



Corporations Amendment Regulations 2005 (No. 1)¹

Select Legislative Instrument 2005 No. 31

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Corporations Act 2001*.

Dated 10 March 2005

P. M. JEFFERY
Governor-General

By His Excellency's Command

CHRIS PEARCE
Parliamentary Secretary to the Treasurer

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1 Name of Regulations

These Regulations are the *Corporations Amendment Regulations 2005 (No. 1)*.

2 Commencement

These Regulations commence as follows:

- (a) on 1 July 2005 — Schedule 3;
- (b) on the day after they are registered — the remainder.

3 Amendment of *Corporations Regulations 2001*

Schedules 1, 2 and 3 amend the *Corporations Regulations 2001*.

Schedule 1 Amendments relating to disclosure of transactions and fees and charges

(regulation 3)

- [1] Subregulation 7.9.01 (1), definitions of *charge*,
contribution charge, *death and disability insurance
charge*, *direct account charge*, *investment
management charge*, *ongoing management charge*,
service provider, *switching charge* and *underlying
investment***

omit

- [2] Subregulation 7.9.01 (4)**

omit

- [3] Subregulation 7.9.12 (1)**

omit

- (1) For paragraph 1020G (1) (c)

insert

For paragraph 1020G (1) (c)

- [4] Subregulations 7.9.12 (2) and (3)**

omit

[5] Part 7.9, after Division 4B

insert

Division 4C Fee Disclosure for certain financial products

Subdivision 4C.1 Application

7.9.16J Application of Division 4C to financial products

This Division applies to:

- (a) superannuation products other than:
 - (i) self-managed superannuation funds; and
 - (ii) superannuation products that have no investment component (also known as risk-only superannuation products); and
 - (iii) annuities (except market-linked annuities); and
 - (iv) non-investment or accumulation life insurance policies offered through a superannuation fund; and
- (b) managed investment products.

7.9.16K Application of Division 4C to periodic statements and Product Disclosure Statements

This Division applies:

- (a) in relation to superannuation products:
 - (i) to periodic statements (other than exit statements) in relation to a reporting period commencing on or after 1 July 2005; and
 - (ii) to periodic statements that are exit statements issued on or after 1 July 2006; and
 - (iii) to product disclosure statements issued on or after 1 July 2005; and
- (b) in relation to managed investment products:
 - (i) to periodic statements (other than exit statements) in relation to a reporting period commencing on or after 1 July 2006; and

- (ii) to periodic statements that are exit statements issued on or after 1 July 2007; and
- (iii) to Product Disclosure Statements issued on or after 1 July 2006.

Subdivision 4C.2 Product Disclosure Statements

7.9.16L More detailed information about fees and costs

For paragraph 1013D (4) (c) of the Act, a Product Disclosure Statement must include the details of fees and costs set out in Part 2 of Schedule 10.

7.9.16M Modification of section 1015C of the Act

For paragraph 1020G (1) (c) of the Act, Part 7.9 of the Act applies in relation to a product mentioned in regulation 7.9.16J as if paragraph 1015C (5) (b) of the Act were modified to omit the words ‘that is to be given in electronic form’.

7.9.16N Presentation, structure and format of fees and costs in Product Disclosure Statements

- (1) For paragraph 1015C (5) (b) of the Act, the information required by paragraphs 1013D (1) (d) and (e) of the Act must be set out in a single section of the Product Disclosure Statement (*fees section*) with the heading ‘Fees and other costs’.
- (2) The fees section of a Product Disclosure Statement must include:
 - (a) the Fees and Costs Template, comprising the template and the additional explanation of fees and costs set out in Part 2 of Schedule 10; and
 - (b) an example of annual fees and costs and associated notes as set out in Part 2 of Schedule 10; and
 - (c) the boxed Consumer Advisory Warning Statement set out in Part 2 of Schedule 10.

Subdivision 4C.3 Periodic statements**7.9.16O Presentation, structure and format of fees and charges in periodic statements**

- (1) For paragraph 1020G (1) (c) of the Act, Part 7.9 of the Act applies in relation to a product mentioned in regulation 7.9.16J as if section 1017D of the Act were modified to add, after subsection (7):
 - ‘(8) The regulations may specify requirements as to the presentation, structure and format of a periodic statement.’.
- (2) For subsection 1017D (8) of the Act, the information required by paragraph 1017D (5) (c) of the Act must be set out in the periodic statement:
 - (a) in the manner specified in Part 3 of Schedule 10; and
 - (b) using the terminology used in Part 3 of Schedule 10.

[6] Regulation 7.9.61
*renumber as 7.9.60A***[7] Before regulation 7.9.61A**
*insert in Division 5AA***7.9.60B Disclosure of transactions in periodic statements**

- (1) This regulation applies to the following periodic statements:
 - (a) for a financial product other than a superannuation product or a managed investment product — a periodic statement in relation to a reporting period commencing on or after 1 July 2005;
 - (b) for a superannuation product:
 - (i) if the periodic statement is not an exit statement — a periodic statement in relation to a reporting period commencing on or after 1 July 2005; and
 - (ii) if the periodic statement is an exit statement — a periodic statement issued on or after 1 July 2006;

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- (c) for a managed investment product:
 - (i) if the periodic statement is not an exit statement — a periodic statement in relation to a reporting period commencing on or after 1 July 2006; and
 - (ii) if the periodic statement is an exit statement — a periodic statement issued on or after 1 July 2007.
 - (2) For paragraph 1017D (5) (c) of the Act, the periodic statement must include a brief description of each transaction in relation to the product during the reporting period.
 - (3) The amount of a transaction must include, if applicable:
 - (a) GST; and
 - (b) stamp duty; and
 - (c) income tax, after deductions have been taken into account.
 - (4) The description of a contribution paid into a superannuation account must be sufficient to identify the source of the contribution, if that information has been recorded by the fund.
 - (5) A transaction (other than a contribution) of the same kind as another transaction may be described with the other transaction in a single item in the periodic statement if:
 - (a) it is practicable to do so; and
 - (b) the items are described together on a consistent basis in the periodic statement.
- Example*
- If a member incurs a weekly management cost, the transactions may be grouped consistently on a monthly basis in the member's periodic statement.
- (6) For a superannuation product or a managed investment product, the only fees and costs that need to be itemised in a periodic statement are the fees and costs shown in the fees and costs template for a Product Disclosure Statement in Part 2 of Schedule 10.
 - (7) The fees and costs mentioned in subsection (6) must be described using the terms used in the template.

[8] Paragraph 7.9.75 (1) (d)

omit

information.

insert

information; and

[9] After paragraph 7.9.75 (1) (d)

insert

- (e) in relation to a superannuation product (other than a self-managed superannuation fund) or a managed investment product — the details set out in Part 3 of Schedule 10.

[10] Schedule 10

substitute

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:

adviser service fee means an amount that is:

- (a) paid or payable to a financial adviser for financial product advice to a retail client or product holder about an investment; and
- (b) not included in a contribution fee, withdrawal fee, termination 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 means an amount, deducted from the value of a financial product of a member or product holder, that represents an apportionment, among members or product holders, of the actual or estimated transaction costs incurred by the fund.

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 adviser service 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.

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.

performance, of a product or a fund, includes:

- (a) income in relation to the assets of the product or fund; and
- (b) capital appreciation (realised or unrealised) to the value of the product or fund.

performance fee means an amount paid or payable, calculated by reference to the performance of a product or fund.

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

special request fees includes fees paid or deducted from a member or product holder's financial product for a request made to the fund.

Example

This applies to a fee for a request for additional information from a fund.

switching fee means an amount paid or payable when a product holder transfers all or part of the product holder's interest in the financial product from one investment option to another.

termination fee means an amount paid or payable on the disposal of all interests held in a financial product.

withdrawal fee means an amount, other than a termination fee, paid or payable in respect of:

- (a) a withdrawal; or
- (b) the disposal of an interest in a product.

102 Management costs

(1) **Management costs** means any of the following:

- (a) in relation to a product or fund — an amount payable for administering the 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) other expenses and reimbursements in relation to a product or fund;
- (e) amounts paid or payable for investing in the assets of the 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:

- (a) a contribution fee;
- (b) transactional and operational costs;
- (c) an additional service fee;
- (d) an establishment fee;
- (e) a switching fee;
- (f) a termination 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 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 Indirect cost ratio

- (1) The *indirect cost ratio (ICR)* for a fund, is the ratio of the fund's management costs, that are not deducted directly from a member's or product holder's account, to the fund's total average net assets.

Note A dollar-based fee charged directly against a member's account, such as a \$1 per week management cost is not included in the indirect cost ratio.

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- (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 — multiple fee structure presentation

201 The template for a multiple fee structure

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 fund assets 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 fund; 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]*.

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 fund			
<i>Establishment fee</i> The fee to open your investment			
<i>Contribution fee¹</i> The fee on each amount contributed to your investment – either by you or your employer			
<i>Withdrawal fee¹</i> The fee on each amount you take out of your investment			
<i>Termination fee¹</i> The fee to close your investment			
Management costs			
The fees and costs for managing your investment ¹ The amount you pay for specific investment options is shown at page [insert page number]			
Service fees²			
<i>Investment switching fee</i> The fee for changing investment options			

1 [Where relevant] This fee includes an amount payable to an adviser. (See ‘adviser remuneration’ under the heading ‘Additional Explanation of Fees and Costs’.)

2 [If there are other service fees, such as advisor service fees or special request fees, include a cross reference to the ‘Additional Explanation of Fees and Costs’.]

Division 2 The fees and costs template — single fee structure presentation**202 The template for a single fee structure****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 fund assets 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]*.

TYPE OF FEE OR COST	AMOUNT	HOW AND WHEN PAID
Fees when your money moves in or out of the fund		
<i>Establishment fee</i> The fee to open your investment		
<i>Contribution fee¹</i> The fee on each amount contributed to your investment – either by you or your employer		
<i>Withdrawal fee¹</i> The fee on each amount you take out of your investment		
<i>Termination fee¹</i> The fee to close your investment		

TYPE OF FEE OR COST	AMOUNT	HOW AND WHEN PAID
Management costs		
The fees and costs for managing your investment ¹ The amount you pay for specific investment options is shown at page [insert page number]		
Service fees²		
<i>Investment switching fee</i> The fee for changing investment options		

1 [Where relevant] This fee includes an amount payable to an adviser. (See ‘adviser remuneration’ under the heading ‘Additional Explanation of Fees and Costs’.)

2 [If there are other service fees, such as advisor service 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 managed 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.

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- (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 member balance + \$70 per year.

- (7) A cost or amount paid or payable must include, if applicable:
 - (a) GST less any reduced inputs tax credits; and
 - (b) stamp duty.

205 Column 2 — presentation of multiple investment options

If a fund has multiple investment options, the fee information for each investment option can 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 fund 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 fund's assets; or
 - (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 fund or product, must be included under the heading 'Additional Explanation of Fees and Costs':

- (a) the explanation of service fees mentioned in footnote 2;
- (b) information on performance fees including:
 - (i) a statement that the management costs part of the template includes performance fees; 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;

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- (c) for tax or insurance costs — a cross reference to the ‘Tax’ or ‘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 fund):
 - (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 advisor service 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 fund — details regarding the protection of small accounts (member protection rules) unless already included in the Product Disclosure Statement.

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 Example of annual fees and costs for superannuation funds

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 superannuation investment over a 1 year period. You should use this table to compare this product with other superannuation products.

EXAMPLE — the Balanced Investment Option		BALANCE OF \$50 000 WITH TOTAL CONTRIBUTIONS OF \$5 000 DURING YEAR
Contribution Fees	0-4%	For every \$5 000 you put in, you will be charged between \$0 and \$200.
PLUS Management Costs	1.6% + \$52 (\$1 per week)	And , for every \$50 000 you have in the fund you will be charged \$800 each year plus \$52 in administration fees regardless of your balance.
EQUALS Cost of fund		If you put in \$5 000 during a year and your balance was \$50 000, then for that year you will be charged fees of from: \$852 to \$1 052* What it costs you will depend on the investment option you choose and the fees you negotiate with your fund or financial adviser.

* Additional fees may apply:

Establishment fee — \$50

And, if you leave the fund early, you may also be charged **withdrawal fees** of between 0 and 5% of your total fund balance (between \$0 and \$2 500 for every \$50 000 you withdraw).

212 Example of annual fees and costs for managed investment products

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 managed investment products.

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 fund you will be charged \$650 each year.
EQUALS Cost of fund		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 with your fund or financial adviser.

* Additional fees may apply:

Establishment fee — \$50

And, if you leave the fund early, you may also be charged **withdrawal fees** of between 0 and 5% of your total fund 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 the typical ongoing fees that apply to the 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 of the fund having the stated balance and level of contributions each year.

215 Minimum entry balance rule

If the minimum balance required to enter a fund 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 fund has a minimum entry balance of \$65 000, the relevant amount for the example of annual fees and costs is \$100 000.

216 Termination fees

If a termination fee may be charged, it must be described in a footnote to the table in the same way as a withdrawal fee, 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 superannuation product or a managed 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 Management costs

- (1) The example of management costs for a superannuation product or a managed investment product 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) Management costs that are not deducted directly from a member's or product holder's account must be calculated using the indirect cost ratio for the fund.
- (3) Any percentage-based management costs that are deducted directly from a member's or product holder's account should be added to the percentage amount calculated under subclause (2).
- (4) Dollar-based management costs that are deducted directly from a member's or product holder's account must be shown separately in the management costs cell.

Example

PLUS Management costs: 1.6% + \$52 per year (\$1 per week).

219 Withdrawal fees and termination fees

- (1) The example of a withdrawal fee or a termination fee for a superannuation product or a managed 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 balanced investment option

- (1) If a fund does not offer an investment option similar to a balanced investment option, the example should be based on the fund's default investment option.

- (2) If a fund does not have a balanced investment option or a default investment option, the example should be based on the investment option under which the fund 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 fund 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.

You may be able to negotiate to pay lower contribution fees and management costs where applicable. 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.fido.asic.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 Other management costs in the periodic statement

- (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.

OTHER MANAGEMENT COSTS

This approximate amount has been deducted from your investment and includes all the other management costs that were not paid directly out of your account.

- (2) Other management costs include all management costs not deducted directly from a member's or product holder's account during the reporting period and must be shown as a single total amount in dollars.
- (3) Other management costs are calculated by multiplying the indirect cost ratio for the investment option by the member's or product holder's average account balance 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**

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 member or product holder during the period;
- (b) details of any service fees that may have been incurred by the member or product holder;
- (c) for a 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.

[11] Schedule 10A, Part 5

omit

[12] Schedules 10B and 10C

omit

Schedule 2 Other financial services amendments

(regulation 3)

[1] Subregulation 1.0.02 (1), after definition of *eligible termination payment*

insert

enduring power of attorney means an enduring power of attorney that complies with a law of a State or Territory.

[2] After regulation 7.1.04F

insert

7.1.04G Meaning of *issuer* for a foreign exchange contract

- (1) This regulation applies to a financial product that is a foreign exchange contract that is not entered into, or traded, on a financial market.
- (2) For paragraph 761E (7) (a) of the Act, each party to the foreign exchange contract is an issuer of the product.

[3] Paragraph 7.1.35 (1) (b)

omit

paragraphs 7.1.40 (a) to (d).

insert

paragraphs 7.1.40 (a), (b), (c), (d), (g) and (i).

[4] Paragraph 7.1.40 (g)*substitute*

- (g) the financial product is held under:
- (i) an order of a court; or
 - (ii) an order of a board or tribunal established under a law of a State or Territory; or
 - (iii) a direction by the holder of a statutory office established under a law of a State or Territory; or

[5] Subparagraph 7.1.40 (h) (iv)*omit*

client.

insert

client; or

[6] After paragraph 7.1.40 (h)*insert*

- (i) the financial product is held by a trustee appointed under:
- (i) a law of a State or Territory to administer monies awarded to a person as compensation; or
 - (ii) a trust formed for a charitable purpose.

[7] After subregulation 7.6.02 (4)*insert*

- (5) For paragraph 926B (1) (a) of the Act, a financial services licensee who provides a financial service in the capacity of any of the following:
- (a) a trustee appointed under the will or on the intestacy of a person;
 - (b) a trustee appointed under an express trust if:
 - (i) the settlor is a natural person; and
 - (ii) the interest in the trust is not a financial product;

- (c) an attorney appointed under an enduring power of attorney;

does not have to comply with paragraph 912A (2) (b) of the Act in relation to the provision of the service if complaints about the service provided by the licensee may be made to the Ombudsman of a State or Territory.

[8] Subregulation 7.6.02AA (2)

omit

10 March 2005.

insert

30 June 2006.

[9] After subregulation 7.8.01 (10)

insert

- (11) For subparagraph 981B (1) (b) (iv) of the Act, each of the following is money that may be paid into an account:
- (a) mixed money;
 - (b) unidentified money.
- (12) For paragraph 981B (1) (c) of the Act, if mixed money is paid into an account under subregulation (11), the licensee must, as soon as practicable, but within 1 month after the mixed money is paid into the account, remove from the account the part of the money that is not section 981B money.
- (13) For paragraph 981B (1) (c) of the Act, if unidentified money is paid into an account under subregulation (11), the licensee must, as soon as practicable after the unidentified money is paid into the account:
- (a) identify any part of the money that is section 981B money; and
 - (b) remove from the account any part of the money that is not section 981B money.

(14) For subregulations (11) to (13):

mixed money means money that:

- (a) is received by the licensee as a single payment; and
- (b) is not wholly section 981B money, but includes section 981B money.

section 981B money means:

- (a) money to which Subdivision A of Division 2 of Part 7.8 of the Act applies; or
- (b) money that is allowed to remain in the account because of the operation of subparagraphs 981B (1) (b) (ii) and (iii) of the Act; or
- (c) money mentioned in subregulation (4).

unidentified money means money that:

- (a) is received by the licensee as a single payment; and
- (b) at the time of receipt, is unable to be identified as section 981B money or mixed money; and
- (c) might include section 981B money.

[10] After regulation 7.8.14

insert

7.8.14A Lodgement of annual profit and loss statement and balance sheet

For paragraph 992C (1) (c) of the Act, Part 7.8 of the Act applies as if paragraph 989D (1) (b) were modified to read as follows:

‘(b) if the licensee is:

- (i) a body corporate that is a disclosing entity or a registered scheme — the day that is 3 months after the end of that financial year; or
- (ii) a body corporate that is not a disclosing entity or a registered scheme — the day that is 4 months after the end of that financial year.’.

[11] Paragraph 7.9.08 (1) (b)

omit

trust.

insert

trust;

[12] After paragraph 7.9.08 (1) (b)

insert

(c) a statutory fund under section 29 of the *Life Insurance Act 1995*.

[13] After regulation 7.9.08C

insert

7.9.08D Statutory funds under the *Life Insurance Act 1995*

For paragraph 1020G (1) (c) of the Act, Part 7.9 of the Act applies in relation to an account mentioned in paragraph 7.9.08 (1) (c) of these Regulations as if paragraph 1017E (2) (b) were omitted.

[14] Regulation 7.9.72

omit

paragraphs 1017D (5) (a) to (e)

insert

paragraphs 1017D (5) (a), (b), (d) and (e)

[15] After regulation 7.9.96*insert***7.9.97 Off-market trading by professional investors etc**

- (1) For subparagraph 1019D (1) (d) (viii) of the Act, the following circumstances are specified:
 - (a) the offer mentioned in subsection 1019D (1) of the Act is to:
 - (i) a professional investor; or
 - (ii) a person who has net assets of at least the amount specified in regulations made for the purposes of subparagraph 761G (7) (c) (i) of the Act; or
 - (iii) a person who has gross income for each of the last 2 financial years of at least the amount specified in regulations made for the purposes of subparagraph 761G (7) (c) (ii) of the Act; or
 - (iv) a business that is not a small business within the meaning of subsection 761G (12) of the Act;
 - (b) the minimum amount payable for securities on acceptance of the offer by the person to whom the offer is made is at least \$500 000;
 - (c) for a financial product other than securities, the offer for the financial product is for an amount that equals or exceeds the amount specified in regulations made for the purposes of paragraph 761G (7) (a) of the Act.
- (2) For paragraph (b), in calculating the amount payable for securities, disregard any amount payable or paid to the extent to which it is to be paid, or was paid, out of money lent by the person offering the securities or an associate of the person offering the securities.

[16] Schedule 10A, clause 13.1

substitute

13.1 After subsection 1017D (7)

insert

- (8) An RSA provider need not give information under this section to the holder of an RSA product who is transferring the amount of the RSA product to another RSA, a superannuation entity or an EPSSS 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 EPSSS 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 EPSSS, 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 EPSSS 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*.

Schedule 3 Amendment commencing on 1 July 2005

(regulation 3)

[1] Regulation 7.9.72A

omit

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.