



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 65

Section 1013DA disclosure guidelines

November 2011

About this guide

This guide is for product issuers. It sets out ASIC's guidelines on how product issuers can meet their obligations under s1013DA of the *Corporations Act 2001* (Corporations Act) to disclose in Product Disclosure Statements (PDSs) how labour standards or environmental, social or ethical considerations are taken into account in selecting, retaining or realising an investment.

Note: These guidelines only apply to investment products where these standards or considerations are taken into account.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This version was issued in November 2011 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Policy Statement 65 issued December 2003 and rebadged as a regulatory guide 5 July 2007

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview

Key points

Product issuers must disclose in Product Disclosure Statements (PDSs) how labour standards or environmental, social or ethical considerations are taken into account in selecting, retaining or realising an investment: s1013DA.

This guide sets out our guidelines to help product issuers meet their disclosure obligations under s1013DA.

We will monitor compliance with these guidelines together with other PDS requirements under Pt 7.9 of the Corporations Act (e.g. s1013D(1)(l)).

Section 1013DA disclosure requirements

- RG 65.1 Under Ch 7 of the *Corporations Act 2001* (Corporations Act), product issuers must give retail clients a Product Disclosure Statement (PDS) before they are issued with certain financial services/products. This is the key disclosure document telling clients about the features of a product, including costs, significant benefits and significant risks.
- RG 65.2 Section 1013D(1) sets out what must be disclosed in a PDS. Section 1013D(1)(l) provides that if the product has an investment component, the PDS must include disclosure about:
- ... the extent to which labour standards or environmental, social or ethical considerations are taken into account in the selection, retention or realisation of the investment.
- RG 65.3 In this context, products with an investment component include superannuation products, managed investment products and investment life insurance products: s1013D(2A).
- RG 65.4 Product issuers must disclose in PDSs how labour standards or environmental, social or ethical considerations are taken into account in selecting, retaining or realising an investment. Regulation 7.9.14C of the Corporations Regulations 2001 (Corporations Regulations) requires actual disclosure on this issue, whether or not these matters are taken into account. Thus, where labour standards or environmental, social or ethical considerations are not taken into account in selecting, retaining or realising investments for a product, the PDS must include a clear statement that this is the case.
- RG 65.5 The Corporations Regulations also require that the product issuer make it clear which labour standards or environmental, social or ethical

considerations are taken into account, and the extent to which (how far) they are taken into account in selecting, retaining or realising an investment.

Our guidelines

RG 65.6 Section 1013DA gives ASIC the power to develop guidelines that must be complied with when a PDS makes any claim that labour standards or environmental, social or ethical considerations are taken into account in selecting, retaining or realising an investment.

RG 65.7 The purpose of the guidelines is to:

- (a) enhance consumers' ability to compare products and to select the product that best matches any goals they may have regarding these standards or considerations;
- (b) provide industry with greater certainty about how it can meet the s1013DA disclosure requirements without inhibiting developments in this area or product design, and without being commercially unrealistic or exposing product issuers to unreasonable levels of risk; and
- (c) ensure that products are 'true to label' and do what they say they do.

RG 65.8 Our guidelines are set out in Sections B and C of this guide as follows:

- (a) Section B covers our guidelines on how s1013DA applies; and
- (b) Section C covers our guidelines on how information under s1013DA should be disclosed.

The appendix provides some general background information about industry practice for product issuers that take labour standards or environmental, social or ethical considerations into account.

RG 65.9 Like our guidance in Regulatory Guide 168 *Disclosure: Product Disclosure Statements (and other disclosure obligations)* (RG 168), the guidelines in this guide are designed to facilitate:

- (a) *transparency*—providing consumers with sufficient relevant information to understand the approach of a fund to these issues;
- (b) *accuracy*—ensuring information presented or omitted does not create a misleading or deceptive impression;
- (c) *comprehensibility*—presenting information in a simple and concise manner, recognising that too much information is as potentially problematic for consumers as too little; and
- (d) *comparability*—presenting information in a manner that allows consumers to compare different products.

RG 65.10 We have deliberately adopted a non-prescriptive, principles-based approach. The guidelines do not set out what constitutes a labour standard or an

environmental, social or ethical consideration, or what methodology product issuers should use for taking these issues into account. The guidelines do, however, make it clear that you must disclose which of these standards and considerations you take into account and how. If you have no predetermined approach, then this too must be clear. The more a product is marketed on the basis that such standards and considerations are taken into account, the more detail is required.

- RG 65.11 While these guidelines focus on s1013D(1)(l), PDSs must also comply with Pt 7.9 of the Corporations Act. Such requirements include that information must be up to date (s1012J) and worded and presented in a clear, concise and effective manner (s1013C(3)).
- RG 65.12 For further guidance on PDS disclosure generally, see RG 168. This regulatory guide sets out the principles of good disclosure (see RG 168.56–RG 168.104), including that disclosure should:
- (a) be timely;
 - (b) be relevant and complete;
 - (c) promote product understanding (e.g. a product issuer should try to avoid using industry jargon but, if it cannot be avoided, it should explain its meaning);
 - (d) promote comparison;
 - (e) highlight important information; and
 - (f) have regard to consumers' needs.

Monitoring and enforcement

- RG 65.13 A breach of our guidelines could result in a PDS being considered defective. Our approach to monitoring PDSs and enforcing PDS requirements generally is set out in Section E of RG 168.
- RG 65.14 Briefly, we conduct selective compliance reviews of PDSs to determine whether they comply with the PDS requirements, including these guidelines (if applicable). In particular, we may review a PDS:
- (a) if we categorise a PDS as open to compliance risk;
 - (b) if we receive credible information from an external source about a PDS that warrants undertaking a review; or
 - (c) at random.
- RG 65.15 In RG 168, we note that where we detect, or are made aware of, valid prima facie disclosure concerns about a PDS, we may notify the issuer of our concerns before serving an interim stop order. However, if a delay could be prejudicial to the public interest, we will impose an interim stop order

without consulting the issuer, pending resolution of our concerns at a hearing. It is our view that the public interest in this context can encompass non-financial concerns.

RG 65.16 We may take enforcement action on a particular PDS if:

- (a) the PDS appears to be misleading or deceptive, including the overall impression given about the extent to which labour standards or environmental, social or ethical considerations are taken into account in the selection, retention or realisation of an investment;
- (b) the PDS does not contain all relevant information; and/or
- (c) the PDS does not meet the other general and specific content requirements of Pt 7.9, including the guidelines in Sections B and C of this guide.

B How s1013DA applies

Key points

Section 1013DA applies to all ‘products with an investment component’ issued to retail clients where the PDS claims that labour standards or environmental, social or ethical considerations are taken into account in selecting, retaining or realising the investment.

Section 1013DA does not apply to shorter PDSs.

What products does s1013DA apply to?

- RG 65.17 Section 1013DA applies to all ‘products with an investment component’ (investment products) where the PDS claims that labour standards or environmental, social or ethical considerations are taken into account in selecting, retaining or realising the investment. ‘Products with an investment component’ include superannuation products, managed investment products and investment life insurance products.
- RG 65.18 Products with an investment component also include those:
- (a) with multiple investment options;
 - (b) made up of different asset classes; and
 - (c) where the issuer devolves all or part of the investment decisions to others.
- RG 65.19 We recommend you seek your own legal advice on whether other products are ‘products with an investment component’.

In what circumstances does s1013DA apply?

- RG 65.20 Section 1013DA applies to all investment products issued to retail clients where any of the following are taken into account by the product issuer when selecting, retaining or realising an investment:
- (a) labour standards;
 - (b) environmental considerations;
 - (c) social considerations; and/or
 - (d) ethical considerations.

- RG 65.21 Section 1013DA applies when any of these standards or considerations are taken into account by the product issuer, even if a product does not promote or market itself as taking them into account.
- RG 65.22 Where labour standards or environmental, social or ethical considerations are not taken into account when selecting, retaining or realising an investment, the Corporations Regulations state that the PDS must explicitly state this. Section 1013DA does not apply to products where these standards or considerations are not taken into account.
- RG 65.23 It is up to each product issuer to determine whether labour standards or environmental, social or ethical considerations are or are not taken into account when selecting, retaining or realising an investment and, if so, how they are taken into account.
- RG 65.24 Table 1 summarises when s1013DA does and does not apply.

Table 1: When does s1013DA apply?

The product issuer must ask:	If the answer is yes:	If the answer is no:
Are labour standards or environmental, social or ethical considerations taken into account when selecting, retaining or realising an investment for a retail client?	The guidelines <i>do</i> apply (even if the product is not marketed as taking these standards and considerations into account).	The guidelines <i>do not</i> apply, but the PDS must explicitly state that labour standards or environmental, social or ethical considerations are not taken into account.

How does s1013DA apply to different products?

- RG 65.25 As noted above, s1013DA applies to all products with an investment component, including those with multiple investment options, those made up of different asset classes and those where the issuer devolves all or part of the investment decisions to others.

Products offering multiple investment options

- RG 65.26 For products with multiple investment options, s1013DA applies separately to each option. This means that a PDS covering multiple options should disclose, for each option, which labour standards or environmental, social or ethical considerations are taken into account and to what extent.
- RG 65.27 This does not mean that you need to give a separate PDS for each investment option (unless it is required under Pt 7.9 of the Corporations Act—for example, under s1012IA). A product issuer who takes labour standards or environmental, social or ethical considerations into account in some or all of its investment options may be able to rely on the PDS given for each of these investment options, under s1012IA, to meet its obligation to provide

information about these standards or considerations. See RG 65.29 for guidance about when a product issuer will be regarded as taking these standards or considerations into account.

Products made up of different asset classes

- RG 65.28 If the extent to which labour standards or environmental, social or ethical considerations are taken into account in a product (or each investment option within a product) varies between asset classes, you must disclose for the product or option:
- (a) the benchmark percentage of the investment product each asset class makes up (e.g. ‘20% is invested in property, 40% in Australian shares and 40% in international shares’); and
 - (b) the nature and extent of the variation (e.g. ‘The environmental considerations listed are only considered for Australian and international shares. We do not apply them to our property investments.’).

Products where the issuer devolves all or part of the investment decisions to others

- RG 65.29 Disclosure about how far labour standards or environmental, social or ethical considerations are taken into account is required wherever such matters are considered in selecting, retaining or realising investments issued to retail clients, and the issuer has ultimate responsibility for selecting, retaining or realising the investments. This applies to:
- (a) the product issuer;
 - (b) a delegate of the product issuer (e.g. an investment manager); or
 - (c) the issuer or manager of an underlying financial product where the product issuer has responsibility for the investments (e.g. where the underlying product is an investment option offered by a superannuation trustee’s PDS).
- RG 65.30 In these circumstances, the product issuer’s PDS must contain disclosure about the extent to which labour standards or environmental, social or ethical considerations are taken into account if it is the only PDS the client will receive about that particular investment (e.g. disclosure is not being made by a separate PDS under s1012IA of the Corporations Act). It should always be clear to a client who is making decisions about labour standards or environmental, social or ethical considerations, and the degree to which reliance is being placed on information provided by others (e.g. fund managers or specialists).
- RG 65.31 If the product issuer does not itself take account of these labour standards or environmental, social or ethical considerations and does not retain ultimate responsibility for investment decisions made by others (e.g. an investor directed portfolio service (IDPS) or IDPS-like arrangement), there is no

requirement for the product issuer to make any disclosures about these standards or considerations other than to explicitly state they are not taken into account, in accordance with the Corporations Regulations.

Shorter PDSs

- RG 65.32 Sections 1013D and 1013DA do *not* apply to shorter PDSs. Instead, shorter PDSs are governed by separate rules in the Corporations Regulations: see Sch 10D for superannuation products other than solely pension products and solely defined benefit products, and Sch 10E for simple managed investment schemes.
- RG 65.33 For example, cl 7(9)(c) of Sch 10D requires superannuation trustees to describe, in summary form, ‘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 fund’. Clause 7(7)(c) of Sch 10E imposes a similar requirement on responsible entities of simple managed investment schemes.
- RG 65.34 This summary can be in the PDS and/or incorporated by reference, but where it is in both, the PDS should:
- (a) include sufficient information to enable consumers to know why they should read the additional information incorporated by reference; and
 - (b) ensure that it does not claim to take these standards or considerations into account where the material incorporated by reference and other material suggest the opposite, as this may be misleading.
- RG 65.35 Even though s1013D and 1013DA do not apply to shorter PDSs, we strongly encourage product issuers to use this guide in preparing shorter PDSs, particularly for material incorporated by reference into a shorter PDS.

C Disclosing information under s1013DA

Key points

A product issuer must disclose:

- if labour standards or environmental, social or ethical considerations are taken into account in selecting, retaining and realising an investment (see RG 65.36–RG 65.39);
- the extent to which these standards and considerations are taken into account in selecting an investment, including methodology and any weighting system used (see RG 65.40–RG 65.43); and
- a description of the retention and realisation policies (see RG 65.44).

How detailed disclosure will be will vary from product to product, but there are some general principles that should be followed: see Table 2.

What must be disclosed?

Whether the standards and considerations are taken into account

- RG 65.36 A product issuer must disclose if it takes into account labour standards or environmental, social or ethical considerations in selecting, retaining and realising an investment.
- RG 65.37 If the product issuer does not take all of these standards or considerations into account, the PDS must clearly set out which of these standards or considerations are and are not taken into account. When the product issuer takes into account only some of these standards or considerations, it must not give the impression that it takes into account all of them. For example, if it only takes into account what it regards as environmental, social or ethical considerations, disclosure must not give the misleading impression that it also takes into account labour standards.
- RG 65.38 If a PDS states that labour standards or environmental, social or ethical considerations are taken into account in selecting, retaining and realising an investment, the PDS must have information on what those standards or considerations are.
- RG 65.39 If a product issuer has no predetermined view about what it regards to be a labour standard or an environmental, social or ethical consideration, the PDS must clearly state this.

The extent to which the standards and considerations are taken into account

- RG 65.40 The legislation requires disclosure of ‘the extent to which’ labour standards or environmental, social or ethical considerations are taken into account—in other words, how far the standards or considerations are taken into account. This involves providing retail clients with sufficient detail to understand the activities undertaken by or on behalf of a product issuer by disclosing:
- (a) the methodology for taking the standards or considerations into account where one exists (including the absence of a methodology, if there is none); and
 - (b) the weight given to the standards or considerations, where a weighting system is used.
- RG 65.41 A product issuer must include in the PDS a general description about how far the labour standards or environmental, social or ethical considerations are taken into account. For example, a PDS may say that the fund manager will lobby companies in which investments are made to further certain labour, environmental, social or ethical goals, or that the fund will only invest in companies that follow certain labour practices or have no association with certain environmental, social or ethical activities.
- RG 65.42 If a weighting system is used, the product issuer must also include a general description of that.
- RG 65.43 If the product issuer has no predetermined view about how far labour standards or environmental, social or ethical considerations will be taken into account (i.e. there is no specific methodology), this must be clearly stated. For example, a PDS may say that the product issuer has no predetermined view other than it takes into account labour standards or environmental, social or ethical considerations it may become aware of, but only to the extent that they financially affect the investment.

Retention and realisation policies

- RG 65.44 When a PDS claims to take into account labour standards or environmental, social or ethical considerations, the description of the methodology for taking these standards or considerations into account must include:
- (a) a general description of how adherence to the methodology for taking such standards and considerations into account will be monitored or reviewed, or a statement that the product issuer has no set approach to monitoring or review, if that is the case;
 - (b) the timeframe, if the product issuer has a set time for monitoring or reviewing investments, or a statement that there is no such timeframe, if that is the case; and

- (c) a general description about what will or may occur when an investment no longer matches the stated investment policy and within what timeframe. If there is no predetermined view about this, the product issuer must provide a clear statement that the approach is determined case by case, or the timeframe is not fixed, if this is the case.

How detailed should disclosure be?

RG 65.45 At a minimum, a client should be given general information about what issues the product issuer takes into account, how these issues are taken into account and whether or not its approach is based on some predetermined methodology. How detailed the disclosure is about labour standards or environmental, social or ethical considerations will vary from product to product. As a guide, follow the principles in Table 2.

Table 2: Guiding principles—How detailed should disclosure be?

Area of disclosure	Guiding principle
Disclose what is 'known'	A PDS need only contain information about labour standards or environmental, social or ethical considerations that are actually known—in accordance with s1013C(2). This includes information known to the product issuer. It also includes information known to a delegate of the product issuer or other person involved in the investments of a product for which the product issuer has ultimate responsibility (on the basis that their knowledge can be imputed to the product issuer because of its common law obligation to monitor its delegates).
Disclose what a person would 'reasonably require'	The s1013D test requires that the PDS must include such information as 'a person would reasonably require for the purpose of making a decision, as a retail client, whether to acquire the financial product'.
Assess 'reasonableness' from the client's perspective	Section 1013F states that information does not have to be included in a PDS if it would not be reasonable for a retail client deciding whether to buy the product to expect to find the information in the statement. Reasonableness here must be assessed from the retail client's perspective, not the product issuer's perspective.
More marketing means more disclosure	The more a product is marketed on the basis that such matters are taken into account in investment decisions, the more detail the product issuer has to give about the standards or issues it has taken into account and how they are employed. Any details must be clear, concise and effective, and take into account the good disclosure principles in RG 168.
Explain all terms (including industry jargon) used	The product issuer must take care in all cases to adequately define the terms used. If possible, industry jargon should be avoided or clearly explained: see RG 168.74. If a particular standard or consideration is commonly known by a numerical or other non-descriptive formal title, a brief description of its subject matter must be included.

Area of disclosure	Guiding principle
Explain all policies and approaches used	The product issuer must take care in all cases to adequately explain the policies or approaches used, including, where relevant, that a policy or approach is subject to qualifications. No claims should be misleading or deceptive. For example, if a claim is made that no investment is made in companies associated with product X, the disclosure should clarify what associations this negative screen captures. For example, is the negative screen limited to companies that are directly associated with product X (e.g. they manufacture, mine or grow product X), or does it extend to companies that have indirect associations with it (e.g. they transport or retail product X)? Also, does the negative screen look at the parent or subsidiaries of companies?
Describe any specific measures used	If a PDS claims investment decisions are based on objectives associated with labour standards or environmental, social or ethical considerations, the product issuer should disclose at least some ways of measuring how far such objectives are met, or the fact that it uses no specific measures. For example, if a PDS states that the product issuer only invests in companies with good labour relations, it must either also mention at least some of the criteria by which it (or an external provider or rating mechanism) measures this, or make it clear there are no specific criteria or mechanisms used for measuring this.
Consider referring clients to secondary sources	In most cases, the product issuer will not need to disclose specific details of very complex weighting systems that vary by sectors as part of its description of the methodology used, but it may wish to consider referring clients to a secondary source for more detailed information about weightings or weighting systems used, along with other more intricate details about the approach used: see RG 65.46–RG 65.47.
Identify any external providers or rating mechanisms	<p>If the product issuer uses an external provider or rating mechanism, it may need to identify the external provider and state where clients can find out more about the external service provider's approach. Subject to s1013K, the PDS should provide the client with enough information about the approach of the external provider or rating mechanism for the client to have a general understanding of the approach taken.</p> <p>Note: Under s1013K, a PDS must only include a statement made by a person, or a statement said in the PDS to be based on a statement made by a person, if certain requirements are met (in particular, consent of the person who made the statement).</p>

When should clients be referred to a secondary source?

- RG 65.46 Some product issuers may want to refer clients with special information needs to a secondary source for further details about their approach to taking into account labour standards or environmental, social or ethical considerations. Such clients may, for example, want more details on the external agency rating system or index used, the weighting system used or lists of investments actually made.
- RG 65.47 The PDS must contain all the information that a person would reasonably require for the purpose of making a decision, as a retail client, whether to

acquire the financial product. When this requirement is satisfied, however, the product issuer can refer clients to secondary sources for information. Clients should be told in the PDS where they can access this additional information.

Where should disclosure appear in the PDS?

- RG 65.48 We envisage that the disclosure will appear in the section dealing with investment strategy, although it may, in addition, appear elsewhere (e.g. in a general information section). This is to ensure that it is close to other information about investments. If all product issuers were to adopt this approach to placement, it would help consumers compare products and options more easily.
- RG 65.49 At times, different approaches apply to different investment options offered within the one PDS. For example, a PDS could cover options that:
- (a) systematically take into account these issues;
 - (b) only take them into account from time to time where they have a financial impact; and
 - (c) do not take into account these issues.
- RG 65.50 In such cases, including the disclosure in the discussion of each investment option may help to limit consumer confusion.

Appendix: Industry practice

- RG 65.51 More and more product issuers are taking into account labour standards or environmental, social or ethical considerations as part of investment management. Different motivations include:
- (a) the desire to choose investments that will perform well financially;
 - (b) the belief that an understanding of how far labour standards or environmental, social or ethical considerations are complied with or practised by a company will enable a better assessment of the opportunities and risks posed by a particular investment; and
 - (c) the desire to provide investment products that match investors' views about the type of world in which they wish to live.
- RG 65.52 This appendix gives some general background information about industry practice for product issuers who take these standards or considerations into account.

Selecting standards and considerations

- RG 65.53 Deciding which labour standards or environmental, social or ethical considerations funds should consider is the subject of much international discussion and work. It is an evolving field and, in some areas, highly subjective.
- RG 65.54 There are numerous documents/codes/standards that product issuers can consider when designing their products. Some of these were primarily designed to assist with the requirements of triple bottom line reporting but have been adapted for investment strategy purposes. Examples of key international documents setting out standards and considerations, which some investment funds have sought to assess and measure, include the Global Reporting Initiative, standards promulgated by Standards International, the International Labour Organisation (ILO) Standards and United Nations Declarations.
- RG 65.55 It is up to each product issuer to determine which issues, if any, it will take into account, but when it does, it should clearly tell clients what particular labour standards or environmental, social or ethical considerations it takes into account. When making this disclosure, we envisage that product issuers will use the terminology in the law (i.e. labour standards, environmental considerations, social considerations or ethical considerations), even if they also use other terms to describe some or all of these factors (e.g.

sustainability issues). Such an approach will help promote comparison between products.

RG 65.56 Our guidelines also make clear that the PDS should disclose if the product issuer has no predetermined view about what it regards to be a labour standard or an environmental, social or ethical consideration.

Selecting methodologies

RG 65.57 Product issuers can also choose from many different methodologies. These methodologies are also going through a process of evolution. Again, we do not intend to inhibit fund managers' choice of methodology. Our guidelines simply make clear that the PDS should disclose whether or not there is a methodology and, if there is, provide sufficient explanation of what that methodology is for clients to understand the approach taken, and have enough information on which to base a decision.

RG 65.58 Many funds employ more than one methodology. Common methodologies include:

- (a) engagement approaches where the fund actively communicates with companies and/or uses its voting rights and other sources of influence to exert pressure on the company to do, or not do, particular things;
- (b) investment governance approaches, which identify environmental, social and corporate governance risks and opportunities of present and future investments, and actively inform relevant stakeholders of these matters;
- (c) negative screens where the fund does not invest in companies involved with certain named activities;
- (d) positive screens where funds seek to invest in companies that engage in what are seen as desirable practices;
- (e) preference strategies where fund managers work to a list of guidelines or criteria that companies invested in should meet (this approach can involve elements of other methodologies);
- (f) 'best of sector' approaches where the fund invests in companies that are the best performers in their sector as measured against a range of specified indicators; and
- (g) index-based approaches that construct portfolios using established indices of environmentally and socially responsible companies.

RG 65.59 Some product issuers may have no predetermined approach for considering labour standards or environmental, social or ethical considerations, even though they may consider them from time to time. In such cases, there may not be a predetermined specific set of issues that the fund looks at or a

specific methodology for assessment of such matters. The guidelines make clear that a product issuer must disclose (where applicable) that it has no predetermined view about how far labour standards or environmental, social or ethical considerations will be taken into account (i.e. it has no specific methodology).

Investment product categories

- RG 65.60 For the purposes of the s1013DA disclosure requirements, investment products can be broadly divided into three groups:
- (a) Some products do not consider labour standards or environmental, social or ethical considerations at all. Products in this group are likely to be few, but may, for example, include some index funds. These product issuers are required by regs 7.9.14C(a) and 7.9.14C(b) to include in their PDS an explicit statement that they do not take account of labour standards or environmental, social or ethical considerations.
 - (b) Some products consider these standards and considerations to the extent they impact on the financial value of an investment, but do not advertise or promote themselves on the basis of their consideration of such matters. The vast majority of funds will be in this group.
 - (c) Other products are advertised on the basis that these considerations have been taken into account.
- RG 65.61 Our guidelines focus on those products in paragraphs (b) and (c) in RG 65.60. Because the s1013DA disclosure requirements apply equally to both groups, our guidelines do not try to distinguish between them except that the more a product is marketed on the basis of its consideration of these issues, the more detail will be required about what exactly it takes into account and how.
- RG 65.62 A product issuer of a product in paragraph (b) of RG 65.60 should not overstate how far it takes into account any of these issues. Clients who wish to purchase investment products on the basis of the issuer's consideration of labour standards or environmental, social or ethical considerations should be able to easily determine the extent of the focus on these matters. An impression should not be created that there is a greater focus than exists in reality.

Key terms

Term	Meaning in this document
ASIC	Australian Securities and Investments Commission
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
IDPS	An investor directed portfolio service as defined in Class Order [CO 02/294] <i>Investor directed portfolio services</i> , or any class order that replaces it
IDPS-like arrangement	Has the same meaning given to 'IDPS-like scheme' in Class Order [CO 02/296] <i>Investor directed portfolio-like services provided through a registered managed investment scheme</i> , or any class order that replaces it
Product Disclosure Statement (PDS)	A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act Note: See s761A for the exact definition.
reg 7.9.14C (for example)	A regulation of the Corporations Regulations (in this example, numbered 7.9.14C)
s1013DA (for example)	A section of the Corporations Act (in this example, numbered 1013DA)
s1013DA disclosure requirements	The requirements in s1013DA for product issuers to disclose in PDSs how labour standards or environmental, social or ethical considerations are taken into account in selecting, retaining or realising an investment
Sch 10D	A schedule of the Corporations Regulations (in this example, numbered 10D)
shorter PDS	A PDS that is required to comply with the shorter PDS regime
shorter PDS regime	The requirements set out in Div 3A of Pt 7.9 of the Corporations Act as modified by Subdivs 4.2–4.2C and Schs 10B, 10C, 10D and 10E of the Corporations Regulations, which prescribe the content and length of the PDS for first home saver accounts, margin loans, superannuation products and simple managed investment schemes

Related information

Headnotes

disclosure, environmental, social or ethical considerations, investment product, labour standards, PDS, Product Disclosure Statement, retail client

Regulatory guide

RG 168 *Disclosure: Product Disclosure Statements (and other disclosure obligations)*

Legislation

Corporations Act, Pt 7.9, s1012IA, 1012J, 1013C(2), 1013C(3), 1013D, 1013D(1)(l), 1013D(2A), 1013DA, 1013F and 1013K

Corporations Regulations, regs 7.9.14C, 7.9.14C(a) and 7.9.14C(b), Schs 10D and 10E