

File Name: 2015/07

6 March 2015

Maan Beydoun
Senior Specialist
Investment Managers and Superannuation
Australian Securities and Investments Commission
Level 5, 100 Market Street
Sydney NSW 2000

Email: feeandcostdisclosure@asic.gov.au

Dear Mr. Beydoun,

Review of Regulatory Guide 97 – Disclosing fees and costs in PDSs and periodic statements

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the ASIC consultation paper *Review of Regulatory Guide 97 – Disclosing fees and costs in PDSs and periodic statements (Consultation Paper)* which seeks comments on proposed revisions to Regulatory Guide 97 (draft RG 97). We appreciate the extension of time provided for us to make this submission.

In preparing this response, ASFA has consulted with its members and participated in an ASIC roundtable on the draft RG 97.

ASFA considers that, broadly, while the proposed changes will improve the consistency of disclosure, further changes need to be made to the draft.

Our comments on the specific matters raised in the consultation document are set out later in this submission and follow the structure of the Consultation Paper.

ABOUT ASFA

ASFA is a non-profit, non-politically aligned national organisation. We are the peak policy and research body for the superannuation sector. Our mandate is to develop and advocate policy in the best long-term interest of fund members. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90 per cent of the 12 million Australians with superannuation.

GENERAL COMMENTS

While ASFA supports ASIC's efforts to provide industry with greater clarity on the disclosure obligations of product providers, we are concerned that many of the fee disclosure issues are both longstanding and policy related.

As such, ASFA's strongly preferred approach would be for Treasury to undertake a comprehensive review of the intended policy outcomes and legislative provisions, in place of the on-going, piecemeal approach that ASIC has been forced to adopt in order to address the underlying legislative issues.

Whilst offering the below detailed comments on the Consultation Paper, ASFA does not resile from previous comments on the inadequacy of the legislative framework. In particular, we draw your attention to our October 2014 response to the draft Class Order [CO 14/xxxx] – *Disclosure of fees for superannuation*

trustees and managed investment scheme responsible entities, which was ultimately finalised as [CO 14/1252]:

ASFA strongly considers that amendments to the underlying legislation are necessary in order to provide full clarity between the concepts of 'fees' and 'costs' for disclosure purposes. The necessary amendments are, in our view, too fundamental and extensive to be effected by Class Order modification alone.

As the primary purpose of PDS disclosure is to enable consumers to compare products, including the direct fees and indirect costs that they may be exposed to, it is essential each PDS is prepared in a consistent and accurate manner.

The starting point to achieving consistency and accuracy is for clear requirements in the primary legislation and supporting regulations. If that could be achieved, the requirement for additional detailed guidance would be significantly reduced.

ASFA is of the view that the differences in the fee disclosure requirements for superannuation funds and managed funds are unnecessary, do not appear logical and may be counter-productive. Applying separate requirements makes it difficult for consumers to compare these products and for product issuers to manage these disclosure obligations efficiently. It is not clear to ASFA what is the policy objective for the differences. As a result of the differences, disclosure practices will diverge rather than achieve the level of consistency that should be the policy objective. ASFA is not confident that total investment related fees and costs will be disclosed consistently across the industry as a result of these changes.

It is concerning that investors will see different fees and cost disclosures for interposed vehicles depending on whether they invest directly in the investment vehicle itself (for example, if it is a managed fund) or indirectly as a member of a superannuation fund.

ASFA is also concerned, as a matter of policy, that the focus on detailed fee and cost disclosure risks diverting the attention of investors from the importance of net returns. If the effect of the changes is that the level of investment costs that are disclosed increases significantly as a result of reflecting underlying costs, this could undermine confidence in the super industry unnecessarily, attract further pressure on fees from government, and distract key stakeholders from considering net returns as the primary and most important criteria for determining successful long term performance.

ASFA also has concerns at the lack of clarity on the benefit that is expected to flow from obliging trustees to analyse and disclose all underlying costs down to the level of Over the Counter (OTC) spreads and brokerage on share transactions through interposed vehicles. The extent to which the operators of interposed vehicles know, or can readily determine, the underlying costs that their superannuation fund investors bear is limited, as is the willingness of some operators to disclose those costs to them.

As recognised in draft RG 97, Responsible Entities (REs) are not required to disclose any transaction costs in relation to managed investment products, even if they are regarded as indirect costs to superannuation funds. Depending on their structure, some superannuation fund trustees may have to go to significant effort and expense to conduct the necessary due diligence to determine all of these costs and to ensure their fee disclosure is reasonable – even if the underlying costs are not material to the overall investment costs borne by members.

ASFA is concerned at this approach to disclosure and considers the imposition to be disproportionate to the underlying issue and any benefits which may be achieved. A concern is that adopting this approach to disclosure may unduly influence the REs, and other managers of interposed vehicles, to alter their trading approach, and their decisions could have the flow on effect of requiring an immediate roll-over of the PDS for superannuation fund investors. While these investors have no control over the trading decisions the

REs make, they bear the consequences of decisions made as a result of the new requirements. Just as ASIC has sought to address concerns in relation to fee and cost disclosure by requiring trustees to disclose fees they know, or reasonably should know, the same mechanism can be used in relation to OTC costs.

As a final general comment, ASFA notes that RG 97 does not clarify how to meet the fee disclosure requirements with respect to lifecycle funds with different fee rates for different cohorts. This is currently a challenge for funds with lifecycle default options and should, in our view, be addressed by the final RG.

Given all of the above, and the further matters raised in the body of this submission, ASFA sees difficulties in RG 97 being settled in a timely manner. Given this, it may be prudent to review the transitional arrangements in [CO 14/1252] with a view to deferring the commencement dates so that the modifications apply to a PDS:

- from 1 January 2017 (regardless of when it was first given) or
- if the Statement states that [CO 14/1252] applies to it

The remainder of this submission is structured to first follow the questions posed in the Consultation Paper and then to provide additional comments on other aspects of draft RG 97.

SPECIFIC COMMENTS

B Update to Regulatory Guide 97

Interposed Vehicle

B1Q1

In reference to the question on the adequacy of the guidance provided on interposed entities, we note that draft RG 97 does not specifically answer the question ‘what is an interposed vehicle?’ Rather, at paragraph RG 97.24 it states the types of entities that the term interposed vehicle can include, and at paragraph RG 97.26 it indicates what an interposed entity is not. The paper then works through a series of statements, in paragraphs RG 97.27 to 97.33, to tease out the circumstances in which an entity is considered to be an interposed vehicle and when it is considered not to be an interposed vehicle.

The adopted approach does little to address the difficulty of understanding the concept and, we believe, may result in the need for further guidance as funds attempt to implement the guidance.

ASFA considers that this section of the RG should start with a clear and positive statement of what, in ASIC’s view, constitutes an interposed vehicle and the underlying principles as to why this is the case.

Working with the words in RG 97.26 it would appear that ASIC’s view is that:

A body, trust or other vehicle, whether listed or unlisted, is an interposed vehicle if it cannot reasonably be considered to be the ultimate asset that the investor is investing in.

Paragraphs RG 97.24 to 97.33 could then build logically on this opening definitional statement to assist understanding of the concept.

ASFA recommends that the wording of paragraph 97.26 be revisited with a view to improving its clarity.

B1Q2

ASFA considers that there is a need for additional examples to assist with understanding the concept of interposed vehicles. Importantly, every example provided should include a clear statement of the reason why, in the described circumstances, the entity is, or is not, considered to be an interposed vehicle. Examples 3 and 4 fail in this respect and either the reasoning in Example 5 is incorrect or the final sentence should be amended to state “This company is not an interposed entity because it is listed and **it does not predominantly invest** in securities or financial products” (our emphasis).

When properly set out and explained, examples assist the reader to understand the basic principles being applied, leading to more consistent analysis and application. Example 5 fails in this respect as the stated outcome is not consistent with the outcome in earlier examples. Additionally, if the provided examples are comprehensive, and enable the reader to clearly understand the principles being applied, then this can form the basis for considering the status of new and different arrangements, leading to improved consistency in approach and lessening the need for continued revision of the regulatory guidance.

ASFA considers that, as a starting point, the existing examples should be revisited to ensure that the information on which the answer is based is clearly set out, the conclusion is correct, and the reasons for the conclusion are clearly stated.

ASFA considers that it is very important that RG 97 includes realistic examples where investments flow through several vehicles and that, as part of the explanation, ASIC clearly sets out the information that is required to be provided in respect of each of the entities.

By way of additional examples, ASFA considers that the following, at least, should be covered:

- swap and synthetic instruments
- unlisted vehicles
- superannuation wrap platforms - for example, a superannuation wrap platform offers access to a number of managed funds which investors may select as investments. The trustee's PDS lists these investments and before a potential member can select any of these investments they are provided with the underlying fund manager's PDS. We seek clarification of whether the managed funds in this scenario are to be considered interposed vehicles
- life company backed superannuation providers - for example, a superannuation trustee offers the same managed funds as mentioned in the above point, but gains this exposure by investing in a life policy held with a life company that then invests in the desired managed fund and provides the trustee with an after tax return (as distinct from the pre-tax managed fund return). The trustee's PDS contains details of the underlying managed fund, but the trustee does not supply the investor with the underlying fund's PDS. We seek clarification of the status of the life policy and the managed fund in which the life policy invests
- a superannuation fund trustee investing in a managed fund, which in turn invests in hedge funds, with those hedge funds investing in a range of vehicles.

The examples should clearly set out the amounts that reduce the value of the investment, and use diagrams, where possible, to aid understanding of the relationship between the investment layers.

Additionally, a scenario such as that outlined in Example 13 (paragraph RG 97.99) would be useful if placed together with Examples 1 to 8, as it assists in explaining the difference between how an interposed vehicle and a non-interposed vehicle is described in the PDS.

Provision of detailed examples of this nature would more clearly indicate the expectation on the trustee.

B1Q3

ASFA considers that the RG sufficiently explains the different application of the terms 'interposed vehicles' and 'indirect costs' as applicable to superannuation funds and managed investment products.

However we question why, with respect to indirect costs, the distinction is needed or can be justified.

In relation to indirect costs, paragraph RG 97.23 states that clause 102(2) of Schedule 10 excludes certain fees and costs, such as transactional costs, from the calculation of management costs and the indirect cost ratio (ICR) for managed investment products.

This distinction creates practical difficulties regarding implementation as a superannuation trustee can no longer rely solely on the ICR information provided by a managed investment product provider, information that is often provided through a data aggregator service. In particular, ASFA has concerns that the quantification of net transaction costs of a managed investment product, being the buy/sell margins less actual costs incurred, is a complex and costly exercise and is information that currently is not provided with respect to managed investments.

To overcome this difficulty, ASFA recommends that guidance be provided in the revised RG 97 on how superannuation trustees should estimate transactional and operational costs for a managed fund offered by a superannuation product. This would assist consistency of calculation and disclosure across the industry, which is a fundamental goal of the disclosure requirements.

ASFA recommends that in the interests of reducing complexity and achieving consistency, consideration be given to extending to superannuation trustees the exclusion of transactional and operational costs from the definition of indirect costs.

Requirement to reasonably estimate costs that are known

B1Q4

ASFA considers that additional guidance is required in relation to the derivation and use of a 'reasonable estimate' of fees and costs for disclosure purposes.

The challenge with the 'reasonable estimate' expectation is in arriving at a position where, across the industry, there is consistency in approach.

It can be argued that to address the consistency issue there is a need for a standardised industry process that covers both the methodology to be used and the underlying assumptions.

ASFA considers that the RG proposal that, as a matter of practice, issuers should document their procedures for making reasonable estimates of costs is not of itself sufficient to address the underlying issue of consistency. Achieving consistency requires either mandating a process for all, or requiring all to publish the process on their website such that there is transparency as to the process, and thus whether consistency exists in the market and whether further guidance is required. The absence of a specific requirement for a trustee to disclose where they have used a 'reasonable estimate' in calculating indirect costs is also an issue. This will serve to further reduce the transparency and comparability of the indirect cost disclosures between funds.

While existing sub-clauses 204(4) and (5) of Schedule 10 oblige a trustee, when completing the fees and costs template required by clause 201, to provide a reasonable estimate of the amount if the exact amount of a cost is not known, and require the trustee to clearly designate where an estimate has been used, the requirement is limited to the completion of the fees and costs template and does not apply to other aspects of PDS disclosure, such as the example of annual fees and costs.

As stated in earlier submissions on this topic, ASFA recommends that, rather than incorporating the concept of 'reasonable estimates' into the definition of 'indirect costs', ASIC should consider relocating the principles set out in sub-clauses 204(4) and (5) into Part 1 of Schedule 10, thereby expanding their application to all aspects of PDS disclosure, and should provide appropriate guidance to trustees on how the principles are to be applied.

ASFA also considers that the RG needs to give consideration to the cost/benefit trade-off between the desire for accurate estimates and the increase in compliance costs incurred to ensure estimates become more accurate. Perhaps materiality, with respect to overall costs, needs to be a consideration.

Further guidance, by way of examples dealing with transaction costs, is also required, as are examples which provide guidance with respect to what is considered reasonable and what is not considered to be reasonable.

ASFA is concerned at the guidance at RG 97.35, which states that a product issuer may need to consider updating the indirect costs disclosed, once the actual indirect costs become known, if it is considered they would provide a better guide to future costs.

By their nature, indirect costs will vary from time to time. Complying with draft RG 97 would appear to require product issuers to constantly review their PDSs, and opens up the possibility that PDSs (or material incorporated by reference) may need to be updated multiple times in each PDS cycle. This is particularly the case given that APRA reporting requirements oblige superannuation trustees to quantify and report actual indirect costs each quarter for MySuper and select choice investment options and section 29QC of the *Superannuation Industry (Supervision) Act 1993* mandates consistency of disclosure by registrable superannuation entity (RSE) licensees. This may mean significant additional costs for superannuation providers.

While paragraphs RG 97.93 – 97.94 refer to the ability of product issuers to update PDS information using the process outlined in Class Order [CO 03/237] (Update Facility), we note that this process will only be available in those cases where the issuer has determined that the updated information is not “materially adverse”.

B1Q5

ASFA considers that the question of whether it would be a matter of good practice for entities to document their procedures for making ‘reasonable estimates’ should be approached from the perspective of consistency of approach. ASFA also notes that the mere presence of documented procedures, without an accompanying obligation to publish them on the website, will not assist industry to evolve to a common approach to estimation.

As set out above in the response to B1Q4, ASFA considers that it is important that there is consistency of approach across the industry.

ASFA considers that, while it should not be necessary to include the ‘good practice’ guidance in the RG, doing so puts trustees on notice that ASIC may seek the documentation of procedures used and the basis of the estimates provided in the disclosure.

Over the counter (OTC) derivative costs

B1Q6

ASFA notes that the treatment of buy/sell spreads for derivatives is inconsistent between managed investment and superannuation products. Derivative buy/sell spreads are included in indirect costs for superannuation products irrespective of the purpose for which the derivatives are used, while derivative buy/sell spreads are only included in indirect costs for managed investment products when the derivative is used for purposes other than hedging.

ASFA considers that while the guidance on the appropriate treatment of buy/sell spreads of OTC derivatives is appropriate, additional examples would be of benefit, as would an explanation of how the disclosure adds to meaningful fee disclosure. There is an argument that the disclosure of OTC costs is only relevant where the costs are used as a mechanism to remunerate the RE or manager in some way.

In addition, ASFA is of the view that the examples used in RG 97 should:

- separately cover managed investment schemes and superannuation products

- cover both the different types of derivatives available and the purposes for which the derivatives might be acquired
- include a derivative that is not traded on a financial market, and show how the buy/sell spread is to be calculated when the information is not readily available to the superannuation fund trustee.

As stated above, ASFA considers that the use of appropriately structured examples is critical to ensuring that the principles applied are understood, as this aids the application of those principles to new situations as they arise.

B1Q7

ASFA considers that there is a need for specific guidance, together with an example, setting out how transaction costs should be calculated for OTC derivatives where the transaction cost is not apparent as it has been bundled into the overall cost of the contract.

Inclusion of additional voluntary information

B1Q8

In general, ASFA considers that the guidance with respect to the inclusion of additional voluntary information is appropriate.

Separately, paragraph RG 97.66 states that “Disclosure of this information could also form part of an issuer’s conflicts of interest management policy.” As managing conflicts of interest is an APRA matter covered by its Superannuation Prudential Standard SPS 521, ASFA questions the need for, and appropriateness of, such a statement by ASIC in RG 97. ASFA considers that a more appropriate approach may be to include that sentence in a note, referencing the obligations imposed by SPS 521.

ASFA recommends that the wording of the paragraph be reviewed to address the above concerns.

Performance fees

B1Q9

How best to set out the impact of performance fees on administration fees, investment fees and management costs is a vexed issue for RSE licensees.

Whilst the guidance is clear on what is *not* acceptable practice, and why, it provides little assistance in how best to provide adequate disclosure.

As it stands, the only certainty with performance fees is the quantum of fees previously paid. Given that the published future performance fees are almost certain to be inaccurate, ASFA questions the wisdom of requiring trustees to apply considerable resources to the task of estimating what these fees may be going forward.

Paragraph RG 97.56 refers the reader to guidance contained in Regulatory Guide 170. ASFA considers that if the information referenced is critical to the reader’s understanding of paragraph RG 97.56, it should be repeated - or at least summarised - within RG 97 so it can readily be viewed in context.

B1Q10

Additional guidance, by way of a number of examples, is required.

ASFA considers the guidance should take the form of a detailed scenario (including matters such as contractual arrangements, past payments, current market conditions) and set out ASIC’s views of how the disclosure should be made based on those given facts and the uncertainty over the fund manager’s future trading performance and market movements.

It is ASFA's view that, as ASIC has taken a position on what is *not* acceptable disclosure, ASIC must equally hold a view, and be able to demonstrate for any given factual situation, what is good/acceptable disclosure.

As stated previously, the best way of understanding the principles to be applied is through the provision of examples that clearly demonstrate the application of those principles.

Insurance disclosure

B1Q11

While the guidance on insurance disclosure clearly states that 'it is important for superannuation product issuers to disclose to members the full costs involved with coverage' (paragraph RG 97.111), this fails to recognise the significant number of variables that may be involved in determining the actual cost to an individual. Insurance premiums are multi-dimensional as they can consider a range of factors such as the amount of cover being sought as well as a number of risk factors including age, smoker status etc.

ASFA notes the comment in RG 97.114 regarding the lack of consistent form of presentation of information and the common example of organising data in a table by either current age or age next birthday.

ASFA seeks more guidance on how much of the insurance cost detail should be presented in the fees and costs template of a short form PDS and how much can be incorporated by reference, as this is a genuine issue for funds with complicated insurance arrangements.

B1Q12

ASFA seeks additional scenarios and specific guidance that deal with the complexities of the arrangements set out in response to B1Q11 above.

Disclosing fees and costs for a stapled security

B1Q13, B1Q14 and B1Q15

ASFA has no comments to offer with respect to **questions B1Q13, B1Q14 and B1Q15**, which relate to the disclosure of fees and costs for a stapled security.

Disclosing start-up and initial one-off fees or costs

B1Q16

ASFA considers the guidance on start-up and initial one off costs is generally effective. However, further guidance is needed in the situation where start-up costs are only relevant for initial investors.

Additional guidance should also be provided as to the period for which start-up costs should be included in any fee disclosure.

B1Q17

ASFA considers that examples covering the matters raised in the response to B1Q16 may assist understanding of the treatment of start-up and other initial one-off fees.

ADDITIONAL MATTERS

Fees and cost template

While paragraph RG 97.120, in Section C, sets out the elements of a fees and costs template for a superannuation PDS, no equivalent guidance is set out in Section D, which addresses managed investment products. Additionally, for superannuation products, paragraph RG 97.120 lists two types of investment fees and costs: investment fees and indirect costs. For managed investment products, it seems to be implied that investment costs has only one category, indirect costs, which is inclusive of management costs.

This inconsistency in approach is confusing for fund members and investors and is not conducive to cost comparison.

Incompatibility with APRA definitions

Some definitions in Class Order [CO 14/1252] are inconsistent with APRA's Superannuation Reporting Standard SRS 702.0: *Investment Performance*. For example, while APRA's investment fees include the base and performance fees of underlying investment managers, these are classified as indirect costs by [CO 14/1252].

Inconsistency in approach to historical and future costs

ASFA notes that the guidance is not consistent in relation to the use of historical information as guidance for future fees and costs. On the one hand issuers are warned against relying on the use of historical information, yet the guide goes on to require issuers to use the most recent (that is, historical) information when disclosing costs. This is best seen by contrasting the statements on this issue in paragraphs RG 97.35 and 97.109 to those in RG 97.56.

ASFA recommends that ASIC considers how best to reconcile these differing approaches while bearing in mind that the use of historical information and reasonable estimates of unknown costs has the potential to impact (under the new requirements) on the average duration of PDSs. ASFA is concerned at exposing issuers to a constant risk of having to devote significant time, resources and money on short notice to roll PDSs to maintain up to date cost disclosure. Such an outcome will necessarily impact fees charged to fund members and impede product development and innovation.

Section E - Disclosing fees and costs in periodic statements

Disclosure of costs deducted from the investment, rather than charged directly to the member as a fee

In paragraph RG 97.147 of the draft RG 97, ASIC states that the amount to be disclosed in a periodic statement as an indirect cost of an investment should align to the Indirect Cost Ratio disclosure in any PDS and should not include administration and investment fees that are charged by the trustee through a reduction in a unit price (for example, a percentage based fee). Paragraph RG 97.100 of the draft RG 97 also refers to this.

However, as these fees are included in the unit price of the investment option and not directly debited from the member's account, they will not be listed as a separate transaction on a member's periodic statement. We note also that any buy-sell spread charged through a reduction in the unit price similarly will be excluded from the indirect costs of the investment and will not appear in the transaction details section of any statement.

Application of the guidance in paragraphs RG 97.147 and 97.100 would therefore appear to *reduce* the level of disclosure provided to members in their periodic statements in respect of such amounts. It is not clear that this was the intended outcome. ASFA requests that guidance be included as to how investment fees, administration fees and any buy-sell spread which are charged by way of a reduction in a unit price should be disclosed in periodic statements if these amounts are not to be included in the indirect costs of an investment.

Transfers from reserves

Information regarding transfers from reserves is typically included in a fund's 'annual report', pursuant to subparagraph 7.9.37(1)(k) of the *Corporations Regulations 2001*.

Paragraphs RG 97.148 – 97.150 indicate that ASIC considers that some disclosure of transfers from reserves is also required to be included in member’s periodic statements. In ASFA’s view, however, this guidance does not adequately explain what is to be disclosed at the individual member level on periodic statements, and how it is anticipated the information should be presented. We recommend that ASIC revises paragraphs RG 97.148 – 97.150 to provide further clarity on this matter.

Requirements that apply to pure defined benefit funds

The last sentence in paragraph RG 97.150 (“Requirements that apply to pure defined benefit funds”) appears to be out of place and is presumably intended to be the heading to the next section of the RG (that is, the heading to paragraphs RG 97.151 – 97.158).

While we have no concerns with the content of paragraphs RG 97.151 – 97.155, we are unsure of the purpose of their inclusion, given the focus of RG 97 on disclosure of fees and costs. We note that RG 97 does not address matters such as receipt of contributions in the context of entities other than pure defined benefit funds.

We recommend that the terms “retail clients” in paragraphs RG 97.156 – 97.157 be replaced with the term “individual defined benefit members”.

Additional drafting issues

Paragraph RG 97.31 includes an example in which a “trustee invests in a listed company that operates a mine, and that **mine** owns a subsidiary” (our emphasis). Should the wording instead be “a trustee invests in a listed company that owns a mine and that **listed company** also owns a subsidiary”?

We note that paragraph RG 97.30 is identical to paragraph RG 97.28. It would appear that this duplication is not intentional.

Issues with the drafting of Class Order [CO 14/1252]

Upon review of Class Order [CO 14/1252], we have noted a number of errors and omissions which in our view warrant attention via an amendment to the Class Order:

- Given the complexity of the concept, we note with concern that some words appear to have been omitted from subparagraph (b)(ii) of the new definition of ‘interposed vehicle’ in [CO 14/1252]. Subparagraph (b)(ii) reads as follows:

the responsible person for the Product Disclosure Statement has published a list of financial products in relation to which the instructions, directions or requests may be given includes a security or interest in the body, trust or partnership.

It appears that the paragraph should instead say something along the lines of:

the responsible person for the Product Disclosure Statement has published a list of financial products in relation to which the instructions, directions or requests may be given **that** includes a security or interest in the body, trust or partnership *[our emphasis]*

or:

the responsible person for the Product Disclosure Statement has published a list of financial products in relation to which the instructions, directions or requests may be given **and that list** includes a security or interest in the body, trust or partnership *[our emphasis]*

- Paragraph 9 of [CO 14/1252] deals with the transitional arrangements for application of the Class Order to periodic statements. The note at the end of paragraph 9 states that “The timing for the

giving of certain periodic statements for superannuation products is affected by Subdivision 5.12 of Part 7.9 of, and Part 11 of Schedule 10A to the Regulations". It would appear that the note might have been intended to refer to Part 12, rather than Part 11.

- The prescribed wording of the new, separate consumer advisory warning for superannuation products, inserted by paragraph (6)(g) of the Class Order, states as follows:

You may be able to negotiate to pay lower contribution fees and management costs where applicable.

ASFA welcomes the removal of previously prescribed wording regarding employers, which was not relevant to public offer superannuation products. We note, however, that the use of the terms 'contribution fees' and 'management costs' is likely to cause confusion in respect of MySuper products, given the prescriptive rules regarding the types of fees that may be charged in those products.

* * * *

We trust that the information contained in this submission is of value. We would be pleased to meet with you to discuss our submission.

If you have any queries or comments regarding the contents of our submission, please contact ASFA's Principal Policy Adviser, Robert Hodge, on (02) 8079 0806 or by email rhodge@superannuation.asn.au

Yours sincerely



Glen McCrea

Chief Policy Officer