



ASIC
Australian Securities &
Investments Commission

ASIC Superannuation (Consent to Pass on Costs of Providing Advice) Instrument 2021/126

I, Grant Moodie, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 23 March 2021

Grant Moodie

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Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Superannuation (Consent to Pass on Costs of Providing Advice) Instrument 2021/126*.

2 Commencement

This instrument commences on the later of:

- (a) 1 July 2021; and
- (b) the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at www.legislation.gov.au.

3 Authority

This instrument is made under subsection 99FA(2) of the *Superannuation Industry (Supervision) Act 1993*.

4 Definitions

In this instrument:

financial product advice has the meaning given by section 766B of the *Corporations Act 2001*.

ongoing fee arrangement has the meaning given by section 962A of the *Corporations Act 2001*.

SIS Act means the *Superannuation Industry (Supervision) Act 1993*.

Part 2—Determination

5 Requirements for giving written consent to pass on advice costs to member

- (1) The requirements in this section are specified for the purposes of subparagraph 99FA(1)(d)(ii) of the SIS Act in relation to giving written consent by a member of a regulated superannuation fund to permit the trustee or trustees of the regulated superannuation fund to pass the cost of providing financial product advice in relation to the member on to the member.
- (2) A written consent may only be given by a member by signing, or otherwise agreeing in writing (including electronically) to the terms of, a written consent which complies with this section and must also bear a date indicating when the consent was given by the member.
- (3) The written consent must include the following information:
 - (a) the name of the member;
 - (b) the name and contact details of the fund;
 - (c) the name and contact details of the provider of the financial product advice;
 - (d) an explanation of why the member's consent is being sought;
 - (e) how long the consent will last;
 - (f) information about the services that the member will be entitled to receive under the arrangement;
 - (g) as applicable:
 - (i) where the cost is passed on to the member by way of deducting fees from the member's superannuation interest—a statement to that effect, including details of the interest;
 - (ii) otherwise—an explanation of how the cost is passed on to the member, including details of the interest;
 - (h) as applicable:
 - (i) where subparagraph (g)(i) applies:
 - (A) the amount of the fees to be deducted from the member's superannuation interest; or

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- (B) if the amount of the fees cannot be determined—a reasonable estimate of the amount and an explanation of the method used to work out the estimate;
 - (ii) where subparagraph (g)(ii) applies:
 - (A) the amount of the cost; or
 - (B) if the amount of the cost cannot be determined—a reasonable estimate of the amount of the cost and an explanation of the method used to work out the estimate;
 - (i) a statement to the effect that the member can withdraw their consent at any time before the cost is passed on to the member by contacting the fund.
- (4) The written consent must be worded and presented in a clear, concise and effective manner.