**Australian Securities and Investments Commission
Corporations Act 2001 — Paragraphs 926A(2)(a) and 951B(1)(a) — Exemption**

**Enabling legislation**

1. The Australian Securities and Investments Commission makes this instrument under paragraphs 926A(2)(a) and 951B(1)(a) of the *Corporations Act 2001* (***Act***).

**Title**

1. This instrument is ASIC Class Order [CO 11/1227].

**Commencement**

1. This instrument commences on the date it is registered under the

*Legislative Instruments Act 2003*.

Note: An instrument is registered when it is recorded on the Federal Register of Legislative Instruments (***FRLI***) in electronic form: see *Legislative Instruments Act 2003*, s 4 (definition of ***register***). The FRLI may be accessed at <http://www.frli.gov.au/>.

**Exemption**

1. A trustee (the ***trustee***) of a superannuation entity (the ***fund***) who provides financial product advice in a statement (the ***estimate***) that complies with paragraphs 6 and 7 to a member of the fund does not have to comply with:
2. the requirement in subsection 911A(1) of the Act to hold an Australian financial services licence covering the provision of that advice; or
3. where the trustee is a financial services licensee—Divisions 2, 3 and 4 of Part 7.7 of the Act in relation to that advice.

**Where the relief applies**

1. The trustee may rely on the exemption in paragraph 4 only if both of the following apply:
2. The estimate:
	1. is given by the trustee at the time the member is given a periodic statement; and
	2. either:

(A) is included in the periodic statement; or

(B) accompanies the periodic statement.

1. The member:
	1. has been a member of the fund for the year ending on the date of the estimate; and
	2. is younger than 65 at the date of the estimate.

**The estimate**

1. The estimate must include all of the following:
2. the amount (the***lump sum****)* worked out in accordance with paragraph 8, specified as an amount in dollars rounded to the nearest $10,000 together with a statement that this amount is the estimated balance of the member’s account with the fund when the member is 65;
3. the amount (the ***annual income stream amount****)* worked out in accordance with paragraph 9,specified as an amount in dollars rounded to the nearest $1,000 together with a statement that this amount is the estimated amount the member may get every year if the estimated balance of the member’s account with the fund when they retire were converted into an annual income stream for 25 years;
4. the statements specified in paragraph 10.
5. Apart from the lump sum and annual income stream amount, the estimate must not specify other amounts or figures representing or purporting to represent the member’s expected retirement benefit (however described).
6. The lump sum is to be worked out in accordance with the following formula if **f** is not 3%:

 **A + C**;

**B**

and otherwise in accordance with the following formula:

(**adjusted current contributions** – **F**) x (65 – **age**) + **current balance**

where:

**A** = (**adjusted current contributions** – **F**) x ((1.03 – **f**)(65 –**age**) – 1).

**B** = ln(1.03 – **f**).

**C** = **current balance** x (1.03 – **f**) (65 –**age**).

**F** = (a) where the fund deducts administration fees on a relevant basis—the total in dollars of the administration fees (if any) deducted directly from the member’s account with the fund during the year ending on the date of the estimate; or

 (b) otherwise—0.

**adjusted current contributions** = the total contributions that are paid into the member’s account with the fund during the year ending on the date of the estimate, less contributions tax, insurance premiums and amounts transferred into the member’s account with the fund from another account with another superannuation entity.

**age** = the age of the member at the date the estimate is prepared measured in years and part years, rounded to one decimal place.

**current balance** = the balance of the member’s account with the fund at the date of the estimate.

**f** = (a) where the trustee deducts administration fees based on a percentage of the balance of the member’s account with the fund or different percentages of different parts of that balance—the annual or annualised percentage rate at which administration fees have been deducted from that account during the year ending on the date of the estimate; or

(b) otherwise—0.

Note 1: The formula to work out the amount of B involves working out the natural logarithm of the result of the bracketed calculation.

Note 2: The following are examples of how the value of **f** is worked out:

(a) If fees are deducted at a rate of 0.25% of a member’s account balance each quarter, **f** is 1%.

(b) If fees are deducted on the final day of the reporting period at a rate of 1% for the first $100,000 of a member’s account balance plus 0.75% of each dollar above $100,000 of that balance and the member’s balance was $150,000 on that day, **f** is 0.917%. This is the result of the following calculation (rounded to 3 decimal places for illustrative purposes – actual numbers should be used in applying the relevant formula):

(100,000 x 0.01 + 50,000 x 0.0075)/150,000.

(c) If fees are deducted each quarter at a rate of 0.25% for the first $100,000 of a member’s account balance plus 0.1875% of each dollar above $100,000 of that balance; and the member’s balance was $130,000, $128,000, $140,000 and $150,000 on the dates deductions were made, **f** is 0.933%. This is the result of the following calculation (rounded to 3 decimal places for illustrative purposes – actual numbers should be used in applying the relevant formula):

((100,000 x 0.0025) + ($30,000 x 0.001875))/130,000 + ((100,000 x 0.0025) + ($28,000 x 0.001875))/128,000 + ((100,000 x 0.0025) + ($40,000 x 0.001875))/140,000 + ((100,000 x 0.0025) + ($50,000 x 0.001875))/150,000.

Note 3: The calculation required by paragraph 8 involves an assumption that the rate of return will be 3%.

1. The annual income stream amount is to be calculated in accordance with the following formula:

lump sum x 0.0566.

Note: This calculation converts the lump sum into an annual income amount. It assumes the lump sum is drawn down progressively from age 65 and is completely exhausted by age 90, and that there is a real investment return, net of fees, of 3% per annum.

1. The estimate must include all of the following text (with the relevant information substituted for the instructions in square brackets):

(a)“**What this estimate means**

This is a simple estimate of how much you might get from your super when you retire to help you start your retirement planning. The amounts are shown in today’s dollars.

The estimate is **not** a guarantee that you will receive the amount shown. You may get less, or more. This is because this estimate is based on a number of assumptions. These assumptions also mean that the retirement estimate should not be used a tool to compare super funds.”.

(b)“**How the estimate is calculated**

This estimate has been calculated using these assumptions and figures:

* $*[insert member’s current balance (see paragraph 8)]* in your super fund now
* investment earnings of 3% per year after inflation
* fees and costs of *[insert the figure (as a dollar amount or as a percentage or as a combination of both as relevant) representing the administration fees that have been deducted directly from the member’s account during the year ending on the date of the estimate]*
* current super contributions will continue until retirement
* you retire at age 65
* you want your super to last until age 90
* annual insurance premiums of *[insert a dollar amount representing the insurance premiums the member has been charged during the year ending on the date of the estimate]*, and
* current tax and laws remain unchanged.

These are standard assumptions and have been set with input from the Australian Government Actuary. They may not match your actual circumstances either now or in the future. Also the figures used may differ from those shown in your member statement. The annual income shown does not include any deductions for income tax you may have to pay.

If you want to know more about the way this estimate has been calculated, or the assumptions, contact *[insert contact phone number]* or visit *[insert website address]*.”.

(c)“**What you will actually get when you retire**

The actual amount of money you get in retirement may vary considerably from the estimate.

Factors that influence what you will get include:

* the investment options you choose (e.g. conservative, balanced, growth)
* the performance of your investment
* the total fees deducted from your account
* when you retire and get access to your super
* the super contributions you and your employer make
* whether you choose to buy an account-based pension or non-account-based income stream when you retire
* any allowance you make for a pension for your spouse or partner, and
* whether you receive any age pension or other government benefit.

This estimate has been calculated assuming all current rules concerning super and taxing super remain in place.

This estimate only applies to your super account with this fund.”.

(d) where the trustee makes available a retirement or superannuation calculator on the website for the fund:

“**Getting help**

Don’t make changes to your retirement savings arrangements based on this estimate. Before you make changes, you should get further information or advice.

Online calculators let you explore your potential retirement income in more detail. They let you personalise the estimate, and show how you can improve your retirement income.

These calculators include:

* *[insert the name and title of the fund’s retirement or superannuation calculator]* available at *[insert website address]*, and
* ASIC’s MoneySmart retirement planner: [www.moneysmart.gov.au](http://www.moneysmart.gov.au).”.

(e) where the trustee does not make available a retirement or superannuation calculator on the website for the fund:

“**Getting help**

Don’t make changes to your retirement savings arrangements based on this estimate. Before you make changes, you should get further information or advice.

Online calculators let you explore your potential retirement income in more detail. They let you personalise the estimate, and show how you can improve your retirement income. These calculators include ASIC’s MoneySmart retirement planner: [www.moneysmart.gov.au](http://www.moneysmart.gov.au).”.

Note 1: The blocks of text set out in paragraphs (a) to (e) need not be set out in one place or included in the order of those paragraphs.

Note 2: The amount to be inserted in the text in paragraph (b) for fees and costs or insurance premiums is zero if no relevant amounts have been deducted.

**Interpretation**

1. In this instrument:

***administration fees*** means, in relation to a superannuation entity, any fee or charge (however described) deducted directly from the account of a member of the entity other than:

(a) a fee or charge for the management of the assets of the entity (whether or not it is paid by the trustee to another person); or

(b) contributions tax; or

(c) insurance premiums.

***date*** in relation to an estimate, means the date of the last day of the reporting period covered by the periodic statement which includes the estimate or which the estimate accompanies (see subparagraph 5(a)).

***periodic statement*** has the same meaning as in subsection 1017D(1) of the Act.

***relevant basis*** means, in relation to the deduction of administration fees, the deduction of fees on either or a combination of, the following:

(a) on a flat dollar basis (for example, $1 per week);

(b) based on a percentage of the member’s contributions into their account with the fund (for example, 1% of each contribution).

***superannuation entity*** has the same meaning as in the *Corporations Act 2001*.

Dated this 1st day of December 2011

Signed by Stephen Yen PSM
as a delegate of the Australian Securities and Investments Commission