



# Corporations Regulations 2001

Statutory Rules No. 193, 2001

made under the

*Corporations Act 2001*

## Compilation No. 113

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This compilation is in 7 volumes

Volume 1: regulations 1.0.01–6D.5.02

Volume 2: regulations 7.1.02–7.6.08E

Volume 3: regulations 7.7.01–8.4.02

Volume 4: regulations 9.1.01–12.9.03

Volume 5: Schedules 1, 2 and 2A

**Volume 6: Schedules 3–12**

Volume 7: Endnotes

Each volume has its own contents

Prepared by the Office of Parliamentary Counsel, Canberra

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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 31 March 2015 (the *compilation date*).

This compilation was prepared on 31 March 2015.

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 ComLaw ([www.comlaw.gov.au](http://www.comlaw.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 series page on ComLaw 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.

### **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 series page on ComLaw 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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)

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item</b>	<b>Office</b>	<b>Law</b>	<b>Jurisdiction</b>
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

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**Schedule 3** Specified offices

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item</b>	<b>Office</b>	<b>Law</b>	<b>Jurisdiction</b>
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
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

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item</b>	<b>Office</b>	<b>Law</b>	<b>Jurisdiction</b>
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

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## 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: (a) for each member about whom information is provided in excess of 5 000 members and up to 19 999 members (b) for each member about whom information is provided at 20 000 members or more	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	0.50



<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Matter</b>	<b>Amount (\$)</b>
	(b) if a register is kept on a computer—for each inspection	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) (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
8	Inspection of register for subsection 919E(3): (a) if the register is not kept on a computer—for each inspection (b) if the register is kept on a computer—for each inspection	12.50  a reasonable amount that does not exceed the marginal cost to the declared professional body of providing an inspection

**Schedule 4** Prescribed amounts

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Matter</b>	<b>Amount (\$)</b>
	(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 (b) if a register is kept on a computer—for each copy or extract	1.25  a reasonable amount that does not exceed the marginal cost to the declared professional body of providing a copy or extract

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## **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

Clause 2

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- (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 (within the meaning of section 761A of the Act) 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,”.

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## Schedule 6—Availability of names

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

### 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) 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:

<b>Column 1 Item</b>	<b>Column 2 Word or expression</b>	<b>Column 3 Alternative</b>
1	Australian	Aust
2	Company	Co or Coy
3	Co	Company or Coy
4	Coy	Company or Co
5	Number	No
6	and	&

Availability of names **Schedule 6**  
Rules for ascertaining whether names are identical **Part 1**

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Word or expression</b>	<b>Alternative</b>
7	Incorporated	Inc
8	Corporation	Corp
9	Australian Company Number	ACN

## Part 2—Names unacceptable for registration

### 6203

For paragraph 147(1)(c) or 601DC(1)(c) 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; orif 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:

- (a) item 6309, 6312 or 6318 of Part 3 if a word 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; and
- (b) item 6314 of Part 3 if the word 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.

## **6205**

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

**Schedule 6** Availability of names  
**Part 3** Restricted words and phrases

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## **Part 3—Restricted words and phrases**

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<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>Word or phrase</b>
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
6316	Made in Australia
6316A	police
6316B	policing
6317	R.S.L.
6317A	RSL
6318	Starr Bowkett
6319	Stock Exchange
6320	Torres Strait Islander Corporation
6321	Trust
6322	Trustee

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## **Part 4—Consent required to use restricted words and phrases**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Item</b>	<b>Word or phrase</b>	<b>Minister</b>
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

**Schedule 6** Availability of names

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

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

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<b>Item</b>	<b>Letters, word or expression</b>	<b>Public authority, instrumentality or agency</b>
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

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## **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;
- (b) ANL Limited;
- (c) Bakke-WA Pty Limited;
- (d) Blue Star Line Limited;
- (e) Blue Star PACE Limited;
- (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 1: Many terms and expressions used in this Schedule have the meaning given by the Act. For example:

- annual transparency report
- audit
- audit activity
- audit firm
- authorised audit company
- director
- engage in audit activity
- financial year
- individual auditor
- non-audit services provider
- professional accounting body
- professional member of an audit team
- remuneration
- transparency reporting auditor
- transparency reporting year.

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



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

<b>Item</b>	<b>Information</b>
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

**Schedule 7A** Content of annual transparency report

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

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<b>Item</b>	<b>Information</b>
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

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## **Part 3—Prescribed information for individual auditor**

<b>Item</b>	<b>Information</b>
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.

*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;

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

**Chapter 5** External administration

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

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- (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 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:

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

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

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- (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 executive officer 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 executive officer 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
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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.

**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:

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

**Chapter 5** External administration

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

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- (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.
- (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.

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## **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;

Clause 2

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- (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;
- (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;

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- (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

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### **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.



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**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.

Clause 8

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## 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

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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;
- (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

**Schedule 8A** Deed of company arrangement—prescribed provisions

Clause 12

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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.

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## Schedule 8AA—Trustee companies

(regulation 5D.1.01)

<b>Item</b>	<b>Trustee companies</b>
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
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

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**Schedule 8AA** Trustee companies

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<b>Item</b>	<b>Trustee companies</b>
28	The Trust Company (UTCCL) Limited

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

(subregulation 5D.1.04(1))

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<b>Item</b>	<b>State or Territory law and provisions</b>
1	<b>Trustee Companies Act 1984</b> (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</i> (NT), section 25

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## 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))

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<b>Item</b>	<b>State or Territory law and provisions</b>
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	<b>Victorian Civil and Administrative Tribunal Act 1998</b> (Vic), Part 9 of Schedule 1
5	<b>Guardianship and Administration Act 1986</b> (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>Adult Guardianship Act</i> (NT)
15	<i>Guardianship of Infants Act</i> (NT)

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

(subregulation 5D.1.04(3))

<b>Item</b>	<b>State or Territory law and provisions</b>
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	<b>Administration and Probate Act 1958</b> and any regulations made under that Act
6	<b>Guardianship and Administration Act 1986</b> and any regulations made under that Act
7	<b>Instruments Act 1958</b> and any regulations made under that Act
7A	<b>Legal Profession Act 2004</b> and any regulations made under that Act
8	<b>Medical Treatment Act 1988</b> and any regulations made under that Act
9	<b>State Trustees (State Owned Company) Act 1994</b> and any regulations made under that Act
10	<b>Trustee Act 1958</b> 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

*Corporations Regulations 2001*

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Compilation No. 113

Compilation date: 31/3/15

Registered: 9/4/15

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

<b>Item</b>	<b>State or Territory law and provisions</b>
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
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

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<b>Item</b>	<b>State or Territory law and provisions</b>
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

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## Schedule 8AE—Relevant State and Territory provisions

(regulation 5D.2.06)

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<b>Item</b>	<b>State or Territory provisions</b>
1	<i>Trustee Act 1925</i> (NSW), Part 2, Division 2
2	<b>Trustee Act 1958</b> (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	Trustee Act (NT), Part I

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## **Schedule 8B—Option contract—prescribed indexes**

(regulation 7.1.03)

- 1 All Ordinaries Accumulation Index
- 2 CAC 40 Index
- 3 Deutscher Aktienindex (DAX)
- 4 Dow Jones Asia-Pacific Extra Liquid Series—Australia Equity Index
- 5 Dow Jones Asia-Pacific Extra Liquid Series—Hong Kong Equity Index
- 6 Dow Jones Asia-Pacific Extra Liquid Series—Japan Equity Index
- 7 Dow Jones Asia-Pacific Extra Liquid Series—Pan Pacific Equity Index
- 8 Dow Jones Composite
- 9 Dow Jones Euro STOXX 50 Index
- 10 Dow Jones Global Titans 50 Index
- 11 Dow Jones Industrial Average Index
- 12 Dow Jones STOXX 50
- 13 FT-SE 100 Index
- 14 Hang Seng Index
- 15 MIB 30 Index
- 16 Nasdaq 100 Index
- 17 Nasdaq Composite Index
- 18 Nikkei Index
- 19 Share Price Index
- 20 S&P 500 Composite Stock Price Index
- 21 S&P/ASX 20 Share Price Index

- 22 S&P/ASX 50 Share Price Index
- 23 S&P/ASX 100 Accumulation Index
- 24 S&P/ASX 100 Share Price Index
- 25 S&P/ASX 200 Consumer Discretionary (GIC) Sector Index
- 26 S&P/ASX 200 Consumer Staples (GIC) Sector Index
- 27 S&P/ASX 200 Energy (GIC) Sector Index
- 28 S&P/ASX 200 Financial (ex Property Trusts) (GIC) Sector Index
- 29 S&P/ASX 200 Health Care (GIC) Sector Index
- 30 S&P/ASX 200 Industrials (GIC) Sector Index
- 31 S&P/ASX 200 Information Technology (GIC) Sector Index
- 32 S&P/ASX 200 Materials (GIC) Sector Index
- 33 S&P/ASX 200 Property Trusts (GIC) Sector Index
- 34 S&P/ASX 200 Share Price Index
- 35 S&P/ASX 200 Telecommunications Services (GIC) Sector Index
- 36 S&P/ASX 200 Utilities (GIC) Sector Index
- 37 S&P/ASX 300 Share Price Index
- 38 S&P/ASX All Industrials Share Price Index
- 39 S&P/ASX All Resources Share Price Index
- 40 S&P/ASX Gold Share Price Index
- 41 S&P/ASX Small Ordinaries Accumulation Index
- 42 S&P/ASX Small Ordinaries Share Price Index

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

(regulation 7.5.01A)

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

*omit*

markets;

*insert*

markets; or

### **2 Subsection 880B(1), 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—Modifications of Division 9 of Part 7.6 of the Act

Note: See regulation 7.6.02AI.

### *Corporations Act 2001*

#### 1 At the end of Division 9 of Part 7.6

Add:

#### 922C Definitions

In this Division:

***basic banking product*** has the meaning given by section 961F.

***body corporate licensee*** means a body corporate that:

- (a) is a financial services licensee; and
- (b) is authorised to provide personal advice in relation to relevant financial products to retail clients.

***class of product advice*** means financial product advice about a class of products, but does not include a recommendation about a specific product in the class.

***consumer credit insurance*** has the meaning given by section 11 of the *Insurance Contracts Act 1984*.

***control***, in relation to a body corporate licensee, has the meaning given by paragraphs 7.6.04(2)(b) and (c) of the *Corporations Regulations 2001*.

***recent advising history*** has the meaning given by section 922G.

***relevant financial products*** means financial products other than:

- (a) basic banking products; or
- (b) general insurance products; or
- (c) consumer credit insurance; or

(d) a combination of any of those products.

**relevant provider:** a person is a **relevant provider** if the person:

- (a) is a natural person; and
- (b) is:
  - (i) a financial services licensee; or
  - (ii) an authorised representative of a financial services licensee; or
  - (iii) an employee or director of a financial services licensee; or
  - (iv) an employee or director of a related body corporate of a financial services licensee; and
- (c) is authorised, as the licensee or on behalf of the licensee, to provide personal advice in relation to relevant financial products to retail clients.

#### **922D Obligation to notify ASIC about a person who becomes a relevant provider**

*Notice to include details about relevant provider*

- (1) A notice must be lodged under this section, in accordance with section 922L, if a person becomes a relevant provider.

*Content of notice*

- (2) The notice must include:
  - (a) for a relevant provider who is a financial services licensee—the information in section 922E; or
  - (b) for a relevant provider who is not a financial services licensee—the information in section 922F.

#### **922E Information about a relevant provider who is a financial services licensee**

- (1) For the purposes of paragraph 922D(2)(a), the notice must include the following:
  - (a) the relevant provider's name;

- (b) the licence number given to the relevant provider under subsection 913C(1);
- (c) the year in which the relevant provider first provided personal advice in relation to relevant financial products to retail clients in accordance with the law (including the law of a State or Territory);
- (d) if applicable, the ABN of the relevant provider;
- (e) information about both of the following:
  - (i) the relevant financial products in relation to which the relevant provider is authorised to provide personal advice to retail clients;
  - (ii) whether the relevant provider is authorised to provide class of product advice in relation to some or all of those products;
- (f) the recent advising history of the relevant provider for the 5 years ending immediately before the time the notice is lodged;
- (g) information about both of the following:
  - (i) the educational qualifications of, and any training courses completed by, the relevant provider;
  - (ii) the relevant provider's membership (if any) of professional bodies;to the extent that the qualifications, training courses or memberships are relevant to the provision of financial services.

Note: For the meaning of *recent advising history*, see section 922G.

*Educational qualifications and memberships*

- (2) For the purposes of subparagraph (1)(g)(i), if a relevant provider has more than 5 educational qualifications or has completed more than 5 training courses, the notice must include the 5 qualifications or training courses that the person lodging the notice believes, on reasonable grounds, are most relevant to the provision of financial services.
- (3) For the purposes of subparagraph (1)(g)(ii), if a relevant provider has more than 5 memberships, the notice must include the 5

memberships that the person lodging the notice believes, on reasonable grounds, are most relevant to the provision of financial services.

**922F Information about a relevant provider who is not a financial services licensee**

- (1) For the purposes of paragraph 922D(2)(b), the notice must include the following:
- (a) the relevant provider's name;
  - (b) the relevant provider's date and place of birth;
  - (c) the name of the licensee on whose behalf the relevant provider is authorised to provide personal advice in relation to relevant financial products to retail clients;
  - (d) the licence number given to that licensee under subsection 913C(1);
  - (e) the year in which the relevant provider first provided personal advice in relation to relevant financial products to retail clients in accordance with the law (including the law of a State or Territory);
  - (f) if the relevant provider is a relevant provider as a result of section 916B—each of the following:
    - (i) the name of the authorised representative who authorised the relevant provider under that section;
    - (ii) the number allocated to the authorised representative by ASIC;
  - (g) if applicable, the ABN of any of the following:
    - (i) the relevant provider;
    - (ii) the licensee referred to in paragraph (c);
    - (iii) the authorised representative referred to in paragraph (f);
  - (h) details of both of the following:
    - (i) the relevant financial products in relation to which the relevant provider is authorised to provide personal advice to retail clients;

- (ii) whether the relevant provider is authorised to provide class of product advice in relation to some or all of those products;
- (i) the recent advising history of the relevant provider for the 5 years ending immediately before the time the notice is lodged;
- (j) information about both of the following:
  - (i) the educational qualifications of, and any training courses completed by, the relevant provider;
  - (ii) the relevant provider's membership (if any) of professional bodies;to the extent that the qualifications, training courses or memberships are relevant to the provision of financial services.

Note: For the meaning of *recent advising history*, see section 922G.

*Educational qualifications and memberships*

- (2) For the purposes of subparagraph (1)(j)(i), if a relevant provider has more than 5 educational qualifications or has completed more than 5 training courses, the notice must include the 5 qualifications or training courses that the person lodging the notice believes, on reasonable grounds, are most relevant to the provision of financial services.
- (3) For the purposes of subparagraph (1)(j)(ii), if a relevant provider has more than 5 memberships, the notice must include the 5 memberships that the person lodging the notice believes, on reasonable grounds, are most relevant to the provision of financial services.

*Information already registered*

- (4) The notice does not need to include the information referred to in paragraph (1)(e), (i) or (j) if:
  - (a) the person required under subsection 922L(4) to cause the notice to be lodged believes on reasonable grounds that the information has previously been lodged; or



- (b) the information is already entered on a register of relevant providers under regulation 7.6.06B of the *Corporations Regulations 2001*.

### **922G Meaning of recent advising history**

The *recent advising history* of a relevant provider is the following information:

- (a) for a relevant provider who is or was a financial services licensee authorised to provide personal advice in relation to relevant financial products to retail clients—each period during which the relevant provider was such a licensee;
- (b) for a relevant provider who is or was authorised to provide personal advice in relation to relevant financial products to retail clients on behalf of one or more financial services licensees—the following information:
  - (i) the name of each licensee;
  - (ii) if the relevant provider is or was a relevant provider as a result of section 916B—the name of each authorised representative who authorised the relevant provider under that section;
  - (iii) each period during which the relevant provider was authorised by each licensee or each authorised representative to provide such advice.

Note: If a relevant provider is covered by paragraphs (a) and (b), the relevant provider's recent advising history includes all the information required under those paragraphs.

### **922H Ongoing obligation to notify ASIC when there is a change in a matter for a relevant provider**

- (1) A notice must be lodged under this section, in accordance with section 922L, if there is a change in a matter, particulars of which are entered for a relevant provider in a register of relevant providers (other than a change that is a direct consequence of an act by ASIC).

Note: An example of a change in a matter would be a person ceasing to be a relevant provider.

- (2) The notice must include the following information:
- (a) the new particulars to be entered in the register;
  - (b) the relevant provider's name;
  - (c) if applicable, the relevant provider number given to the relevant provider under regulation 7.6.06A of the *Corporations Regulations 2001*.

**922J Obligation to notify ASIC about a person who starts to control a body corporate licensee**

- (1) A notice must be lodged under this section, in accordance with section 922L, if a person starts to control a body corporate licensee.
- (2) The notice must include the following information:
- (a) the name of the licensee;
  - (b) the licence number given to the licensee under subsection 913C(1);
  - (c) the name of the person who starts to control the licensee;
  - (d) the day the person starts to control the licensee.

**922K Obligation to notify ASIC about a person who ceases to control a body corporate licensee**

- (1) A notice must be lodged under this section, in accordance with section 922L, if a person ceases to control a body corporate licensee.

Note: Subsection 922P(2) provides that a notice is not required to be lodged when a person starts and then ceases to control a body corporate licensee within 30 business days.

- (2) The notice must include the following information:
- (a) the name of the licensee;
  - (b) the licence number given to the licensee under subsection 913C(1);
  - (c) the name of the person who ceases to control the licensee;
  - (d) the day the person ceases to control the licensee.

## **922L Requirement for notice to be lodged**

### *Notice in prescribed form*

- (1) A notice under section 922D, 922H, 922J or 922K must be in the prescribed form.

Note 1: Under section 350, a document that this Act requires to be lodged with ASIC in a prescribed form must:

- (a) if a form for the document is prescribed in the regulations—be in that prescribed form; and
- (b) if a form for the document is not prescribed in the regulations but ASIC has approved a form for the document—be in that approved form.

Note 2: The prescribed form may deal with information that is required under more than one section of this Act or the *Corporations Regulations 2001*.

### *When notice must be lodged*

- (2) A notice under section 922D, 922H, 922J or 922K must be lodged within 30 business days of the day the event mentioned in subsection 922D(1), 922H(1), 922J(1) or 922K(1) occurs.
- (3) The information contained in the notice must be accurate as at the day of the event mentioned in subsection 922D(1), 922H(1), 922J(1) or 922K(1).

### *Who must cause notice to be lodged*

- (4) The following person must cause a notice under section 922D or 922H to be lodged in relation to a relevant provider:
- (a) if the relevant provider is a financial services licensee—the licensee;
  - (b) otherwise—the financial services licensee on whose behalf the relevant provider is authorised to provide personal advice in relation to relevant financial products to retail clients.

### *Notice about control of a body corporate licensee*

- (5) A notice under section 922J or 922K relating to a person who starts or ceases to control a body corporate licensee must be lodged by the licensee.

### **922M Offence for failing to comply with obligation to notify ASIC**

- (1) A person commits an offence if:
- (a) the person is required to cause a notice to be lodged under section 922D, 922H, 922J or 922K; and
  - (b) the person fails to cause the notice to be lodged in accordance with that section.

Note: A notice must be lodged in accordance with section 922L in order to be lodged in accordance with section 922D, 922H, 922J or 922K (see subsection 922D(1), 922H(1), 922J(1) or 922K(1)).

Penalty: 50 penalty units.

- (2) However, subsection (1) does not apply if:
- (a) the person fails to cause the notice to be lodged in accordance with section 922D; and
  - (b) the only reason the person fails to cause the notice to be lodged in accordance with that section is because the information referred to in paragraph 922F(1)(e), (i) or (j) is not included in the notice; and
  - (c) subsection 922F(4) provides that the notice does not need to include that information.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).

- (3) Subsection 4K(2) of the *Crimes Act 1914* does not apply to subsection (1) of this section.

Note: A person may commit an offence if the person knowingly gives false or misleading information (see section 1308 of this Act and section 137.1 of the *Criminal Code*).

### **922N Obligation for relevant providers to provide information to financial services licensees**

#### *Information about relevant provider*

- (1) A person must provide information to a financial services licensee in accordance with this section if:
- (a) the person has become a relevant provider; and

- (b) the person has been authorised by the licensee to provide personal advice in relation to relevant financial products to retail clients; and
- (c) the licensee has asked the person to provide the information so that the licensee can comply with its obligation to lodge a notice in accordance with section 922D relating to the person.

Note: A person may commit an offence if the person knowingly gives false or misleading information (see section 1308 of this Act and section 137.1 of the *Criminal Code*).

*When information must be given*

- (2) The information must be given to the licensee within a period that allows the licensee to comply with its obligation to lodge the notice in accordance with section 922D.

**922P Change in matter within 30 business days**

- (1) Notices must be given under both sections 922D and 922H in relation to a person who was a relevant provider even if the person ceases to be a relevant provider before a notice has been lodged under section 922D.
- (2) A notice is not required to be given under sections 922J and 922K in relation to a person who starts or ceases to control a body corporate licensee if the person ceases to control the licensee within 30 business days of starting to control the licensee.

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

(regulation 7.11.01, definition of *beneficial owner*)

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<b>Item</b>	<b>Companies</b>
1	ANZ Nominees Limited
2	CHESS 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

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## **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 managed 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**:

Clause 101

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- (a) for a superannuation product—has the meaning given by subsection 29V(4) of the SIS Act; or
- (b) for a managed investment product—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.

**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 29V(6) of the SIS Act; and
- (b) for a managed investment product—means an amount paid or payable on the disposal of all interests held in 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.



**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 managed investment product, a superannuation product, a MySuper product or an investment option, includes:

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

Clause 102

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

***withdrawal fee*** means an amount, other than an exit 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***, for a managed investment product, means any of the following:
  - (a) an amount payable for administering the managed investment scheme;
  - (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 the managed investment scheme;
  - (e) amounts paid or payable for investing in the assets of the managed investment scheme;
  - (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 managed 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 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 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.

**Schedule 10** Disclosure of fees and other costs  
**Part 1** Interpretation

Clause 104

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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.

- (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.

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## **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.

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]*.

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<i>[Name of superannuation product]</i>		
<b>Type of fee</b>	<b>Amount</b>	<b>How and when paid</b>
<i>Investment fee</i>		
<i>Administration fee</i>		

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**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

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*[Name of superannuation product]*

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<i>Type of fee</i>	<b>Amount</b>	<b>How and when paid</b>
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*Buy-sell spread*

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*Switching fee*

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*Exit fee*

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*Advice fees*

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

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*Other fees and costs<sup>1</sup>*

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*Indirect cost ratio*

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1. *[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 managed investment products**

### **202 Template for a multiple fee structure—managed 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 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; 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 managed investment product]</i>			
<b>Type of fee or cost</b>	<b>Amount</b>		<b>How and when paid</b>
	<b>Option to pay contribution fees upfront</b>	<b>Option to pay contribution fees later</b>	
<b>Fees when your money moves in or out of the managed investment product</b>			

**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 managed investment products

Clause 202

<i>[Name of managed investment product]</i>			
Type of fee or cost	Amount		How and when paid
<i>Establishment fee</i> The fee to open your investment			
<i>Contribution fee<sup>1</sup></i> The fee on each amount contributed to your investment			
<i>Withdrawal fee<sup>1</sup></i> The fee on each amount you take out of your investment			
<i>Exit fee<sup>1</sup></i> The fee to close your investment			
<b>Management costs</b>			
<i>The fees and costs for managing your investment<sup>1</sup></i> The amount you pay for specific investment options is shown at page <i>[insert page number]</i>			
<b>Service fees<sup>2</sup></b>			
<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—managed 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 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 managed investment product]</i>		
<b>Type of fee or cost</b>	<b>Amount</b>	<b>How and when paid</b>
<b>Fees when your money moves in or out of the managed investment product</b>		
<i>Establishment fee</i> The fee to open your investment		
<i>Contribution fee<sup>1</sup></i> The fee on each amount contributed to 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 managed investment products

Clause 202A

<i>[Name of managed investment product]</i>		
<b>Type of fee or cost</b>	<b>Amount</b>	<b>How and when paid</b>
<i>Withdrawal fee<sup>1</sup></i> The fee on each amount you take out of your investment		
<i>Exit fee<sup>1</sup></i> The fee to close your investment		
<b>Management costs</b>		
<i>The fees and costs for managing your investment<sup>1</sup></i> The amount you pay for specific investment options is shown at page <i>[insert page number]</i>		
<b>Service fees<sup>2</sup></b>		
<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 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.
- (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) GST less any reduced inputs tax credits; and
  - (b) stamp duty.

**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 3** How to fill in the template

Clause 205

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**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 managed investment products—for each investment option offered by the relevant managed investment scheme.
- (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 or managed investment scheme 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 managed investment product, must be included under the heading ‘Additional Explanation of Fees and Costs’:

- (a) the explanation of the fees mentioned in footnote 1 for superannuation products and footnote 2 for managed 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 managed 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.

**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 4A** Defined fees for superannuation products

Clause 209A

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## **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 exit 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 exit 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 exit 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 to recover the costs of disposing of all or part of members' interests in the 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:

**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 4A** Defined fees for superannuation products

Clause 209A

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- (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 exit 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.

## 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
<b>PLUS</b> Administration fees	\$52 (\$1 per week)	<b>And</b> , you will be charged \$52 in administration fees regardless of your balance
<b>PLUS</b> Indirect costs for the MySuper product	1.2%	<b>And</b> , indirect costs of \$600 each year will be deducted from your investment
<b>EQUALS</b> Cost of product		If your balance was \$50 000, then for that year you will be charged fees of <b>\$1 452</b> for the MySuper product.

Note: \* Additional fees may apply. **And**, if you leave the superannuation entity 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).

**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 212

---

**212 Managed 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 managed investment product can affect your investment over a 1 year period. You should use this table to compare this product with other managed investment products.

<b>EXAMPLE—the Balanced Investment Option</b>		<b>BALANCE OF \$50 000 WITH A CONTRIBUTION OF \$5 000 DURING YEAR</b>
Contribution Fees	0-4%	For every additional \$5 000 you put in, you will be charged between \$0 and \$200.
<b>PLUS</b> Management Costs	1.3%	<b>And</b> , for every \$50 000 you have in the balanced investment option you will be charged \$650 each year.
<b>EQUALS</b> 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:  <b>\$650 to \$850*</b>  <b>What it costs you will depend on the investment option you choose and the fees you negotiate.</b>

\* Additional fees may apply:

**Establishment fee—\$50**

**And**, if you leave the managed investment scheme 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.

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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**  
Example of annual fees and costs **Division 5**

Clause 213

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

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*Corporations Regulations 2001*

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**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 214

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**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 or a managed investment scheme 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 or a managed investment scheme 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, it 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 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 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.

**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 218A

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*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 managed investment product**

- (1) The example of management costs for an investment option offered by a managed investment scheme 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, the example must use the highest management costs in the range.

- (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.

- (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 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 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

**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 220

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- (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.

## **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](http://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—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 managed 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.

#### *Managed 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 managed 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, 7.9.10B, 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 RSA products

### 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 5—Modifications relating to First Home Saver Accounts**

### **5.1 Subsection 946AA(4)**

*omit*

The

*insert*

Subject to subsection (5A), the

### **5.2 Subsection 946AA(5)**

*omit*

The

*insert*

Subject to subsection (5A), the

### **5.3 After subsection 946AA(5)**

*insert*

(5A) Subsections (4) and (5) do not apply if the small investment advice is about a capital guaranteed FHSA product.

### **5.4 Paragraph 1013C(1)(a)**

*substitute*

(a) must:

- (i) include the statements and information required by regulations made for this subparagraph; and
- (ii) be in the form required by regulations made for this subparagraph; and

### **5.5 Subsection 1013C(1), note**

*omit*

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## **5.6 Subsection 1013C(2)**

*omit*

sections 1013D and 1013E

*insert*

subparagraph (1)(a)(i)

## **5.7 After subsection 1013C(7)**

*insert*

- (8) Regulations made for subparagraph (1)(a)(i) or (ii) may authorise ASIC to determine or amend the statements and information included in, and the form of, a Product Disclosure Statement.

## **5.8 Sections 1013D and 1013E**

*omit*

## **5.9 Subsection 1013L(7)**

*substitute*

- (7) The regulations may:
- (a) prescribe circumstances in which a Product Disclosure Statement must not be made up of 2 or more documents; and
  - (b) impose additional requirements to be complied with if a Product Disclosure Statement is made up of 2 or more documents.

## **5.10 Section 1013M, at the foot**

*insert*

Note: A Product Disclosure Statement for an FHSA product cannot be combined with a Financial Services Guide in a single document—see subsection 942DA (3) and subregulation 7.7.08A (1A) of the *Corporations Regulations 2001*.

## **5.11 After section 1013M**

*insert*

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**1013N Combining Product Disclosure Statement and another document**

A Product Disclosure Statement must not be attached to, or combined with, another document.

Note 1: A Product Disclosure Statement itself may be given as 2 or more documents in certain circumstances—see section 1013L and regulation 7.9.10C of the *Corporations Regulations 2001*.

Note 2: A Product Disclosure Statement may be given to a person along with other documents, but must generally be the first document given—see regulation 7.9.10D of the *Corporations Regulations 2001*.

**5.12 Part 7.9, Division 2, Subdivision D**

*omit*

## **Part 5A—Modifications for margin loan**

### **5A.1 Section 1011B, after definition of *regulated person***

*insert*

*Regulations* means the *Corporations Regulations 2001*.

### **5A.2 Subsection 1013C(1)**

*substitute*

- (1) A Product Disclosure Statement for a margin loan 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.1 Section 1011B, after definition of *regulated person***

*insert*

*Regulations* means the *Corporations Regulations 2001*.

### **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.

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*

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**Schedule 10A** Modifications of Part 7.9 of the Act

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

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**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.1 Section 1011B, after definition of *regulated person***

*insert*

*Regulations* means the *Corporations Regulations 2001*.

### **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*

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**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 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 product; 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*.

**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

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- (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 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*.

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*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 product, 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

**Schedule 10A** Modifications of Part 7.9 of the Act

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

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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 EPSSS (otherwise than under a payment split); and
  - (b) in relation to an RSA product—the transfer of an amount of an RSA (otherwise than under a payment split) to:
    - (i) another RSA offered by an RSA product issuer; or
    - (ii) a superannuation entity; or
    - (iii) an EPSSS.

**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 product that relates to a payment split 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 product, 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 product 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 RSA product:
- (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 product—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 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*.

## **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 EPSSS:

(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 either:
    - (i) the Securities Act 1978 of New Zealand (in accordance with Schedule 4 to the Financial Markets Conduct Act 2013 of New Zealand) and the Securities Regulations 2009 of New Zealand; or
    - (ii) 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.



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- (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*.

**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

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*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).

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*

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- (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*

**Schedule 10A** Modifications of Part 7.9 of the Act

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---

*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*

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 **Schedule 10AA**  
Modification of Part 6D.2 of the Act—disclosure to investors not required for  
recognised offer under Chapter 8 **Part 1**

---

- (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.

**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

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## **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 either:
    - (i) the Securities Act 1978 of New Zealand (in accordance with Schedule 4 to the Financial Markets Conduct Act 2013 of New Zealand) and the Securities Regulations 2009 of New Zealand; or
    - (ii) 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.
- (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 10B—Form and content of Product Disclosure Statement for FHSA product**

(regulation 7.9.10E)

### **Part 1—Form and content of Product Disclosure Statement—general**

#### **1 Length and font size for Product Disclosure Statement**

- (1) The length of a Product Disclosure Statement (including any title page, contents, glossary, index and other information not required by these Regulations) for an FHSA product 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 the Statement was 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, ACN and AFSL 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*.

- (3) However, if the person who must be given the Statement requests or is entitled to expect that the Statement be given to him or her in a particular format, the Statement given to the person is taken to comply with subitem (1) if it would comply with that subitem in

the format that the provider would have given but for the request or expectation.

Example: A vision-impaired person may request the Statement with a larger font size, and the Statement, when printed with that font size, exceeds 4 A4 pages in length.

## **2 Sections in a Product Disclosure Statement**

- (1) The Product Disclosure Statement must contain the following sections, which must be numbered and titled as follows:
  1. Who can have a First Home Saver Account
  2. How the First Home Saver Account works
  3. How the Government helps you save
  4. *[no prescribed title]*
  5. What happens if your situation changes
  6. Using your savings for your first home
  7. The fees and costs *[or “The fees” if there are no costs]*
  8. How to open an account
  9. *[no prescribed title]*
- (2) The Product Disclosure Statement may contain other sections (for example, a table of contents, glossary, index, or information about the product issuer).

## **3 Product Disclosure Statement must be self-contained**

The sections of the Product Disclosure Statement mentioned in subitem 2(1) must contain, in summary form, all information that a person would reasonably require for the purpose of making a decision whether to acquire the FHSA product.

#### **4 Contents of section 1 (Who can have a First Home Saver Account)**

- (1) Section 1 of the Product Disclosure Statement must contain the following text:

You should consider opening a First Home Saver Account if you:

- only want to use your savings to buy or build your first home in Australia to live in ('buy your first home'); and
- are able to save at least \$1,000 a year (\$20 a week) in 4 separate financial years – they do not need to be in a row.

A financial year is from July 1 to June 30.

To open an account, you must:

- be aged 18 or over and under 65
- have a tax file number
- have never owned a home in Australia that you have lived in; and
- have never opened a First Home Saver Account before.

You can open another First Home Saver Account if you are transferring your savings from one First Home Saver Account to another—see section 8.

If you are saving with others, each person must open their own individual First Home Saver Account. Each of you can then receive the benefits of having a First Home Saver Account.

You cannot open a joint account with someone else.

If you are unsure about your eligibility go to [www.ato.gov.au](http://www.ato.gov.au)

- (2) If section 1 of the Statement contains other text, the other text must come after, and be no more prominent than, the text mentioned in subitem (1).



## **5 Contents of section 2 (How the First Home Saver Account works)**

- (1) Section 2 of the Product Disclosure Statement must contain the following text:

How you can use the savings in a First Home Saver Account

You can only withdraw your savings for 4 purposes:

1. to buy your first home
2. as money you can add into your super
3. as money you can withdraw as a lump sum if you are aged 60 or over
4. as money you can pay into a genuine mortgage.

How to save with a First Home Saver Account

- You put money into your *[account/fund]* the same way as you would *[make deposits/make contributions/put money]* into a normal *[bank account/credit union account/building society account/other account/managed fund]*. You can do this at any time, and for as long as you need to save.
- You cannot salary sacrifice into your account.
- You do not need to put money in every year – but your account will only get Government contributions when you do.
- Once the total amount in your account reaches *[account balance cap]* – including Government contributions and income from investment earnings – you cannot put any more money into your account.
- You can keep your account open until:
  - (i) you buy your first home; or
  - (ii) you are eligible to pay the money into a genuine mortgage; or
  - (iii) you turn 65.

When you turn 65 you must close your account and withdraw all of your savings, or move it into super.

- (2) If section 2 of the Statement contains other text, the other text must come after, and be no more prominent than, the text mentioned in subitem (1).

## **6 Contents of section 3 (How the Government helps you save)**

- (1) Section 3 of the Product Disclosure Statement must contain the following text:

The Government boosts your savings with contributions and a low rate of tax on the income your investment earns.

When you put money into your account the Government puts money in too.

- When you put a dollar into your account, the Government will contribute 17 cents.
- Any money you put in up to a total of *[Government FHSA contribution threshold]* in a financial year will get this Government contribution – anything over this amount will not.

For example, if you put *[Government FHSA contribution threshold]* into your account in one financial year, the Government will contribute *[Government FHSA contribution for Government FHSA contribution threshold]* to your savings.

If you are saving with other people that have their own First Home Saver Accounts, each person will receive Government contributions on the money they put into their account.

- Government contributions are paid directly into your First Home Saver Account after you have lodged your tax return and *[name of FHSA provider]* has told the Tax Office how much you have put in.

You are not taxed

- on the money you put into your account; or
- on the Government contributions; or
- when you withdraw your savings for your first home.

There is a low rate of tax on *[the interest your savings earn/your investment earnings]*

- Earnings on First Home Saver Accounts are taxed at 15% but this is paid to the Tax Office by the account provider.
- (2) If section 3 of the Statement contains other text, the other text must come after, and be no more prominent than, the text mentioned in subitem (1).

## **7 Contents of section 4**

### *Section heading*

- (1) The heading to section 4 of the Statement must be relevant to its contents.

### *Financial details of product*

- (2) Section 4 of the Product Disclosure Statement must contain the following information:
- (a) if the product is an FHSA life policy or an FHSA trust—the composition of the investments of the product (for example, the percentage of cash, real property and shares in which money in the product will be invested);
  - (b) the nature of the return that the investments may generate (for example, fixed interest, variable interest, rental income or capital gains);
  - (c) the current rate of return for the product after tax, or information about how the rate is calculated or where the rate can be found;
  - (d) if the balance of the product can decrease:
    - (i) summary information about the reasons for that decrease; and
    - (ii) a summary description of the likelihood of that decrease (for example, that the product is ‘low risk’).
- (3) However, if the product is a multiple investment option FHSA product, the Statement must contain:

**Schedule 10B** Form and content of Product Disclosure Statement for FHSA product  
**Part 1** Form and content of Product Disclosure Statement—general

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- (a) the number of investment options; and
  - (b) the name of each investment option, set out in order of lowest risk to highest risk, and identification of the default investment option; and
  - (c) the information mentioned in subitem (2) for the default investment option; and
  - (d) either:
    - (i) the information mentioned in subitem (2) for each other investment option; or
    - (ii) details of where the information referred to in subparagraph (i) can be found.
- (4) The rate of return for the FHSA product must be calculated after applicable fees and taxes.

*Worked example of balance changing over time*

- (5) A Product Disclosure Statement for an FHSA deposit account must also contain:
- (a) a worked example of how the balance of the account will change over 4 financial years, with the balance at the end of the period after fees and taxes rounded to the nearest multiple of \$1 000, using the following assumptions:
    - (i) the assumptions mentioned in paragraphs 16(5)(a), (c), (d) and (f);
    - (ii) the holder of the product makes weekly contributions to the product, each of \$100;
    - (iii) the product earns a rate of return of 5% per year, after fees and taxes; and
  - (b) a warning that the rate of return used for the example may not be the same as the rate of return of the product.
- (6) A Statement for an FHSA life policy or an FHSA trust may contain a worked example of how the balance of the product will change over 4 financial years, with the balance at the end of the period after fees and taxes rounded to the nearest multiple of \$1 000, using the following assumptions:

- (a) the assumptions mentioned in paragraphs 16(5)(a), (c), (d) and (f);
  - (b) the holder of the product makes weekly contributions to the product, each of \$100;
  - (c) the product either:
    - (i) has no earnings; or
    - (ii) earns a rate of return that is reasonable for the product, after fees and taxes.
- (7) A Statement that contains an example mentioned in subitem (6) must also contain:
- (a) if the example has no earnings—a statement that the balance of the product may be increased or decreased by its earnings; or
  - (b) if the example earns a rate of return—a warning that the rate of return used for the example may not be the same as the rate of return of the product.

## **8 Contents of section 5 (What happens if your situation changes)**

Section 5 of the Product Disclosure Statement must contain summary information about the effects on the product or the interests of the holder of the product if the holder:

- (a) ceases to meet the FHSA eligibility requirements; or
- (b) fails to make a contribution to the product; or
- (c) needs to take money out of the product to alleviate financial hardship; or
- (e) acquires a qualifying interest in a dwelling less than 4 years after acquiring the product; or
- (f) meets the minimum release conditions in relation to a dwelling to which paragraph (e) applies; or
- (g) ceases to be a resident of Australia.

## **9 Contents of section 6 (Using your savings for your first home)**

- (1) Section 6 of the Product Disclosure Statement must contain summary information about:
-

- (a) what actions the holder of the product must take when the holder:
    - (i) decides to acquire a qualifying interest in a dwelling using the money in the product; or
    - (ii) meets the minimum release conditions in relation to a dwelling to which subparagraph (i) applies; and
  - (b) what happens when the holder takes the actions mentioned in paragraph (a).
- (2) Section 6 must also contain a statement that the holder of the product must live in the dwelling for at least 6 months that commences within 12 months after its acquisition or completion of its construction.

### **10 Contents of section 7 (The fees and costs)**

- (1) Section 7 of the Product Disclosure Statement must include:
- (a) information on the fees and costs that an FHSA holder may be charged on the FHSA product; and
  - (b) an example of the overall cost of the FHSA product; and
  - (c) if the Statement is for an FHSA life policy or an FHSA trust—the consumer advisory;
- as set out in Part 2.
- (2) However, if the product is a multiple investment option FHSA product, the Statement must contain:
- (a) the information required by subitem (1) for the default investment option; and
  - (b) if another investment option is detailed in the Statement—the information required by subitem (1) for that investment option; and
  - (c) either:
    - (i) the information required by subitem (1) for each other investment option; or
    - (ii) details of where the information referred to in subparagraph (i) can be found.

- (3) Also:
- (a) if a fee or cost mentioned in Part 2 is not charged, the Statement does not need to include information relating to the fee or cost; and
  - (b) if no fees or no costs are charged at all, the Statement must state that.

## **11 Contents of section 8 (How to open an account)**

Section 8 of the Product Disclosure Statement must contain:

- (a) information about how to acquire the product; and
- (b) information about the effect and length of the cooling-off period; and
- (c) a statement that money from the product can be transferred to another FHSA product.

## **12 Contents of section 9**

### *Section heading*

- (1) The heading to section 9 of the Product Disclosure Statement must be relevant to its contents.

### *Information*

- (2) Section 9 of the Product Disclosure Statement must contain the following information:
- (a) the name and address of the FHSA provider;
  - (b) the address of the Internet page, and a phone number, operated by or for the provider from which a person can obtain further information about the product;
  - (c) the dispute resolution system that covers complaints by holders of the product, and how that system may be accessed.
- (3) Section 9 of the Product Disclosure Statement must contain a statement that:

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**Part 1** Form and content of Product Disclosure Statement—general

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- (i) the account-holder may be entitled to payment under the financial claims scheme; and
  - (ii) payments under the scheme are subject to a limit for each depositor; and
  - (iii) information about the scheme can be obtained from the APRA website at <http://www.apra.gov.au> and the APRA hotline on 1300 13 10 60.
- (4) Section 9 of the Product Disclosure Statement must also contain the following text:

‘First Home Saver Account enquiries

Information about the First Home Saver Accounts work, eligibility, fees and taxes, and links to savings calculators and other useful online tools.

visit [www.ato.gov.au](http://www.ato.gov.au)’.



## **Part 2—Information on fees and costs**

### **13 Definitions**

- (1) In this Part:

*ADI* (short for authorised deposit-taking institution) means a body corporate that is an ADI for the purposes of the *Banking Act 1959*.

*small unusual cost* means a fee or cost charged on an FHSA product that:

- (a) does not relate to the ordinary acquisition, operation or closure of the product; and
- (b) is less than \$10.

Examples for paragraph (a): A fee for a duplicate statement, or a dishonoured cheque fee.

- (2) If a term used in this Part is defined in Part 1 of Schedule 10, it has the same meaning in this Part as it has in Schedule 10.

### **14 Presentation of information on fees and costs**

#### *Terminology*

- (1) If this Part requires that information about a fee or cost be included in a Product Disclosure Statement, the Statement must use the term for that fee or cost that is used in this Part or Part 1 of Schedule 10.

Example: A fee which is an establishment fee as defined in item 101 of Schedule 10 must be referred to in a Product Disclosure Statement as an “establishment fee”.

- (2) However, if the Statement is for an FHSA deposit account offered or issued by an ADI, the Statement may use the term for a fee or cost of that kind that is ordinarily used by the ADI for that kind of account.

Example: A bank may call an establishment fee for its savings accounts an ‘account opening fee’.

*Manner in which fees and costs are to be expressed*

- (3) If this Part requires that an amount of a fee or a cost be included in a Product Disclosure Statement, the amount must be expressed as:
  - (a) a dollar amount; or
  - (b) if the amount of the fee or cost is not fixed—a range of dollar amounts; or
  - (c) if the amount of the fee or cost is a fixed percentage of the balance of the account—that fixed percentage.
- (4) However, if ASIC is satisfied that, for a compelling reason, it would be unreasonable for a fee or cost to be expressed as required by subitem (3), ASIC may determine, in writing, the manner in which the fee or cost is to be expressed.

*Negotiable fees and costs*

- (5) If a fee or cost is negotiable, the Statement must clearly indicate that fact, and detail where information may be found about when and how the fee or cost may be negotiated.

**15 Information on fees and costs**

- (1) For each fee or cost charged on an FHSA product, other than a small unusual cost, the Product Disclosure Statement must include the information set out in subregulation (2).
- (2) The fees and costs must be presented in the following order, and include the following information:
  - (a) establishment fee—the amount of the fee;
  - (b) contribution fee—the amount of the fee;
  - (c) management costs:
    - (i) the services or functions to which the costs relate; and
    - (ii) the costs; and
    - (iii) the amount of the costs; and
    - (iv) if the amount of the costs is not fixed—how the amount is calculated; and

- (v) if there is a minimum or maximum amount of the costs in a given period of time—the amount and the period of time;
- (d) termination fee—the amount of the fee;
- (e) buy-sell spread:
  - (i) a summary description of what the spread relates to; and
  - (ii) when the spread is charged; and
  - (iii) the amount of the spread and how it is calculated;
- (f) service fees:
  - (i) a summary description of the services the fees relate to; and
  - (ii) when the fees are charged; and
  - (iii) the amount of the fees; and
  - (iv) if the amount of the fees is not fixed—how the amount is calculated; and
  - (v) if there is a minimum or maximum amount of the fees in a given period of time—the amount and the period of time.

Note: A fee or cost which is not charged does not need to be included in the Statement—see subitem 10(3).

- (3) The information mentioned in subitem (2) may be presented in narrative form, in a table, or in any other form that enables it to be easily understood and compared with similar information about like products.
- (4) The Statement must also detail where:
  - (a) further information about fees and costs; and
  - (b) information about small unusual costs; may be obtained.

## 16 Example of overall cost

- (1) The Product Disclosure Statement must include an example of the fees and costs that may be charged on the FHSA product over the life of the product (the product's **overall cost**).

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**Part 2** Information on fees and costs

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- (2) For subitem (1), the overall cost of the FHSA product is the sum of the following fees and costs applicable to the product, when those fees and costs are worked out over the life of the product using the FHSA assumptions:
- (a) establishment fee;
  - (b) contribution fees;
  - (c) management costs that are deducted directly from the account holder's account;
  - (d) termination fee;
  - (e) buy-sell spread;
  - (f) service fees;
  - (g) indirect costs.
- (3) For paragraph (2)(g), the indirect costs for an FHSA product are the sum of the annual indirect costs for each of the 4 financial years that the FHSA product exists under the FHSA assumptions.
- (4) For subitem (3), the annual indirect costs for a year are worked out as follows:

$$\text{ICR} \times \text{average balance}$$

where:

**ICR**, for a fund, means the ratio of:

- (a) the sum of:
  - (i) the fund's management costs that are not deducted directly from an account holder's account; and
  - (ii) any other costs listed in paragraphs (2)(a) to (f) that are not deducted directly from the account holder's account;to
- (b) the fund's total average net assets.

**average balance** is the average balance, when the FHSA assumptions are applied, of the FHSA product during the year.

- (5) For this item, the **FHSA assumptions** are the following assumptions:
-

- (a) the product commences on the first day of a financial year, with a balance of \$100;
  - (b) the holder of the product makes equal weekly contributions to the product, amounting to \$5 000 per financial year;
  - (c) the Commonwealth makes Government FHSA contributions to the product:
    - (i) on 30 November after the end of each financial year, other than the financial year in which the product is closed; and
    - (ii) at the start of the day on which the product is closed;
  - (d) no money is withdrawn from the product (other than for payment of fees and taxes) until it is closed;
  - (e) the product earns a rate of return of 5% per year after taxes, but before fees and costs;
  - (f) the product is closed, and the balance is withdrawn electronically by the holder for the acquisition of a qualifying interest in a dwelling, at the end of the last day of the financial year that is 3 financial years after the product commenced.
- (6) The example of overall cost must be in the following format, with all fees and cost amounts rounded to the nearest multiple of \$10:

Example of the fees and costs

If you put \$20,000 into your account over 4 years, our fees and other costs will total about *[insert overall cost as a dollar amount]*. The fees and costs in this example are made up of:

- establishment fee: *[\$insert establishment fee amount in dollars]*
- contribution fees: *[\$insert contribution fees amount in dollars]*
- management costs: *[\$insert management costs amount in dollars]*
- termination fee: *[\$insert termination fee amount in dollars]*
- other fees: *[\$insert sum of other fees and costs applicable to the product in dollars]*

*[For FHSA life policies and FHSA trusts, include the following:]*

This is equal to *[insert the equivalent percentage of the product's average annual balance that would generate that dollar amount, rounded to one decimal place ("overall cost ratio")]* of the account balance per year.

*[For multiple investment option FHSA products, include the following:]*

These fees are based on *[name of investment option to which assumptions have been applied]*.

## **17 Consumer advisory**

The Product Disclosure Statement for an FHSA life policy or an FHSA trust must include the following statement:

Compare the fees and costs

Use the above example of *[overall cost ratio]* in fees and costs to make a broad comparison with the fees and costs of other *[insert general description, e.g. bank account, life insurance policy, investment-linked]* First Home Saver Accounts.

## **Schedule 10C—Form and content of Product Disclosure Statement—margin loan**

(regulation 7.9.11D)

### **1 Length and font size for Product Disclosure Statement for margin loan**

- (1) The length of a Product Disclosure Statement for a margin loan (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 margin loan**

- (1) The Product Disclosure Statement must include the following sections, which must be numbered and titled as follows:

Clause 2

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1. About [name of provider of the margin loan] and [name of margin loan product]
  2. Benefits of [name of margin loan product]
  3. How [name of margin loan product] 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
  - (b) the telephone number of the provider of the margin loan to enable a borrower for the margin loan 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:
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- (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 margin loan.

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 margin loan.

### **3 Contents of section 1 (About [name of provider of the margin loan] and [name of margin loan product])**

Section 1 of the Product Disclosure Statement must include:

- (a) a short description of the margin loan provider and its business; and
- (b) a short summary of what margin lending 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 margin loan should regularly monitor the borrower's portfolio so that:
  - (i) the borrower can be aware of changes (if any) to the terms of the margin loan; 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 margin loan may need, at short notice, to pay an additional amount into the margin loan or sell some of the investments for which the margin loan is made; and
- (f) a statement that the provider of a margin loan 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 margin loan to provide notice to the borrower of its intention to sell; and

Clause 4

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- (g) a statement that if the value of the portfolio for a margin loan does not cover the cost of repayments for the margin loan:
  - (i) the borrower for the margin loan may need to access other funds to repay the margin loan; or
  - (ii) the provider of the margin loan may sell assets provided as security for the margin loan, for example, the borrower's residential property; and
- (h) a statement that the law requires the provider of a margin loan to:
  - (i) assess whether the margin loan is unsuitable for the potential borrower for the margin loan; and
  - (ii) if the potential borrower for the margin loan requests a copy of the assessment—to provide a copy of the assessment to the potential borrower for the margin loan.

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

**4 Contents of section 2 (Benefits of [name of margin loan product])**

- (1) Section 2 of the Product Disclosure Statement for a margin loan must include a description of the key benefits available to the borrower or potential borrower for the margin loan.
- (2) Section 2 of the Statement may include a description about other benefits available to a borrower or potential borrower for the margin loan 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 margin loan product] works)**

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

- (a) an explanation of how margin lending works including information about the following:
    - (i) the maximum loan amount for the margin loan;
    - (ii) the loan-to-value ratios for the margin loan; 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 margin loan can purchase with the margin loan (including the Approved Securities List for the provider or potential provider of the margin loan); and
  - (d) an explanation of who owns the investments purchased with the margin loan; and
  - (e) a statement that:
    - (i) details of the rights and obligations of the borrower for a margin loan are set out in the terms of the agreement for the margin loan; and
    - (ii) recommends that a potential borrower for a margin loan 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 margin loan 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 margin loan; 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 margin loan provides a calculator to borrowers or potential borrowers for the margin loan—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:

Clause 6

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- (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 margin loan must include:

- (a) if the terms of the margin loan 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 margin loan; 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 margin loan; and
    - (B) how to adjust the LVR back to the required level for the margin loan; and
    - (C) how the buffer (if any) for the margin loan operates; and
  - (v) a description of how a margin call can be dealt with by the borrower for the margin loan; and
  - (vi) a statement that if there is a margin call, the provider of the margin loan will notify the borrower for the margin loan, or the borrower's financial advisor, that the margin call has occurred; and
  - (vii) a statement that the borrower for the margin loan must be contactable at all times in case of a margin call; and
- (b) if the terms of the margin loan 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 margin loan must include a description of the risks associated with margin

lending to a borrower for the margin loan, 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 margin loan 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 margin loan 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 margin loan 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 margin loan;
  - (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 margin loan;
  - (h) any other significant risks that a reasonable person would consider to be relevantly associated with the margin loan.
- (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 margin loans.
- (3) Section 5 of the Statement may include information about risks associated with margin lending other than the risks mentioned in subclause (1).

Clause 8

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- (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 margin loan must include the following:
- (a) a description of the interest rate for the margin loan, including how the interest rate is calculated;
  - (b) a statement about whether a default interest rate will be charged for the margin loan;
  - (c) details of any fee or cost to be charged by the provider of the margin loan, 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 margin loan will charge a minor fee for the margin loan;
  - (f) a statement about whether a commission or fee is payable to a financial advisor or other third party for the margin loan 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 margin loan 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 margin loan; and
  - (b) details of any minor fee the provider of the margin loan will charge for the margin loan.
- (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 margin loan must include:
  - (a) information about how to apply for the margin loan; and
  - (b) a short summary about the dispute resolution system the provider of the margin loan 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 margin loan 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 7.9.110)

**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

Clause 3

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- (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:
    - (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.

Clause 5

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**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.
- (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

Clause 7

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- (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:

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

Clause 8

- (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>		
<b>Type of fee</b>	<b>Amount</b>	<b>How and when paid</b>
<i>Investment fee</i>		
<i>Administration fee</i>		
<i>Buy-sell spread</i>		
<i>Switching fee</i>		
<i>Exit fee</i>		
<i>Advice fees</i>		
relating to all members investing in a particular MySuper product or investment option		
<i>Other fees and costs<sup>1</sup></i>		
<i>Indirect cost ratio</i>		

1. *[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”.]*

- (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 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:

Clause 9

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- (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:
- (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
    - (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

Clause 10

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- (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

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Clause 11

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- (b) may provide that information by applying, adopting or incorporating a matter in writing.

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## **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*.

Clause 2

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**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
  - (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

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**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:
- (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;

Clause 7

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- (d) laws affecting registered managed investment 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):

- (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):

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- (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
<b>Fees when your money moves in or out of the fund</b>	
<i>Establishment fee</i>	
<i>Contribution fee</i>	
<i>Withdrawal fee</i>	
<i>Termination fee</i>	
<b>Management costs</b>	
<b>The fees and costs for managing your investment</b>	

*[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).]*

Clause 8

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- (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 managed investment 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 managed investment schemes do not pay tax on behalf of members;

Clause 10

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- (b) members are assessed for tax on any income and capital gains generated by the registered managed investment scheme.
- (3) The responsible entity may provide additional information about:
  - (a) taxation matters relating to the registered managed investment scheme; or
  - (b) taxation matters relating to registered managed investment 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 10D—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 an externally-administered 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	<p>A person to whom the following circumstances apply:</p> <p>(a) the person is the subject of legal proceedings for criminal fraud;</p> <p>(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;</p> <p>(c) the court has not delivered a judgment in relation to the issue of the fraud</p>	
5	<p>A person to whom the following circumstances apply:</p> <p>(a) the person has been found liable by a court for a contravention of a law relating to financial services activities;</p> <p>(b) the proceedings were brought by a regulator;</p> <p>(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</p>	10 years after the conduct first occurred
6	<p>A person to whom the following circumstances apply:</p> <p>(a) the person is the subject of legal proceedings for a contravention of a law relating to financial services activities;</p> <p>(b) the proceedings were brought by a regulator;</p>	

**Schedule 10D** Persons who are not covered by section 1433 of the Act

<b>Item</b>	<b>Person</b>	<b>Period</b>
	(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	
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	

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## 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 as 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.