement only to the extent to which the requirement is applicable to the standard margin lending facility.

3 Contents of section 1 (About [name of provider of the standard margin lending facility] and [name of standard margin lending facility])

Section 1 of the Product Disclosure Statement must include:

- (a) a short description of the standard margin lending facility provider and its business; and
- (b) a short summary of what a standard margin lending facility is; and
- (c) a statement setting out the possible consequences of borrowing money to invest, including the effect of magnifying both gains and losses; and
- (d) a statement that the borrower for a standard margin lending facility should regularly monitor the borrower's portfolio so that:
 - (i) the borrower can be aware of changes (if any) to the terms of the standard margin lending facility; and

- (ii) the borrower can take timely action to prevent potential losses in relation to the borrower’s portfolio; and
- (e) a statement that the borrower for a standard margin lending facility may need, at short notice, to pay an additional amount into the standard margin lending facility or sell some of the investments for which the standard margin lending facility is made; and
- (f) a statement that the provider of a standard margin lending facility has the right in certain circumstances to sell all, or part, of the borrower’s portfolio and may not be required under the terms of the standard margin lending facility to provide notice to the borrower of its intention to sell; and
- (g) a statement that if the value of the portfolio for a standard margin lending facility does not cover the cost of repayments for the standard margin lending facility:
 - (i) the borrower for the standard margin lending facility may need to access other funds to repay the standard margin lending facility; or
 - (ii) the provider of the standard margin lending facility may sell assets provided as security for the standard margin lending facility, for example, the borrower’s residential property; and
- (h) a statement that the law requires the provider of a standard margin lending facility to:
 - (i) assess whether the standard margin lending facility is unsuitable for the potential borrower for the standard margin lending facility; and
 - (ii) if the potential borrower for the standard margin lending facility requests a copy of the assessment—to provide a copy of the assessment to the potential borrower for the standard margin lending facility.

Note: The provider of a standard margin lending facility is not required to give the borrower or potential borrower for the standard margin lending facility a copy of the assessment if the standard margin lending facility is not issued.

4 Contents of section 2 (Benefits of [name of standard margin lending facility])

- (1) Section 2 of the Product Disclosure Statement for a standard margin lending facility must include a description of the key benefits available to the borrower or potential borrower for the standard margin lending facility.
- (2) Section 2 of the Statement may include a description about other benefits available to a borrower or potential borrower for the standard margin lending facility other than the benefits mentioned in subclause (1).
- (3) Section 2 of the Statement may provide for the description mentioned in subclause (2) by applying, adopting or incorporating a matter in writing.

5 Contents of section 3 (How [name of standard margin lending facility] works)

- (1) Section 3 of the Product Disclosure Statement for a standard margin lending facility must include:

Clause 6

- (a) an explanation of how a standard margin lending facility works including information about the following:
 - (i) the maximum loan amount for the standard margin lending facility;
 - (ii) the loan-to-value ratios for the standard margin lending facility; and
 - (b) at least 1 example that illustrates the matters mentioned in subparagraphs (a)(i) and (ii); and
 - (c) a description of the financial products that the borrower or potential borrower for the standard margin lending facility can purchase with the standard margin lending facility (including the Approved Securities List for the provider or potential provider of the standard margin lending facility); and
 - (d) an explanation of who owns the investments purchased with the standard margin lending facility; and
 - (e) a statement that:
 - (i) details of the rights and obligations of the borrower for a standard margin lending facility are set out in the terms of the agreement for the standard margin lending facility; and
 - (ii) recommends that a potential borrower for a standard margin lending facility read the loan agreement; and
 - (iii) explains how a potential borrower can obtain a copy of the loan agreement; and
 - (f) an explanation of any other features of the standard margin lending facility that:
 - (i) are not covered by the matters mentioned in paragraphs (a), (c) and (d); and
 - (ii) are sufficiently important to be material to a reasonable person's decision to take out the standard margin lending facility; and
 - (g) a reference to:
 - (i) the calculator provided on a website operated by or on behalf of the Commonwealth and an explanation of the assistance the calculator can provide; or
 - (ii) if the provider or potential provider of the standard margin lending facility provides a calculator to borrowers or potential borrowers for the standard margin lending facility—that calculator and an explanation of the assistance the calculator can provide.
- (2) Section 3 of the Statement may provide for the following matters by applying, adopting or incorporating the matter in writing:
- (a) the Approved Securities List;
 - (b) the explanation mentioned in paragraph (1)(f).

6 Contents of section 4 (What is a margin call?)

Section 4 of the Product Disclosure Statement for a standard margin lending facility must include:

- (a) if the terms of the standard margin lending facility include a margin call:

- (i) an explanation of what a margin call is; and
 - (ii) an explanation of when there will be a margin call in response to changes in the market; and
 - (iii) an explanation of when there will be a margin call at the discretion of the provider of the standard margin lending facility; and
 - (iv) at least 1 example of how a margin call works, including:
 - (A) the impact of breaching the loan-to-value ratio (*LVR*) for the standard margin lending facility; and
 - (B) how to adjust the LVR back to the required level for the standard margin lending facility; and
 - (C) how the buffer (if any) for the standard margin lending facility operates; and
 - (v) a description of how a margin call can be dealt with by the borrower for the standard margin lending facility; and
 - (vi) a statement that if there is a margin call, the provider of the standard margin lending facility will notify the borrower for the standard margin lending facility, or the borrower's financial advisor, that the margin call has occurred; and
 - (vii) a statement that the borrower for the standard margin lending facility must be contactable at all times in case of a margin call; and
- (b) if the terms of the standard margin lending facility do not include a margin call, a statement to that effect.

7 Contents of section 5 (The risk of losing money)

- (1) Section 5 of the Product Disclosure Statement for a standard margin lending facility must include a description of the risks associated with a standard margin lending facility to a borrower for the standard margin lending facility, including a description of any of the following risks, if relevant:
- (a) the risk that the value of the borrower's investment may fall and the possible consequences to the borrower if this occurs, in particular the risk of a margin call occurring;
 - (b) the risk that the provider of the standard margin lending facility may change the loan-to-value ratio of an investment at any time and the consequences to the borrower of the change, in particular, the risk of a margin call occurring;
 - (c) the risk that the provider of the standard margin lending facility may remove an investment from the Approved Securities List and the consequences for the borrower if this occurs, in particular, the risk of a margin call occurring;
 - (d) the risk that the interest rate for the standard margin lending facility may rise and the consequences for the borrower if this occurs, in particular, the possibility that interest payments owed by the borrower may exceed the returns available from the borrower's portfolio;
 - (e) the risk of the loss of property of the borrower if the property has been mortgaged as security for, or in connection with, the standard margin lending facility;

Clause 8

- (f) the risk of a default event under the loan agreement occurring and the potential consequences for the borrower if a default event does occur;
 - (g) the risk that the taxation laws may change and that this may have a negative effect on the tax position for the borrower for the standard margin lending facility;
 - (h) any other significant risks that a reasonable person would consider to be relevantly associated with the standard margin lending facility.
- (2) Section 5 of the Statement must include a hyperlink to the page on a website operated by or on behalf of the Commonwealth that provides information about standard margin lending facilities.
 - (3) Section 5 of the Statement may include information about risks associated with standard margin lending facilities other than the risks mentioned in subclause (1).
 - (4) Section 5 of the Statement may provide for the information mentioned in subclause (3) by applying, adopting or incorporating a matter in writing.

8 Contents of section 6 (The costs)

- (1) Section 6 of the Product Disclosure Statement for a standard margin lending facility must include the following:
 - (a) a description of the interest rate for the standard margin lending facility, including how the interest rate is calculated;
 - (b) a statement about whether a default interest rate will be charged for the standard margin lending facility;
 - (c) details of any fee or cost to be charged by the provider of the standard margin lending facility, unless the fee is a minor fee;
 - (d) a statement about whether a fee or cost to be charged by the provider for the loan can be unilaterally changed by the provider under the loan agreement;
 - (e) a list of matters for which the provider of the standard margin lending facility will charge a minor fee for the standard margin lending facility;
 - (f) a statement about whether a commission or fee is payable to a financial advisor or other third party for the standard margin lending facility and, if a commission or fee is payable:
 - (i) the circumstances in which the commission or fee will be payable; and
 - (ii) how the borrower for the standard margin lending facility can obtain more detailed information about the commission or fee.
 - (2) Section 6 of the Statement must include:
 - (a) a statement of the interest rate for the standard margin lending facility; and
 - (b) details of any minor fee the provider of the standard margin lending facility will charge for the standard margin lending facility.
 - (3) Section 6 of the Statement may provide for the statement mentioned in paragraph (2)(a) or the details mentioned in paragraph (2)(b) by applying, adopting or incorporating a matter in writing
-

9 Contents of section 7 (How to apply)

- (1) Section 7 of the Product Disclosure Statement for a standard margin lending facility must include:
 - (a) information about how to apply for the standard margin lending facility;
and
 - (b) a short summary about the dispute resolution system the provider of the standard margin lending facility has for dealing with disputes or complaints about the loan, including:
 - (i) how a borrower for the loan may make a complaint about the loan;
and
 - (ii) contact details for making a complaint about the loan.
- (2) The standard margin lending facility provider:
 - (a) may provide more detailed information about cooling-off periods, complaints and dispute resolution; and
 - (b) may provide that information by applying, adopting or incorporating a matter in writing.

Schedule 10D—Form and content of Product Disclosure Statement—superannuation product to which Subdivision 4.2B of Division 4 of Part 7.9 applies

(regulation 7.9.11O)

1 Length and font size for Product Disclosure Statement for superannuation product

- (1) The length of a Product Disclosure Statement for a superannuation product to which Subdivision 4.2B of Division 4 of Part 7.9 applies (not including any matter in writing that is applied, adopted or incorporated by the Statement) must not exceed:
 - (a) if it is printed on A4 pages—8 pages; or
 - (b) if it is printed on A5 pages—16 pages; or
 - (c) if it is printed on DL pages—24 pages; or
 - (d) otherwise—if it is formatted to be printed on A4 pages, 8 A4 pages.
- (2) The minimum font size for text in the Statement is:
 - (a) for the name, address, ABN (if applicable), ACN (if applicable) and AFSL (if applicable) of the person giving the Statement—8 points; and
 - (b) for all other text—9 points.

Note 1: The Product Disclosure Statement must be worded and presented in a clear, concise and effective manner—see subsection 1013C(3) of the Act.

Note 2: A person required to give a Product Disclosure Statement to a vision-impaired person must comply with its obligations under the *Disability Discrimination Act 1992*.

2 Minimum content of Product Disclosure Statement for superannuation product

- (1) Subject to subclause 10(1), the Product Disclosure Statement must include sections which must be numbered and titled as follows:
 1. About [name of superannuation product]
 2. How super works
 3. Benefits of investing with [name of superannuation product]
 4. Risks of super
 5. How we invest your money
 6. Fees and costs
 7. How super is taxed
 8. Insurance in your super
 9. How to open an account.

-
- (2) However, if the superannuation product does not offer insurance cover:
- (a) section 9 may be presented as section 8; and
 - (b) if section 9 is presented as section 8—a reference in clause 11 to section 9 is taken to be a reference to section 8.
- (3) The Product Disclosure Statement must include:
- (a) a table of contents that sets out the titles mentioned in subclause (1); and
 - (b) the telephone number of the superannuation trustee to enable a person who acquires the superannuation product to request a copy of the following under regulation 7.9.11R:
 - (i) a copy of the Statement; and
 - (ii) a copy of a matter in writing that is applied, adopted or incorporated by the Statement.
- (4) The Product Disclosure Statement must:
- (a) advise a person reading the Statement that:
 - (i) it is a summary of significant information and contains a number of references to important information (each of which forms part of the Statement); and
 - (ii) the person should consider that information before making a decision about the product; and
 - (iii) the information provided in the Statement is general information only and does not take account of the person’s personal financial situation or needs; and
 - (iv) the person should obtain financial advice tailored to the person’s personal circumstances; and
 - (b) display the advice:
 - (i) at or near the beginning of the document; and
 - (ii) in a prominent position and style.
- (5) The Product Disclosure Statement:
- (a) may include additional sections after sections 1 to 9; and
 - (b) may include other information;
- to an extent that does not have the effect of contravening subclause 1(1).
- (6) The Product Disclosure Statement does not need to indicate that a particular requirement is not applicable to the superannuation product.

Note: The Act, as modified in accordance with Subdivision 4.2B of Division 4 of Part 7.9, requires information to be included in the Product Disclosure Statement only to the extent to which the requirement is applicable to the superannuation product.

3 Contents of section 1 (About *[name of superannuation product]*)

- (1) Section 1 of the Product Disclosure Statement must:
- (a) describe, in the form of a summary, the superannuation entity and the MySuper products and other investment options offered by the entity; and
 - (b) include a statement of where, on the entity’s website, the member can find:
-

Clause 4

- (i) the product dashboard for each MySuper product and choice product in the entity; and
- (ii) each trustee and executive remuneration disclosure for the entity, and any other document that must be disclosed for the entity under the *SIS Regulations*; and
- (c) a statement describing the entity's process for transitioning each member whose interest includes an accrued default amount from an existing default option to a MySuper product by 1 July 2017.

(2) Paragraph (1)(c) applies until the earlier of:

- (a) 1 July 2017; and
- (b) the day on which the entity has attributed each accrued default amount in the entity to a MySuper product.

Note: Putting the information mentioned in paragraph (1)(b) onto the superannuation fund's website does not amount to adding the information to the Product Disclosure Statement.

4 Contents of section 2 (How super works)

- (1) Section 2 of the Product Disclosure Statement must include statements to the effect that:
 - (a) superannuation is a means of saving for retirement which is, in part, compulsory; and
 - (b) there are different types of contributions available to a person (for example, employer contributions, voluntary contributions, government co-contributions); and
 - (c) there are limitations on contributions to, and withdrawals from, superannuation; and
 - (d) tax savings are provided by the Government; and
 - (e) most people have the right to choose into which superannuation entity the employer should direct their superannuation guarantee contributions.
- (2) The superannuation trustee may provide more detailed information on the matters set out in subclause (1) by:
 - (a) applying, adopting or incorporating a matter in writing; or
 - (b) providing a reference to a website, operated by or on behalf of the Commonwealth, that contains the information.

5 Contents of section 3 (Benefits of investing with [name of superannuation product])

- (1) Section 3 of the Product Disclosure Statement must describe the superannuation product covered by the Statement, including a summary of its significant features and the benefits it provides.
- (2) The superannuation trustee may provide additional information about significant benefits of superannuation or other significant features of the superannuation product by applying, adopting or incorporating a matter in writing.

6 Contents of section 4 (Risks of super)

- (1) Section 4 of the Product Disclosure Statement must include statements to the following effect:
 - (a) all investments carry risk;
 - (b) different strategies may carry different levels of risk, depending on the assets that make up the strategy;
 - (c) assets with the highest long-term returns may also carry the highest level of short-term risk.
- (2) Section 4 must describe, in the form of a summary, the significant risks of the particular superannuation product.
- (3) Section 4 must describe the significant risks of superannuation (to the extent only that the description required by subitem (2) has not already described the risk) by including statements to the following effect:
 - (a) the value of investments will vary;
 - (b) the level of returns will vary, and future returns may differ from past returns;
 - (c) returns are not guaranteed, and persons may lose some of their money;
 - (d) superannuation laws may change in the future;
 - (e) the amount of a person's future superannuation savings (including contributions and returns) may not be enough to provide adequately for the person's retirement;
 - (f) the level of risk for each person will vary depending on a range of factors, including:
 - (i) age; and
 - (ii) investment time frames; and
 - (iii) where other parts of the person's wealth are invested; and
 - (iv) the person's risk tolerance.
- (4) The superannuation trustee may provide additional information about significant risks of superannuation by applying, adopting or incorporating a matter in writing.

7 Contents of section 5 (How we invest your money)

- (1) Section 5 of the Product Disclosure Statement must describe, in the form of a summary:
 - (a) the MySuper products and investment options being offered; and
 - (b) what happens if the person does not make a choice of where to invest.
- (2) Section 5 must state, in the form of a warning, that the person must consider:
 - (a) the likely investment return; and
 - (b) the risk; and
 - (c) the person's investment timeframe;when choosing a MySuper product or an investment option in which to invest.

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- (3) For at least one MySuper product or investment option, section 5 must:
 - (a) state the name of the MySuper product or investment option and give a short description of it, including the type of investors for whom it is intended to be suitable; and
 - (b) list the asset classes in which the MySuper product or investment option invests, and set out, in the form of a range or otherwise, the strategic asset allocation of the asset classes; and
 - (c) describe the investment return objective of the MySuper product or investment option; and
 - (d) state the minimum suggested time frame for holding the MySuper product or investment option; and
 - (e) describe, in the form of a summary, the risk level of the MySuper product or investment option.
- (4) If the superannuation product includes a generic MySuper product, section 5 must give the information mentioned in subclause (3) for the generic MySuper product, whether or not section 5 gives that information for another MySuper product or investment option.
- (5) If the superannuation product does not include a generic MySuper product, and has a balanced investment option (within the meaning given by clause 101 of Schedule 10), section 5 must give the information mentioned in subclause (3) for the balanced investment option under which most assets of the superannuation entity are invested, whether or not section 5 gives that information for any MySuper product or other investment option.
- (6) If the superannuation product does not include a generic MySuper product or a balanced investment option (within the meaning given by clause 101 of Schedule 10), section 5 must give the information mentioned in subclause (3) for the investment option under which most assets of the superannuation entity are invested, whether or not section 5 gives that information for any MySuper product or other investment option.
- (8) Section 5:
 - (a) must make provision for each MySuper product and investment option which is not presented in section 5 in accordance with subclause (3), (4), (5) or (6); and
 - (b) may make provision for the MySuper product or investment option by applying, adopting or incorporating matter in a document that:
 - (i) includes the information mentioned in subclause (3); and
 - (ii) presents it in the way mentioned in the subclause.
- (9) The superannuation trustee:
 - (a) must provide information about how a person may switch the person's investments; and
 - (b) whether the superannuation product's MySuper products and investment options may be changed and, if so, how; and

- (c) must describe, in the form of a summary, the extent to which labour standards or environmental, social or ethical considerations are taken into account in the selection, retention or realisation of investments relating to the superannuation product; and
- (d) may provide the information in paragraphs (a) to (c), and any additional information about MySuper products or investment options, by applying, adopting or incorporating a matter in writing.

8 Contents of section 6 (Fees and costs)

- (1) For each MySuper product or investment option within a superannuation product that is presented in section 5 in detail in accordance with subclause 7(3), section 6 of the Product Disclosure Statement must state:

- (a) the cost of acquiring the MySuper product or investment option; and
- (b) the fees and costs that are charged in relation to the MySuper product or investment option.

Note: The statement will be made using the template set out in subclause (3).

- (2) Before setting out any other substantive material, section 6 must:
- (a) set out the Consumer Advisory Warning in clause 221 of Schedule 10; and
 - (b) give a concise example in the form set out in the Consumer Advisory Warning in clause 221 of Schedule 10.
- (3) Section 6 must set out the fees and costs for each MySuper product or other investment option that is presented in section 5 in detail in accordance with subclause 7(3), using the following templates:

<i>[Name of superannuation product]</i>		
Type of fee	Amount	How and when paid
<i>Investment fee</i> ¹		
<i>Administration fee</i> ¹		
<i>Buy-sell spread</i>		
<i>Switching fee</i>		
<i>Advice fees</i> relating to all members investing in a particular MySuper product or investment option		
<i>Other fees and costs</i> ²		
<i>Indirect cost ratio</i> ¹		
1.	If your account balance for a product offered by the superannuation entity is less than \$6,000 at the end of the entity's income year, the total combined amount of administration fees, investment fees and indirect costs charged to you is capped at 3% of the account balance. Any amount charged in excess of that cap must be refunded.	
2.	<i>[If there are other fees and costs, such as activity fees, advice fees for personal advice or insurance fees, include a cross-reference to the "Additional Explanation of Fees and Costs".]</i>	

Clause 8

- (4) The template is to be completed in accordance with Division 3 of Schedule 10 (including definitions applicable to that Division), except that:
 - (a) clauses 203, 205, 206 and 207 and subclause 208(2) do not apply; and
 - (b) the reference in clause 204 to clause 205 and clause 206 does not apply; and
 - (c) the example in subclause 208(1) is to be treated as stating:

“(for example, by using an asterisk with a footnote stating ‘The amount of this fee can be negotiated’)”.
- (5) Section 6 must set out the information about fee changes set out in paragraph 209(k) of Schedule 10.
- (6) Section 6 must:
 - (a) state that the information in the template can be used to compare costs between different superannuation products; and
 - (b) state concisely, and in general terms, that fees and costs can be paid directly from the person’s account or deducted from investment returns.
- (6A) Section 6 must:
 - (a) apply, adopt or incorporate the definitions in relation to fees mentioned in section 29V or subsection 99BA(2) of the SIS Act; and
 - (b) include the address of a link to the definitions maintained on a website.
- (7) Section 6 must give a worked example for each MySuper product or investment option described in section 5.
- (7A) The example given must be in accordance with Divisions 5 and 6 of Schedule 10 (including the definitions applicable to those Divisions).
- (8) Section 6:
 - (a) must refer to the calculator provided by ASIC on its FIDO website or a similar website operated by or on behalf of ASIC; and
 - (b) may also refer to the calculator (if any) provided by the superannuation trustee on its website; and
 - (c) must state that each calculator referred to can be used to calculate the effect of fees and costs on account balances.
- (9) If additional fees may be payable to a financial advisor, section 6 must:
 - (a) state, in the form of a warning, that additional fees may be paid to a financial advisor if a financial advisor is consulted; and
 - (b) refer to the Statement of Advice in which details of the fees are set out; and
 - (c) if applicable:
 - (i) state that fees may be paid to the employer entity’s financial adviser; and
 - (ii) explain how the fees are determined.
- (10) The superannuation trustee:

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- (a) must provide the fees and costs of each of the MySuper products and investment options in accordance with Schedule 10, and may do so by applying, adopting or incorporating a matter in writing; and
 - (b) may provide more detailed information about fees and costs by applying, adopting or incorporating a matter in writing.

9 Contents of section 7 (How super is taxed)

- (1) Section 7 of the Product Disclosure Statement must describe, in the form of a summary, the significant tax information relating to superannuation products, including:
 - (a) how tax amounts due are paid; and
 - (b) the main taxes that are payable in relation to contributions (if contributions are permitted), fund earnings and withdrawals.
- (2) Section 7 must:
 - (a) state, in the form of a warning, that the person should provide the person's tax file number as part of acquiring the superannuation product; and
 - (b) explain, in the form of a summary, the consequences if the person does not provide the person's tax file number; and
 - (c) if contributions are permitted—set out a warning that there will be taxation consequences if the contribution caps applicable to superannuation are exceeded.
- (3) The superannuation trustee may provide additional information about taxation matters relating to superannuation products by applying, adopting or incorporating a matter in writing.

10 Contents of section 8 (Insurance in your super)

- (1) If the superannuation product does not offer insurance cover, the Product Disclosure Statement is not required to include any of the information in this clause.
- (2) If the superannuation product offers insurance cover, section 8 must:
 - (a) describe, in the form of a summary, the main types of insurance cover that a person can acquire; and
 - (b) describe, in the form of a summary, how to apply for insurance cover; and
 - (c) include a statement to the effect that there are costs associated with insurance cover; and
 - (d) describe, in the form of a summary, who is responsible for paying the insurance costs and how they are calculated.
- (3) If the superannuation product offers insurance cover by default, section 8 must:
 - (a) describe, in the form of a summary, the level and type of cover; and
 - (b) state:
 - (i) the actual cost of the cover in dollars, or the range of costs that would be payable depending on a person's circumstances; and

Clause 10

- (ii) who is responsible for paying the costs; and
 - (c) state whether a person can:
 - (i) decline to acquire the cover; or
 - (ii) cancel the cover; and
 - (d) state how a person can decline to acquire the cover or cancel the cover; and
 - (e) state whether a person can change the person's insurance cover; and
 - (f) state how a person can change the person's insurance cover; and
 - (g) state, in the form of a warning, that, unless a person declines to acquire the default insurance cover or cancels it, the cost of the cover will be deducted from the person's account or from the person's contributions (as applicable); and
 - (h) include information about eligibility for, and the cancellation of, the insurance cover; and
 - (i) include information about any conditions and exclusions that are applicable to the insurance cover.
- (4) If the superannuation product does not offer insurance cover by default but offers insurance cover as an option, section 8 must include the following information:
- (a) the level and type of insurance cover available;
 - (b) the actual cost of the cover in dollars, or the range of costs that would be payable depending on a person's circumstances;
 - (c) eligibility for, and the cancellation of, the insurance cover;
 - (d) any conditions and exclusions that are applicable to the insurance cover;
 - (e) any other significant matter in relation to insurance cover.
- Examples for paragraph (e):
- 1 Information about how a person can apply for the insurance cover.
 - 2 Information about how a person can subsequently change or cancel the insurance cover.
- (5) The superannuation trustee:
- (a) may provide the information in paragraphs (3)(h) and (i) and subclause (4); and
 - (b) may provide additional information about insurance cover; by applying, adopting or incorporating a matter in writing.
- (6) If information about:
- (a) eligibility for, or the cancellation of, the insurance cover; or
 - (b) any conditions and exclusions that are applicable to the insurance cover;
- is provided for in accordance with subclause (5), section 8 must include a warning to the effect that the matter may affect a person's entitlement to insurance cover and that the information should be read before deciding whether the insurance is appropriate.
- (7) If information about:
- (a) the level and type of optional insurance cover available; or

- (b) the actual cost of the optional insurance cover in dollars, or the range of costs that would be payable depending on a person's circumstances; or
 - (c) any other significant matter in relation to insurance cover;
- is provided for in accordance with subclause (5), section 8 must include a warning to the effect that the information should be read before deciding whether the insurance is appropriate.

11 Contents of section 9 (How to open an account)

- (1) Section 9 of the Product Disclosure Statement must, if applicable:
 - (a) describe, in the form of a summary, how to open an account with the superannuation provider; and
 - (b) explain the cooling-off period that applies to the superannuation product; and
 - (c) explain how to make a complaint (by means that include the provision of relevant contact details).

Note: The effect of subclause 10(1) is that the Product Disclosure Statement is not required to include section 8 (as set out in clause 10) if the superannuation product does not offer insurance cover. In that case, subclause 2(2) allows the Statement to present the information in this clause as "section 8" or "section 9".

- (2) The superannuation trustee:
 - (a) may provide more detailed information about cooling-off periods, complaints and dispute resolution; and
 - (b) may provide that information by applying, adopting or incorporating a matter in writing.

Clause 1

Schedule 10E—Form and content of Product Disclosure Statement—simple managed investment scheme

(regulation 7.9.11W)

1 Length and font size for Product Disclosure Statement for simple managed investment scheme

- (1) The length of a Product Disclosure Statement for a simple managed investment scheme to which Subdivision 4.2C of Division 4 of Part 7.9 applies (not including any matter in writing that is applied, adopted or incorporated by the Statement) must not exceed:
 - (a) if it is printed on A4 pages—8 pages; or
 - (b) if it is printed on A5 pages—16 pages; or
 - (c) if it is printed on DL pages—24 pages; or
 - (d) otherwise—if it is formatted to be printed on A4 pages, 8 A4 pages.
- (2) The minimum font size for text in the Statement is:
 - (a) for the name, address, ABN (if applicable), ACN (if applicable), ARSN and AFSL (if applicable) of the person giving the Statement—8 points; and
 - (b) for all other text—9 points.

Note 1: The Product Disclosure Statement must be worded and presented in a clear, concise and effective manner—see subsection 1013C(3) of the Act.

Note 2: A person required to give a Product Disclosure Statement to a vision-impaired person must comply with its obligations under the *Disability Discrimination Act 1992*.

2 Minimum content of Product Disclosure Statement for simple managed investment scheme

- (1) The Product Disclosure Statement must include sections which must be numbered and titled as follows:
 1. About [name of responsible entity]
 2. How [name of simple managed investment scheme] works
 3. Benefits of investing in [name of simple managed investment scheme]
 4. Risks of managed investment schemes
 5. How we invest your money
 6. Fees and costs
 7. How managed investment schemes are taxed
 8. How to apply.
- (2) The Statement must include:
 - (a) a table of contents that sets out the titles mentioned in subclause (1); and

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- (b) the telephone number of the responsible entity for the simple managed investment scheme to enable a person who invests in the simple managed investment scheme to request a copy of the following under regulation 7.9.11Z:
- (i) a copy of the Statement; and
 - (ii) a copy of a matter in writing that is applied, adopted or incorporated by the Statement.
- (3) The Statement must:
- (a) advise a person reading the Statement that:
 - (i) it is a summary of significant information and contains a number of references to important information (each of which forms part of the Statement); and
 - (ii) persons should consider that information before making a decision about the simple managed investment scheme; and
 - (iii) the information provided in the Statement is general information only and does not take account of the person's personal financial situation or needs; and
 - (iv) the person should obtain financial advice tailored to the person's personal circumstances; and
 - (b) display the advice:
 - (i) at or near the beginning of the document; and
 - (ii) in a prominent position and style.
- (4) The Statement:
- (a) may include additional sections after sections 1 to 8; and
 - (b) may include other information;
- to an extent that does not have the effect of contravening subclause 1(1).
- (5) The Product Disclosure Statement does not need to indicate that a particular requirement is not applicable to the simple managed investment scheme.

Note: The Act, as modified in accordance with Subdivision 4.2C of Division 4 of Part 7.9, requires information to be included in the Product Disclosure Statement only to the extent to which the requirement is applicable to the simple managed investment scheme.

3 Contents of section 1 (About [name of responsible entity])

- (1) Section 1 of the Product Disclosure Statement must describe, in the form of a summary:
 - (a) the responsible entity and its role in operating the simple managed investment scheme; and
 - (b) the investment manager, if the investment manager is different from the responsible entity.
- (2) If there is more than 1 investment manager, the Statement may describe a particular manager by applying, adopting or incorporating a matter in writing.

Clause 4

4 Contents of section 2 (How [name of simple managed investment scheme] works)

- (1) Section 2 of the Product Disclosure Statement must describe, in the form of a summary:
 - (a) how the simple managed investment works; and
 - (b) the interests that members acquire.
- (2) Section 2 must:
 - (a) if applicable—describe, in the form of a summary, the minimum investment amounts; and
 - (b) provide information about the structure of the simple managed investment scheme; and
 - (c) state, in general terms, that the price of interests will vary as the market value of assets in the simple managed investment scheme rises or falls; and
 - (d) describe, in the form of a summary, how members can increase or decrease their investment by acquiring interests or disposing of interests; and
 - (e) state, in general terms, that in some circumstances, such as when there is a freeze on withdrawals, members may not be able to withdraw their funds within the usual period upon request; and
 - (f) describe the frequency of distributions and explain how distributions are calculated.
- (3) The responsible entity:
 - (a) may provide more detailed information on the acquisition and disposal of interests; and
 - (b) may provide the information by applying, adopting or incorporating a matter in writing.

5 Contents of section 3 (Benefits of investing in [name of simple managed investment scheme])

- (1) Section 3 of the Product Disclosure Statement must, before setting out any other information, describe, in the form of a summary:
 - (a) the significant features of the simple managed investment scheme; and
 - (b) the significant benefits of the simple managed investment scheme.
- (2) The responsible entity may provide additional information about:
 - (a) any feature or benefit of the simple managed investment scheme; or
 - (b) other features and benefits of the simple managed investment scheme; or
 - (c) other features and benefits of simple managed investment schemes;by applying, adopting or incorporating a matter in writing.

6 Contents of section 4 (Risks of managed investment schemes)

- (1) Section 4 of the Product Disclosure Statement must include statements to the following effect:
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- (a) all investments carry risk;
 - (b) different strategies may carry different levels of risk, depending on the assets that make up the strategy;
 - (c) assets with the highest long-term returns may also carry the highest level of short-term risk.
- (2) Section 4 must describe, in the form of a summary, the significant risks of the particular simple managed investment scheme.
- (3) Section 4 must describe the significant risks of managed investment schemes (to the extent only that the description required by subitem (2) has not already described the risk) by including statements to the following effect:
- (a) the value of investments will vary;
 - (b) the level of returns will vary, and future returns may differ from past returns;
 - (c) returns are not guaranteed, and members may lose some of their money;
 - (d) laws affecting registered schemes may change in the future;
 - (e) the level of risk for each person will vary depending on a range of factors, including:
 - (i) age; and
 - (ii) investment time frames; and
 - (iii) where other parts of the member's wealth are invested; and
 - (iv) the member's risk tolerance.
- (4) The responsible entity may provide additional information about significant risks of managed investment schemes by applying, adopting or incorporating a matter in writing.

7 Contents of section 5 (How we invest your money)

- (1) Section 5 of the Product Disclosure Statement must describe, in the form of a summary, the investment options offered by the simple managed investment scheme.
- (2) Section 5 must state, in the form of a warning, that the person should consider:
- (a) the likely investment return; and
 - (b) the risk; and
 - (c) the person's investment timeframe;
- when choosing an option in which to invest.

New simple managed investment scheme

- (3) If the simple managed investment scheme has never previously been offered to investors, and does not offer any investment option mentioned in subclauses (4) and (5) about which section 5 can give information, section 5 must give the following information for the investment option that the responsible entity reasonably believes has the least volatile underlying assets (whether or not section 5 gives that information for any other investment option):
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Clause 7

- (a) the name of the option and a short description of it, including the type of investors for whom it is intended to be suitable;
- (b) a list of the asset classes in which the option invests, setting out the strategic asset allocation of the asset classes in the form of a range or otherwise;
- (c) a description of the investment return objective of the option;
- (d) the minimum suggested time frame for holding the investment;
- (e) a description, in the form of a summary, of the risk level of the option.

Balanced investment option

- (4) If the simple managed investment scheme has a balanced investment option (within the meaning given by item 101 of Schedule 10), section 5 must give the following information for the balanced investment option (whether or not section 5 gives that information for any other investment option):
 - (a) the name of the option and a short description of it, including the type of investors for whom it is intended to be suitable;
 - (b) a list of the asset classes in which the option invests, setting out the strategic asset allocation of the asset classes in the form of a range or otherwise;
 - (c) a description of the investment return objective of the option;
 - (d) the minimum suggested time frame for holding the investment;
 - (e) a description, in the form of a summary, of the risk level of the option.

No balanced investment option

- (5) If the simple managed investment scheme does not have a balanced investment option (within the meaning given by item 101 of Schedule 10), section 5 must give the following information for the investment option under which the entity has the most funds invested (whether or not section 5 gives that information for any other investment option):
 - (a) the name of the option and a short description of it, including the type of investors for whom it is intended to be suitable;
 - (b) a list of the asset classes in which the option invests, setting out the strategic asset allocation of the asset classes in the form of a range or otherwise;
 - (c) a description of the investment return objective of the option;
 - (d) the minimum suggested time frame for holding the investment;
 - (e) a description, in the form of a summary, of the risk level of the option.
- (6) Section 5:
 - (a) must make provision for each investment option which is not presented in section 5 in accordance with subclause (3), (4) or (5); and
 - (b) may make provision for the option by applying, adopting or incorporating matter in a document that:
 - (i) includes the information mentioned in subclause (3), (4) or (5); and

(ii) presents it in the way mentioned in the subclause.

(7) The responsible entity:

- (a) must provide information about how a member may switch the member's investments; and
- (b) must provide information about:
 - (i) whether the simple managed investment scheme's investment options may be changed; and
 - (ii) if so, how the options may be changed; and
- (c) must describe, in the form of a summary, the extent to which labour standards or environmental, social or ethical considerations are taken into account in the selection, retention or realisation of investments relating to the simple managed investment scheme; and
- (d) may provide the information in paragraphs (a) to (c), and any additional information about investment options, by applying, adopting or incorporating a matter in writing.

8 Contents of section 6 (Fees and costs)

- (1) For each investment option of the simple managed investment scheme that is presented in section 5 in detail in accordance with subclause 7(3), section 6 of the Product Disclosure Statement must state:
 - (a) the cost of acquiring the option; and
 - (b) the fees and costs that are charged in relation to the option.

Note: The statement will be made using the template set out in subclause (3).

- (2) Before setting out any other substantive material, section 6 must:
 - (a) set out the Consumer Advisory Warning in clause 221 of Schedule 10; and
 - (b) give a concise example in the form set out in the Consumer Advisory Warning in clause 221 of Schedule 10.
- (3) Section 6 must set out the fees and costs for each investment option that is presented in section 5 in detail in accordance with subclause 7(3), using the following template:

TYPE OF FEE OR COST	AMOUNT
Fees when your money moves in or out of the fund	
<i>Establishment fee</i>	
<i>Contribution fee</i>	
<i>Withdrawal fee</i>	
<i>Termination fee</i>	
Management costs	
The fees and costs for managing your investment	

Clause 8

[If there are other service fees, such as advisor service fees or special request fees, include a cross reference to the document that contains the information mentioned in paragraph (10)(a).]

- (4) The template is to be completed in accordance with Division 3 of Schedule 10 (including definitions applicable to that Division), except that:
- (a) clauses 203, 205, 206 and 207 and subclause 208(2) do not apply; and
 - (b) the reference in clause 204 to clause 205 and clause 206 does not apply; and
 - (c) the example in subclause 208(1) is to be treated as stating:
“(for example, by using an asterisk with a footnote stating ‘The amount of this fee can be negotiated’)”.
- (5) Section 6 must set out the information about fee changes set out in paragraph 209(k) of Schedule 10.
- (6) Section 6 must:
- (a) state that the information in the template can be used to compare costs between different simple managed investment schemes; and
 - (b) state concisely, and in general terms, that fees and costs can be paid directly from the person’s account or deducted from investment returns.
- (7) Section 6 must give a worked example as follows:
- (a) if the simple managed investment scheme does not have a balanced investment option (within the meaning given by item 101 of Schedule 10), section 6 must give a worked example for the default investment option;
 - (b) if the simple managed investment scheme does not have a default option, and does not have a balanced investment option, section 6 must give a worked example for the investment option under which the entity has the most funds invested;
- in accordance with Divisions 5 and 6 of Schedule 10 (including definitions applicable to those Divisions), except that clauses 211 and 220 do not apply.
- (8) Section 6:
- (a) must refer to the calculator provided by ASIC on its FIDO website or a similar website operated by or on behalf of ASIC; and
 - (b) may also refer to the calculator (if any) provided by the responsible entity on its website; and
 - (c) must state that each calculator referred to can be used to calculate the effect of fees and costs on account balances.
- (9) If additional fees may be payable to a financial advisor, section 6 must:
- (a) state, in the form of a warning, that additional fees may be paid to a financial advisor if a financial advisor is consulted; and
 - (b) refer to the Statement of Advice in which details of the fees are set out.
- (10) The responsible entity:

- (a) must provide the fees and costs of each of the investment options in accordance with Schedule 10, and may do so by applying, adopting or incorporating a matter in writing; and
- (b) may provide more detailed information about fees and costs by applying, adopting or incorporating a matter in writing.

9 Contents of section 7 (How managed investment schemes are taxed)

- (1) Section 7 of the Product Disclosure Statement must state, in the form of a warning, that:
 - (a) investing in a registered scheme is likely to have tax consequences; and
 - (b) persons are strongly advised to seek professional tax advice.
- (2) Section 7 must also include statements to the following effect:
 - (a) registered schemes do not pay tax on behalf of members;
 - (b) members are assessed for tax on any income and capital gains generated by the registered scheme.
- (3) The responsible entity may provide additional information about:
 - (a) taxation matters relating to the registered scheme; or
 - (b) taxation matters relating to registered schemes;by applying, adopting or incorporating a matter in writing.

10 Contents of section 8 (How to apply)

- (1) Section 8 of the Product Disclosure Statement must:
 - (a) describe, in the form of a summary, how to invest in the simple managed investment scheme; and
 - (b) explain the cooling-off period that applies to the simple managed investment scheme; and
 - (c) explain how to make a complaint (by means that include the provision of relevant contact details).
- (2) The responsible entity:
 - (a) may provide more detailed information about cooling-off periods, complaints and dispute resolution; and
 - (b) may provide that information by applying, adopting or incorporating a matter in writing.

Schedule 10F—Form and content of Product Disclosure Statement—simple sub-fund products

(regulation 7.9.11ZE)

1 Length and font size for Product Disclosure Statement for simple sub-fund product

- (1) The length of a Product Disclosure Statement for a simple sub-fund product:
- (a) to which Subdivision 4.2D of Division 4 of Part 7.9 applies; and
 - (b) that is referable to a sub-fund of a CCIV;
- must not exceed:
- (c) if it is printed on A4 pages—8 pages; or
 - (d) if it is printed on A5 pages—16 pages; or
 - (e) if it is printed on DL pages—24 pages; or
 - (f) otherwise—if it is formatted to be printed on A4 pages, 8 A4 pages.
- This requirement does not apply to any matter in writing that is applied, adopted or incorporated by the Statement.
- (2) The minimum font size for text in the Statement is:
- (a) for the name, address, ABN (if applicable), ACN (if applicable) and AFSL (if applicable) of the corporate director of the CCIV—8 points; and
 - (b) for the name, address, ABN (if applicable) and ACN (if applicable) of the CCIV—8 points; and
 - (c) for the name, ABN (if applicable) and ARFN (if applicable) of the sub-fund of the CCIV—8 points; and
 - (d) for all other text—9 points.

Note 1: The Product Disclosure Statement must be worded and presented in a clear, concise and effective manner—see subsection 1013C(3) of the Act.

Note 2: A person required to give a Product Disclosure Statement to a vision-impaired person must comply with its obligations under the *Disability Discrimination Act 1992*.

2 Minimum content of Product Disclosure Statement for simple sub-fund product

- (1) The Product Disclosure Statement for the simple sub-fund product must include sections that are numbered and titled as follows:
- 1. About [name of corporate director]
 - 2. How [name of CCIV and sub-fund] work
 - 3. Benefits of investing in [name of simple sub-fund product]
 - 4. Risks of simple sub-fund products
 - 5. How we invest your money
 - 6. Fees and costs

7. How sub-funds of CCIVs are taxed

8. How to apply.

(2) The Statement must include:

- (a) a table of contents that sets out the titles mentioned in subclause (1); and
- (b) the telephone number of the corporate director of the CCIV to enable a person who invests in the simple sub-fund product to request a copy of the following under regulation 7.9.11ZH:
 - (i) a copy of the Statement;
 - (ii) a copy of a matter in writing that is applied, adopted or incorporated by the Statement.

(3) The Statement must:

- (a) advise a person reading the Statement that:
 - (i) it is a summary of significant information and contains a number of references to important information (each of which forms part of the Statement); and
 - (ii) persons should consider that information before making a decision about the simple sub-fund product; and
 - (iii) the information provided in the Statement is general information only and does not take account of the person's personal financial situation or needs; and
 - (iv) the person should obtain financial advice tailored to the person's personal circumstances; and
- (b) display the advice:
 - (i) at or near the beginning of the document; and
 - (ii) in a prominent position and style.

(4) The Statement:

- (a) may include additional sections after sections 1 to 8; and
- (b) may include other information;

to an extent that does not have the effect of contravening subclause 1(1).

(5) The Product Disclosure Statement does not need to indicate that a particular requirement is not applicable to the simple sub-fund product.

Note: The Act, as modified in accordance with Subdivision 4.2D of Division 4 of Part 7.9, requires information to be included in the Product Disclosure Statement only to the extent to which the requirement is applicable to the simple sub-fund product.

3 Contents of section 1 (About [name of corporate director])

(1) Section 1 of the Product Disclosure Statement for the simple sub-fund product must describe, in the form of a summary:

- (a) the corporate director of the CCIV and the corporate director's role in operating the CCIV in relation to the sub-fund; and
- (b) the investment manager for the sub-fund, if the investment manager for the sub-fund is different from the corporate director of the CCIV.

Clause 4

- (2) If there is more than one investment manager for the sub-fund, the Statement may describe a particular manager by applying, adopting or incorporating a matter in writing.

4 Contents of section 2 (How [name of CCIV and sub-fund] work)

- (1) Section 2 of the Product Disclosure Statement for the simple sub-fund product must describe, in the form of a summary:
- (a) how the CCIV and the sub-fund of the CCIV work; and
 - (b) the rights and interests that members of the sub-fund of the CCIV acquire.
- (2) Section 2 must:
- (a) if applicable—describe, in the form of a summary, the minimum investment amounts; and
 - (b) provide information about the structure of the CCIV and the sub-fund of the CCIV; and
 - (c) state, in general terms, that the value of securities will vary as the market value of the assets of the sub-fund of the CCIV rise or fall; and
 - (d) describe, in the form of a summary, how members of the sub-fund can increase or decrease their investment by acquiring securities or disposing of securities; and
 - (e) state, in general terms, that in some circumstances, such as when there is a freeze on redemptions, members of the sub-fund may not be able to redeem shares or dispose of securities within the usual period upon request; and
 - (f) describe the frequency of distributions and explain how distributions are calculated.
- (3) The CCIV:
- (a) may provide more detailed information on the acquisition and disposal of securities; and
 - (b) may provide the information by applying, adopting or incorporating a matter in writing.

5 Contents of section 3 (Benefits of investing in [name of simple sub-fund product])

- (1) Section 3 of the Product Disclosure Statement for the simple sub-fund product must, before setting out any other information, describe, in the form of a summary:
- (a) the significant features of the simple sub-fund product; and
 - (b) the significant benefits of the simple sub-fund product.
- (2) The CCIV may provide additional information about:
- (a) any feature or benefit of the simple sub-fund product; or
 - (b) other features and benefits of the simple sub-fund product; or
 - (c) other features and benefits of simple sub-fund products;
- by applying, adopting or incorporating a matter in writing.

6 Contents of section 4 (Risks of simple sub-fund products)

- (1) Section 4 of the Product Disclosure Statement for the simple sub-fund product must include statements to the following effect:
 - (a) all investments carry risk;
 - (b) different strategies may carry different levels of risk, depending on the assets that make up the strategy;
 - (c) assets with the highest long-term returns may also carry the highest level of short-term risk.
- (2) Section 4 must describe, in the form of a summary, the significant risks of the particular simple sub-fund product.
- (3) Section 4 must describe the significant risks of simple sub-fund products (to the extent only that the description required by subclause (2) has not already described the risk) by including statements to the following effect:
 - (a) the value of investments will vary;
 - (b) the level of returns will vary, and future returns may differ from past returns;
 - (c) returns are not guaranteed, and members may lose some of their money;
 - (d) laws affecting CCIVs may change in the future;
 - (e) the level of risk for each person will vary depending on a range of factors, including:
 - (i) age; and
 - (ii) investment time frames; and
 - (iii) where other parts of the person's wealth are invested; and
 - (iv) the person's risk tolerance.
- (4) The CCIV may provide additional information about significant risks of simple sub-fund products by applying, adopting or incorporating a matter in writing.

7 Contents of section 5 (How we invest your money)

- (1) Section 5 of the Product Disclosure Statement for the simple sub-fund product must describe, in the form of a summary, the investment options offered by the CCIV.
- (2) Section 5 must state, in the form of a warning, that the person should consider:
 - (a) the likely investment return; and
 - (b) the risk; and
 - (c) the person's investment time frame;when choosing an option in which to invest.

New simple sub-fund product

- (3) If the simple sub-fund product has never previously been offered to investors, and the CCIV does not offer any investment option mentioned in subclauses (4) and (5), section 5 must give the following information for the investment option

Clause 7

for the CCIV that the corporate director reasonably believes has the least volatile underlying assets (whether or not section 5 gives that information for any other investment option):

- (a) the name of the option and a short description of it, including the type of investors for whom it is intended to be suitable;
- (b) a list of the asset classes in which the option invests, setting out the strategic asset allocation of the asset classes in the form of a range or otherwise;
- (c) a description of the investment return objective of the option;
- (d) the minimum suggested time frame for holding the investment;
- (e) a description, in the form of a summary, of the risk level of the option.

Balanced investment option

- (4) If the CCIV has a balanced investment option (within the meaning given by clause 101 of Schedule 10), section 5 must give the following information for the balanced investment option (whether or not section 5 gives that information for any other investment option):

- (a) the name of the option and a short description of it, including the type of investors for whom it is intended to be suitable;
- (b) a list of the asset classes in which the option invests, setting out the strategic asset allocation of the asset classes in the form of a range or otherwise;
- (c) a description of the investment return objective of the option;
- (d) the minimum suggested time frame for holding the investment;
- (e) a description, in the form of a summary, of the risk level of the option.

No balanced investment option

- (5) If the CCIV does not have a balanced investment option (within the meaning given by clause 101 of Schedule 10), section 5 must give the following information for the investment option under which the CCIV has the most funds invested (whether or not section 5 gives that information for any other investment option):

- (a) the name of the option and a short description of it, including the type of investors for whom it is intended to be suitable;
- (b) a list of the asset classes in which the option invests, setting out the strategic asset allocation of the asset classes in the form of a range or otherwise;
- (c) a description of the investment return objective of the option;
- (d) the minimum suggested time frame for holding the investment;
- (e) a description, in the form of a summary, of the risk level of the option.

Additional information

- (6) Section 5:

- (a) must make provision for each investment option that is not presented in section 5 in accordance with subclause (3), (4) or (5); and
 - (b) may make provision for the option by applying, adopting or incorporating a matter in a document that:
 - (i) includes the information mentioned in subclause (3), (4) or (5); and
 - (ii) presents it in the way mentioned in the subclause.
- (7) The CCIV:
- (a) must provide information about how a member of the sub-fund of the CCIV may switch the member's investments; and
 - (b) must provide information about:
 - (i) whether the CCIV's investment options may be changed; and
 - (ii) if so, how the options may be changed; and
 - (c) must describe, in the form of a summary, the extent to which labour standards or environmental, social or ethical considerations are taken into account in the selection, retention or realisation of investments relating to the CCIV; and
 - (d) may provide the information in paragraphs (a) to (c), and any additional information about investment options, by applying, adopting or incorporating a matter in writing.

8 Contents of section 6 (Fees and costs)

- (1) For each investment option of the CCIV that is presented in section 5 in detail in accordance with subclause 7(3), section 6 of the Product Disclosure Statement must state:
- (a) the cost of acquiring the option; and
 - (b) the fees and costs that are charged in relation to the option.
- Note: The statement will be made using the template set out in subclause (3).
- (2) Before setting out any other substantive material, section 6 must:
- (a) set out the Consumer Advisory Warning in clause 221 of Schedule 10; and
 - (b) give a concise example in the form set out in the Consumer Advisory Warning in clause 221 of Schedule 10.
- (3) Section 6 must set out the fees and costs for each investment option that is presented in section 5 in detail in accordance with subclause 7(3), using the following template:

TYPE OF FEE OR COST	AMOUNT
Fees when your money moves in or out of investment options of the CCIV	
<i>Establishment fee</i>	
<i>Contribution fee</i>	
<i>Withdrawal fee</i>	

Clause 8

TYPE OF FEE OR COST	AMOUNT
<i>Termination fee</i>	
Management costs	
The fees and costs for managing your investment	

[If there are other service fees, such as advisor service fees or special request fees, include a cross-reference to the document that contains the information mentioned in paragraph (10)(a).]

- (4) The template is to be completed in accordance with Division 3 of Part 2 of Schedule 10 (including definitions applicable to that Division), except that:
 - (a) clauses 203, 205, 206 and 207 and subclause 208(2) do not apply; and
 - (b) the reference in clause 204 to clauses 205 and 206 does not apply; and
 - (c) the example in subclause 208(1) is to be treated as stating:

“(for example, by using an asterisk with a footnote stating ‘The amount of this fee can be negotiated.’)”
- (5) Section 6 must set out the information about fee changes set out in paragraph 209(k) of Schedule 10.
- (6) Section 6 must:
 - (a) state that the information in the template can be used to compare costs between different simple sub-fund products; and
 - (b) state concisely, and in general terms, that fees and costs can be paid directly from the person’s account or deducted from investment returns.
- (7) Section 6 must give a worked example as follows:
 - (a) if the CCIV does not have a balanced investment option (within the meaning given by clause 101 of Schedule 10), section 6 must give a worked example for the default investment option;
 - (b) if the CCIV does not have a default option, and does not have a balanced investment option, section 6 must give a worked example for the investment option under which the CCIV has the most funds invested;

in accordance with Divisions 5 and 6 of Part 2 of Schedule 10 (including definitions applicable to those Divisions), except that clauses 211 and 220 do not apply.
- (8) Section 6:
 - (a) must refer to the calculator (if any) provided by ASIC on a website operated by or on behalf of ASIC; and
 - (b) may also refer to the calculator (if any) provided by the CCIV on its website; and
 - (c) must state that each calculator referred to can be used to calculate the effect of fees and costs on account balances.
- (9) If additional fees may be payable to a financial advisor, section 6 must:
 - (a) state, in the form of a warning, that additional fees may be paid to a financial advisor if a financial advisor is consulted; and
 - (b) refer to the Statement of Advice in which details of the fees are set out.

- (10) The CCIV:
- (a) must provide the fees and costs of each of the investment options in accordance with Schedule 10, and may do so by applying, adopting or incorporating a matter in writing; and
 - (b) may provide more detailed information about fees and costs by applying, adopting or incorporating a matter in writing.

9 Contents of section 7 (How sub-funds of CCIVs are taxed)

- (1) Section 7 of the Product Disclosure Statement for the simple sub-fund product must state, in the form of a warning, that:
- (a) investing in a simple sub-fund product is likely to have tax consequences; and
 - (b) persons are strongly advised to seek professional tax advice.
- (2) Section 7 must also include statements to the following effect:
- (a) CCIVs and sub-funds do not pay tax on behalf of members;
 - (b) members of the sub-fund are assessed for tax on any income and capital gains generated by the sub-fund.
- (3) The CCIV may provide additional information about:
- (a) taxation matters relating to the sub-fund of the CCIV; or
 - (b) taxation matters relating to sub-funds of CCIVs;
- by applying, adopting or incorporating a matter in writing.

Note: For taxation matters relating to sub-funds of CCIVs, see Subdivision 195-C of the *Income Tax Assessment Act 1997*.

10 Contents of section 8 (How to apply)

- (1) Section 8 of the Product Disclosure Statement for the simple sub-fund product must:
- (a) describe, in the form of a summary, how to invest in the simple sub-fund product; and
 - (b) explain the cooling-off period that applies to the simple sub-fund product; and
 - (c) explain how to make a complaint (by means that include the provision of relevant contact details).
- (2) The CCIV:
- (a) may provide more detailed information about cooling-off periods, complaints and dispute resolution; and
 - (b) may provide that information by applying, adopting or incorporating a matter in writing.

Schedule 11—Persons who are not covered by section 1433 of the Act

(regulation 10.2.36)

Item	Person	Period
1	A person who is or has been an insolvent under administration	5 years after the start of the administration
2	A body corporate that has been a Chapter 5 body corporate	5 years after the start of the administration
3	A person who has been convicted of fraud	10 years after the conviction
4	A person to whom the following circumstances apply: (a) the person is the subject of legal proceedings for criminal fraud; (b) the proceedings could, because of the content or nature of the relevant originating process, result in a judgment being made that would cause a person to be someone to whom item 3 applies; (c) the court has not delivered a judgment in relation to the issue of the fraud	
5	A person to whom the following circumstances apply: (a) the person has been found liable by a court for a contravention of a law relating to financial services activities; (b) the proceedings were brought by a regulator; (c) the proceedings related to conduct that occurred in the course of the person's engaging in financial services activities, and was related to that person's activities	10 years after the conduct first occurred
6	A person to whom the following circumstances apply: (a) the person is the subject of legal proceedings for a contravention of a law relating to financial services activities; (b) the proceedings were brought by a regulator; (c) the proceedings relate to conduct that occurred in the course of the person's engaging in financial services activities, and was related to that person's activities; (d) the court has not delivered a judgment in relation to the contravention	

Item	Person	Period
7	A person who has had: (a) an authorisation; or (b) a registration; or (c) a licence; or (d) the ability to engage in financial services activities; cancelled, suspended or revoked by, or as a direct result of the actions of, a regulator	5 years after the cancellation, suspension or revocation
8	A person who is a responsible officer of a person mentioned in item 1	
8A	A person who is a subsidiary of a body corporate mentioned in item 2	
8B	A person (<i>person 1</i>) who is related body corporate of a body corporate that is mentioned in item 2 (<i>person 2</i>), if person 2 has previously held a licence, registration or authorisation granted by a regulator mentioned in paragraphs (a) to (d) of the definition of <i>regulator</i> in regulation 10.2.35	
9	A person an associate of whom is a person mentioned in any of items 3 to 7	
10	A person who is deemed to be a registered insurance broker under subsection 24(2) of the <i>Insurance (Agents and Brokers) Act 1984</i> This item applies to the person only to the extent that the person operates insurance broking activities that are described in that Act	

Schedule 12—ASIC transitional standards

(regulation 12.7.01)

1. The following provisions of Book 3 of the Prudential Notes and Prudential Standards issued by AFIC under Part 4 of the AFIC Code of a State or Territory, as in force immediately before the transfer date:
 - (a) the modification of the accounting standard known as Accounting Standard AASB 1032 (published in the *Gazette* on 12 December 1996) by Prudential Standard 3.3.1, except the definition of *deposits* added to the accounting standard by the Prudential Standard;
 - (b) Prudential Standard 3.5.4;
 - (c) Prudential Standard 3.5.5;
 - (d) Prudential Standard 3.7.1;
 - (e) Prudential Standard 3.7.4;
 - (f) Prudential Standard 3.7.5.
2. The following provisions of Book 4 of the Prudential Notes and Prudential Standards issued by AFIC under Part 4 of the AFIC Code of a State or Territory, as in force immediately before the transfer date:
 - (a) the modification of the accounting standard known Accounting Standard AASB 1032 (published in the *Gazette* on 12 December 1996) by Prudential Standard 4.3.1, except the definition of *deposits* added to the accounting standard by the Prudential Standard;
 - (b) Prudential Standard 4.7.1;
 - (c) Prudential Standard 4.7.4;
 - (d) Prudential Standard 4.7.5.
3. The following provisions of Book 5 of the Prudential Notes and Prudential Standards issued by AFIC under Part 4 of the AFIC Code of a State or Territory, as in force immediately before the transfer date:
 - (a) Prudential Standard 5.5.1;
 - (b) Prudential Standard 5.5.3;
 - (c) Prudential Standard 5.5.4.
4. The following provisions of Book 6 of the Prudential Notes and Prudential Standards issued by AFIC under Part 4 of the AFIC Code of a State or Territory, as in force immediately before the transfer date:
 - (a) Prudential Standard 6.7.2;
 - (b) Prudential Standard 6.7.4;
 - (c) Prudential Standard 6.7.5;
 - (d) Prudential Standard 6.8.3.

Schedule 13—Transition to Part 3 of the Insolvency Practice Schedule (Corporations)

Note: See subregulation 10.25.01(3).

Corporations Act 2001

1 Section 1550 (paragraph relating to Part 3)

Omit “that starts on or after the commencement of Part 1 of Schedule 2 to the *Insolvency Law Reform Act 2016*”, substitute “that starts on or after 1 September 2017”.

2 After section 1554

Insert:

1554A Saving of Register of Official Liquidators

- (1) This section applies to the Register of Official Liquidators kept in accordance with subsection 1286(2) of the old Act.
- (2) Despite the repeal of sections 1283 and 1286 by Schedule 2 to the *Insolvency Law Reform Act 2016*, the Register of Official Liquidators continues in existence, and may be dealt with, as if those repeals had not happened.

3 Section 1578 (paragraph relating to new external administrations)

Omit “the commencement of the *Insolvency Law Reform Act 2016* (called new external administrations)”, substitute “1 September 2017”.

4 Section 1579

Repeal the section, substitute:

1579 Application of Part 3 of the Insolvency Practice Schedule (Corporations)— general rules

- (1) Part 3 of the Insolvency Practice Schedule (Corporations) applies in relation to an external administration of a company that starts on or after 1 September 2017.
- (2) Part 3 of the Insolvency Practice Schedule (Corporations) applies in relation to an ongoing external administration of a company in accordance with this Division.

5 Sections 1581 and 1582

Repeal the sections, substitute:

1581 Old Act continues to apply in relation to remuneration for administrators already appointed or appointed during transition period

- (1) Despite the repeal of sections 449E and 473 and the repeal and substitution of subsections 499(3) to (7) of the old Act by Schedule 2 to the *Insolvency Law Reform Act 2016*, the old Act continues to apply in relation to the remuneration of an external administrator of a company who is appointed:
 - (a) before the start time; or
 - (b) during the transition period.
- (2) Despite subsection (1), if, under Subdivision F of this Division, Division 75 of the Insolvency Practice Schedule (Corporations) rather than the old Act would apply to a meeting that deals with the remuneration of an external administrator of a company who is appointed before the start time or during the transition period, Division 75 of the Insolvency Practice Schedule (Corporations) applies to that meeting.

- (3) In this section:

start time means the commencement of Schedule 1 to the *Insolvency Law Reform Act 2016*.

transition period means the period:

- (a) starting immediately after the start time; and
- (b) ending at the end of 31 August 2017.

1582 Duties of administrators relating to remuneration and other benefits

- (1) Section 60-20 of the Insolvency Practice Schedule (Corporations) applies on and after 1 September 2017 in relation to an external administrator of an ongoing external administration of a company regardless of when the administrator was appointed.
- (2) However, that section does not apply in relation to arrangements made before 1 September 2017.

6 Subsection 1582(1)

After “applies”, insert “on and after 1 September 2017”.

7 Section 1584

Omit all the words after “applies”, substitute “on and after 1 September 2017 regardless of when the vacancy in the office of the liquidator arose”.

8 At the end of section 1586

Add “on and after 1 September 2017”.

9 Subsection 1588(2) (heading)

Repeal the heading, substitute:

Old regulations continue to apply to money received before 1 September 2017

10 Subsection 1590(2) (heading)

Repeal the heading, substitute:

Old regulations continue to apply to securities received before 1 September 2017

11 At the end of section 1591

Add “on and after 1 September 2017”.

12 Section 1592

Repeal the section, substitute:

1592 Transitional rules for annual administration returns

- (1) Section 70-5 of the Insolvency Practice Schedule (Corporations) applies in relation to a person if the person first began to be an external administrator of a company on or after 1 September 2017.
- (2) Section 70-5 of the Insolvency Practice Schedule (Corporations) also applies in relation to a person if the person first began to be an external administrator of a company before 1 September 2017 as if the reference in that section to an administration return year for the administrator were a reference to:
 - (a) the first full year starting on or after 1 September 2017 that is an anniversary of when the person first began to be the external administrator of the company; and
 - (b) each subsequent period of 12 months.
- (3) Despite the repeal of the old return provisions by Schedule 2 to the *Insolvency Law Reform Act 2016*, those provisions continue to apply to an external administrator of a company appointed before 1 September 2017:
 - (a) if the end of the 6-month period referred to in the old return provisions occurs before 1 March 2018—in relation to that period; and
 - (b) if the end of that period is not an anniversary of the administrator’s appointment—in relation to the subsequent 6-month period.
- (4) To avoid doubt, despite the repeal of the old return provisions by Schedule 2 to the *Insolvency Law Reform Act 2016*, audits may be continued in relation to accounts lodged under those provisions as if the old Act continued to apply.
- (5) In this section:

old return provisions means the following provisions of the old Act:

 - (a) subsection 438E(1);
 - (b) subsection 445J(1);
 - (c) subsection 539(1), other than the extent to which it relates to a liquidator ceasing to act as liquidator.

1592A Transitional rules for end of administration returns

- (1) Section 70-6 of the Insolvency Practice Schedule (Corporations) applies in relation to external administrations that end on or after 1 September 2017.
- (2) Despite the repeal of the old return provisions by Schedule 2 to the *Insolvency Law Reform Act 2016*, those provisions continue to apply, in relation to an external administrator of a company, if the external administrator ceases to act as an external administrator for the company before 1 September 2017.
- (3) To avoid doubt, despite the repeal of the old return provisions by Schedule 2 to the *Insolvency Law Reform Act 2016*, audits may be continued in relation to accounts lodged under those provisions as if the old Act continued to apply.
- (4) In this section:

old return provisions means the following provisions of the old Act, as in force before their repeal by Schedule 2 to the *Insolvency Law Reform Act 2016*:

- (a) subsection 438E(2);
- (b) subsection 445J(2);
- (c) subsection 539(1), to the extent to which it relates to a liquidator ceasing to act as liquidator.

13 Section 1594

After “apply”, insert “on and after 1 September 2017”.

14 Subsection 1596(1)

After “applies”, insert “on and after 1 September 2017”.

15 Sections 1597, 1598 and 1599

After “applies”, insert “on and after 1 September 2017”.

16 At the end of section 1601

Add “on and after 1 September 2017”.

17 Section 1604

Omit “2017”, insert “2018”.

18 Section 1606

After “apply”, insert “on and after 1 September 2017”.

19 Section 1606

Omit “the commencement day”, substitute “that day”.

20 Section 1612

After “apply”, insert “on and after 1 September 2017”.

21 Section 1612

Omit “the commencement day”, substitute “that day”.

22 Section 1613

After “applies”, insert “on and after 1 September 2017”.

23 Section 1615

After “applies”, insert “on and after 1 September 2017”.

24 Section 1615

Omit “the commencement day”, substitute “that day”.

25 Subsection 1618(2)

After “apply”, insert “on and after 1 September 2017”.

26 Subsection 1618(2)

Omit “the commencement day”, substitute “that day”.

27 Subsection 1618(3)

After “applies”, insert “on and after 1 September 2017”.

28 Subsection 1618(3)

Omit “the commencement day”, substitute “that day”.

29 Subsection 1618(4)

After “applies”, insert “on and after 1 September 2017”.

30 Subsection 1618(4)

Omit “the commencement day”, substitute “that day”.

31 Subsection 1618(6)

After “applies”, insert “on and after 1 September 2017”.

32 Subsection 1618(6)

Omit “the commencement day”, substitute “that day”.

33 Subsection 1619(2)

After “apply”, insert “on and after 1 September 2017”.

34 Subsection 1619(2)

Omit “the commencement day”, substitute “that day”.

35 Subsection 1619(4)

After “applies”, insert “on and after 1 September 2017”.

36 Subsection 1619(4)

Omit “the commencement day”, substitute “that day”.

37 Section 1620

After “applies”, insert “on and after 1 September 2017”.

38 Section 1620

Omit “the commencement day”, substitute “that day”.

39 Section 1623

Repeal the section, substitute:

1623 Transitional rules for controller returns

- (1) Section 422A, as inserted by Schedule 2 to the *Insolvency Law Reform Act 2016*, applies in relation to a person if the person first began to be a controller of the property of a corporation on or after 1 September 2017.
- (2) Section 422A, as inserted by Schedule 2 to the *Insolvency Law Reform Act 2016*, also applies in relation to a person if the person first began to be the controller of the property of a corporation before 1 September 2017 as if the reference in that section to a control return year for the controller were a reference to:
 - (a) the first full year starting on or after 1 September 2017 that is an anniversary of when the person first began to be the controller of the property of a corporation; and
 - (b) each subsequent period of 12 months.
- (3) Despite the repeal of subsections 432(1) and (1A) of the old Act by Schedule 2 to the *Insolvency Law Reform Act 2016*, those subsections continue to apply, in relation to a controller of a corporation appointed before 1 September 2017:
 - (a) if the end of the 6-month period referred to in paragraph 432(1)(a) occurs before 1 March 2018—in relation to that period; and
 - (b) if the end of that period is not an anniversary of the administrator’s appointment—in relation to the subsequent 6-month period.
- (4) To avoid doubt, despite the repeal of subsections 432(1) and (1A) of the old Act by Schedule 2 to the *Insolvency Law Reform Act 2016*, audits may be continued in relation to accounts lodged under those provisions as if the old Act continued to apply.

1623A Transitional rules for end of control returns

- (1) Section 422B, as inserted by Schedule 2 to the *Insolvency Law Reform Act 2016*, applies in relation to a control of the property of a corporation that ends on or after 1 September 2017.
- (2) Despite the repeal of subsections 432(1) and (1A) of the old Act by Schedule 2 to the *Insolvency Law Reform Act 2016*, those subsections continue to apply, in

relation to controllers that cease to be a controller of property of a corporation, if the cessation occurs before 1 September 2017.

40 Subsection 1627(3)

After “apply”, insert “on and after 1 September 2017”.