



ASIC

Australian Securities & Investments Commission

CONSULTATION PAPER 151

Debt securities: Modifying the naming provisions and advertising requirements

March 2011

About this paper

This consultation paper sets out a proposal to include a new category of notes that currently fall within the meaning of 'unsecured notes' under the *Corporations Act 2001* (Corporations Act). The paper also sets out a proposal to revise the statement about risk that needs to be included in advertisements of offers of debentures and unsecured notes (and interests in mortgage schemes).

This consultation paper seeks the views of issuers of debentures and unsecured notes and responsible entities of mortgage schemes, industry bodies, consumer groups, and investors and their professional advisers on these proposals.

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 paper was issued on 25 March 2011 and is based on the Corporations Act as at 25 March 2011.

Disclaimer

The proposals, explanations and examples in this paper do not constitute legal advice. They are also at a preliminary stage only. Our conclusions and views may change as a result of the comments we receive or as other circumstances change.

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The consultation process

You are invited to comment on the proposals in this paper, which are only an indication of the approach we may take and are not our final policy.

As well as responding to the specific proposals and questions, we also ask you to describe any alternative approaches you think would achieve our objectives.

We are keen to fully understand and assess the financial and other impacts of our proposals and any alternative approaches. Therefore, we ask you to comment on:

- the likely compliance costs;
- the likely effect on competition; and
- other impacts, costs and benefits.

Where possible, we are seeking both quantitative and qualitative information. We are also keen to hear from you on any other issues you consider important.

Your comments will help us develop our policy on how debentures should be described in offer documents and advertising standards. In particular, any information about compliance costs, impacts on competition and other impacts, costs and benefits will be taken into account if we prepare a Regulation Impact Statement: see Section D, 'Regulatory and financial impact'.

Making a submission

We will not treat your submission as confidential unless you specifically request that we treat the whole or part of it (such as any financial information) as confidential.

Comments should be sent by 6 May 2011 to:

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What will happen next?

Stage 1	25 March 2011	ASIC consultation paper released
Stage 2	6 May 2011	Comments due on the consultation paper
	Mid 2011	Drafting of updated regulatory guides
Stage 3	Mid 2011	Updated regulatory guides released

A Overview

Key points

Chapter 2L of the Corporations Act sets out how debentures may be described in offer documents: see s283BH.

We are proposing to modify these provisions (by way of conditional class order relief) to introduce a new name for certain securities which must currently be described as ‘unsecured notes’.

We are also proposing to revise the advertising standards in Regulatory Guide 156 *Advertising of debentures and unsecured notes* (RG 156) and Regulatory Guide 45 *Mortgage schemes—Improving disclosure for retail investors* (RG 45) relating to the standard concerning investors losing some or all of their principal investment.

Naming of debentures under s283BH

- 1 Under s283BH, an issuer can only describe or refer to its product as a ‘debenture’ in documents relating to an offer if:
 - (a) the repayment of debenture money has been secured by a charge in favour of a debenture trustee over tangible property of the issuer and the value of the tangible property that makes up the security for the charge is sufficient to repay the debentures and any other liabilities of the issuer that rank in priority or have equal priority to the debentures; or
 - (b) the product satisfies the requirements to be described as a ‘mortgage debenture’ (i.e. the debenture trustee has been given a registered first mortgage over land vested in the issuer and the total amount secured by the mortgage does not exceed 60% of the value of the issuer’s interest in the land).
- 2 Any product that cannot be described as a ‘debenture’ can only be described or referred to in a document relating to an offer of the product as an ‘unsecured note’ or ‘unsecured deposit note’.
- 3 A key determinant of whether a product may be called a ‘debenture’ depends on whether the obligation to repay the principal is secured by a charge over ‘tangible property’.
- 4 ASIC’s interpretation of the naming provisions in Ch 2L of the Corporations Act, including what constitutes ‘tangible property’, is set out in Section G of Regulatory Guide 69 *Debentures and unsecured notes: Improving disclosure for retail investors* (RG 69), which was reissued in June 2010. Section G of

RG 69 states that we consider that ‘tangible property’ is property that has an actual physical existence (e.g. goods and land). Tangible property is distinguished from intangible or incorporeal property such as choses in action (e.g. a loan receivable). We consider that a charge in favour of a trustee over a loan receivable by an issuer does not constitute a charge over the ‘tangible property’ of the issuer. The law therefore requires this type of investment to be called an ‘unsecured note’ or ‘unsecured deposit note’.

ASIC’s interim no-action position: Widening the scope of what can be called ‘debentures’

- 5 In 2005, ASIC adopted an interim no-action position in relation to certain non-compliance with the naming restrictions under s283BH of the Corporations Act: see Report 38 *High-yield debentures* (REP 38) at pp. 10–12. The no-action position had the effect of allowing issuers to treat property without an actual physical existence (e.g. receivables) as ‘tangible property’ for the purposes of s283BH. As a result, issuers securing their notes with such property could describe them as debentures.
- 6 In October 2009, we consulted on whether ASIC should maintain this interim no-action position: see Consultation Paper 123 *Debentures: Strengthening the disclosure benchmarks* (CP 123). In part, this was because there had been a number of failures of debenture issuers, and these included issuers that had relied upon ASIC’s no-action position to describe their securities as debentures even though the charge in favour of the trustee was not over tangible property with a physical existence.
- 7 With the benefit of the consultation process, we decided to discontinue the no-action position. We determined that restricting the use of the name ‘debentures’ to notes secured over tangible property with a physical existence would increase consistency in how debentures are described and promote better investor understanding of these products.
- 8 The no-action position was scheduled to finish on 30 June 2011. However, because we are publicly consulting on whether we should revise our policy in Section G of RG 69 regarding how certain debt securities can be described (see paragraphs 9–12 and Section B of this consultation paper), we are extending the interim no-action position for a further three months so that, subject to our policy review, issuers will need to fully comply with s283BH in documents relating to an offer of notes from 1 October 2011.

Proposal: Modifying the debenture naming provisions

- 9 Since the close of the consultation period for CP 123, ASIC has received further submissions that the statutory distinction between debentures and unsecured notes does not appropriately cater for notes that are secured over intangible property.
- 10 As a result, we are consulting on a proposal to introduce a new term that sits between debentures and unsecured notes, namely 'notes'. This term would be available for notes that currently fall within the statutory term 'unsecured notes' but which are secured over intangible property.
- 11 If ASIC were to provide this relief to facilitate a new statutory category, it would be conditional upon issuers providing confirmation of the sufficiency of the assets to meet obligations to investors, and detailed disclosure on the nature of the security provided for the note in documents relating to the offer and ongoing disclosures. The confirmation required from issuers is proposed to be based on the statutory test for when a product can be called a 'debenture' under s283BH of the Corporations Act.
- 12 Section B of this paper outlines our proposal in more detail.

Proposal: Revising the advertising requirements

- 13 ASIC has also received submissions on whether it is appropriate to retain the standard that issuers of debentures and unsecured notes (both listed and unlisted) and responsible entities of mortgage schemes inform investors in advertisements that they risk losing some or all of their principal investment: see RG 156.8–RG 156.9. This standard is referred to in RG 156 and RG 45 as the 'repayment of principal' standard.
- 14 The advertising standards in RG 156 and RG 45 were issued in response to the way in which debentures, unsecured notes and interests in mortgage schemes were being promoted, which resulted in retail investors often failing to realise that the interest rate of these products (often higher than the interest on a bank deposit), should be balanced against the higher risk of not being paid the interest and losing some or all of their principal investment. Consequently, to promote investor understanding of these products and minimise the risk of mis-selling, ASIC set standards for issuers when advertising these products.
- 15 We are proposing to revise the wording of the repayment of principal standard to highlight for retail investors the different nature of these products compared with a bank deposit, thereby effectively merging the 'repayment of principal' standard with the 'comparison with bank deposit' standard.
- 16 Section C of this paper outlines our proposal in more detail.

B Proposal: Modifying the debenture naming provisions

Key points

We are proposing to modify the law to introduce a new term 'notes' for products that currently fall within the statutory term 'unsecured notes' but which are secured by some form of property (including intangible property).

Use of this term would be conditional upon issuers providing confirmation of the sufficiency of the assets and detailed disclosure on the nature of the security provided for the note in documents relating to the offer.

Disclosure documents for notes will need to be consistent with the benchmarks in RG 69.

Our proposal

Proposal

- B1** We propose to modify the law (by way of class order relief) to enable certain debt instruments to be described as a 'note', for the purposes of s283BH of the Corporations Act, in the circumstances set out in B2–B4.

Your feedback

- B1Q1** Do you agree with the proposal to introduce this new category of 'notes'? If not, please explain why.
- B1Q2** Do you consider we should instead permit the use of the term 'secured note' to describe debt instruments that are offered in the circumstances set out in B2–B4? Please explain why. If not, please describe a preferred term.
- B1Q3** Do you think that the proposed class order relief or the alternative term, 'secured notes', would benefit or disadvantage issuers and/or investors? Please provide your reasons.

- B2** We propose that, to rely on the proposed class order relief described in B1, issuers must meet the following requirements in relation to security over assets:
- the issuer, or any guarantor, provides a first ranking charge in favour of the trustee over property (including intangible property);
 - the issuer provides a detailed explanation of the security (including a confirmation of the sufficiency of the assets supporting the security) in any disclosure document relating to the offer; and

Note: See proposal B3 for details of the explanation of the security.

- (c) the issuer prominently discloses, in documents relating to the offer, how the product is classified under the modified s283BH of the Corporations Act.

Your feedback

B2Q1 Do you think that issuers should be able to describe their product as a 'note' where the issuer, or any guarantor, has provided security other than a first ranking charge in favour of the trustee over property—for example, a second ranking charge? If so, please explain why.

B2Q2 Do you agree with these security conditions? If not, please explain why.

- B3** We propose that the detailed explanation of the security described in B2(b) should disclose:

- (a) information on the nature of the first ranking charge;
- (b) a description of the assets secured by the charge; and
- (c) a statement that the assets that constitute the security for the charge are sufficient and are reasonably likely to be sufficient to meet the liabilities for the repayment of all such money and all other liabilities:
- (i) that have been made or incurred; and
- (ii) that rank in priority to, or equally with, that liability.

Your feedback

B3Q1 Are there any practical concerns with providing a detailed explanation of the underlying security in a manner consistent with the presentation of benchmark disclosure in RG 69 in disclosure documents and ongoing disclosures (including quarterly reports) as proposed? If so, please explain why.

B3Q2 Is there any other information about the security that should be disclosed? If so, what is it?

B3Q3 Should the issuer be able to include receivables from related parties or from transactions that are not arm's length in the assessment of whether the security is sufficient? If so, why? If not, please explain why not.

- B4** We propose that, to rely on the proposed class order relief described in B1, issuers must meet the following requirements in relation to reporting:

- (a) the issuer includes in its quarterly report, required under s283BF of the Corporations Act, an update of the detailed explanation of the security; and
- (b) the issuer publishes its quarterly report, with the detailed explanation of the security, on its website each time the quarterly report is due.

The version of the quarterly report to be published on an issuer's website or emailed to investors under proposal B4(b) would not need to include details of:

- (i) circumstances under s283BF(c)(i) unless they materially prejudice the borrower or any of the guarantors;
- (ii) a change to a subsidiary's business under s283BF(4)(d) unless the change is also a substantial change in the nature of the business of the borrower or of any of the guarantors; or
- (iii) a matter specified in s283BF(4)(a) and (b)(iii) (which deal with compliance with the terms of the note and the trust deed and whether any right or remedy under the terms of the note or the trust deed has become immediately enforceable) unless it is material to the holders of the 'notes'.

Your feedback

B4Q1 Do you agree that the updates of the detailed explanation of the security in the quarterly report should be published on the issuer's website? If not, please explain why.

B4Q2 ASIC has provided relief, in the context of listed debenture offers, that is conditional on issuers establishing an email facility to allow investors to be notified by email when a new quarterly report (or other ongoing disclosure) is available: see [CO 10/321] *Offers of vanilla bonds*. Do you consider that our proposed relief for the naming of debentures should also be conditional on issuers making this type of email facility available to investors? Please explain why.

B4Q3 Do you think it would generally benefit all debenture issuers to publish their quarterly report on their website or provide them to investors via email? If not please explain why.

B4Q4 We are proposing to allow issuers to publish a modified version of the quarterly report on their website rather than the full report. Do you agree that these changes are necessary and appropriate? If not, please explain why. If the full report is not published, will that raise any investor protection concerns?

Rationale

- 17 ASIC is proposing this new naming approach because we think there are products that are not accurately described as either debentures or unsecured notes. The introduction of a new category, 'notes', may more accurately describe these products.
- 18 We have asked a specific question, in B1Q2, on whether certain debt instruments should instead be described as 'secured notes'. Our preliminary view is that the term 'notes' is preferable to 'secured notes' because 'secured notes' may create confusion about what a debenture is, or how the two categories relate to one another. We also think that terms such as 'secure'

and ‘secured’ convey an impression of a safe investment and have a disproportionate effect on retail investors. Further, we consider that the use of the term ‘notes’ is consistent with the purpose of s283BH of the Corporations Act, which is to categorise similar products, as well as to promote retail investor understanding of the risks associated with investment in these products. We also consider that it is important that the confirmation required from issuers effectively mirrors, as much as possible, the statutory language in s283BH of the Corporations Act relating to when a product can be called a ‘debenture’.

- 19 Where issuers refer to their product as ‘notes’ for the purposes of s283BH of the Corporations Act, we think that offer documents relating to the notes should clearly and prominently set out information relating to the underlying security arrangement of the notes. We also think that, where some security is provided, issuers could provide information that is clearly set out and in a way that will focus an investor’s attention on the quality of the security in place. Investors should have clear information on the security arrangements relating to their investment and any limitations associated with its recoverability.
- 20 We take the view that a detailed explanation of the underlying security is information ordinarily required to be in a prospectus under the general disclosure test. It should be presented in a manner consistent with the disclosure benchmarks in RG 69. This will assist in conveying key information to investors considering the prospectus.
- 21 We also consider that quarterly updates by the issuer on whether it remains entitled to refer to its product as a ‘note’ is likely to assist trustees in their ongoing monitoring of issuers. These updates, along with an issuer’s quarterly report, will assist the trustee in understanding the issuer’s view on whether the assets that constitute the security for the charge are sufficient and are reasonably likely to be sufficient to meet the liabilities to investors.
- 22 We expect investors will also benefit from the information being accessible on the issuer’s website or via email. However, we are proposing to allow the versions of the quarterly reports included on the issuer’s website to exclude certain information that is not material to the issuer or guarantors, or to ‘note holders’. This approach to quarterly reporting and electronic disclosure is consistent with other initiatives in Regulatory Guide 213 *Facilitating debt raising* (RG 213) and Regulatory Guide 198 *Unlisted disclosing entities: Continuous disclosure* (RG 198) where issuers facilitate investor access to ongoing disclosure (including periodic updates of key disclosures).
- 23 Because we are publicly consulting on whether we should revise our policy in Section G of RG 69 regarding how debentures can be described, we are extending the interim no-action position for a further three months so that, subject to our policy review, issuers will need to fully comply with s283BH in documents relating to an offer of notes from 1 October 2011.

C Proposal: Revising the advertising requirements

Key points

We are proposing to merge the current 'repayment of principal' and 'comparison with bank deposit' advertising standards for debentures and unsecured notes under RG 156 and for mortgage schemes under RG 45.

The revised wording highlights for retail investors the different nature of these products compared with a bank deposit.

Issuers of debentures and unsecured notes and responsible entities of mortgage schemes that have or will have advertisements complying with the current repayment of principal standard and comparison with bank deposit standard will not be required to amend their advertisements if these standards are revised.

Our proposal

Proposal

- c1 We propose to update RG 156 and RG 45 by revising the repayment of principal and comparison with bank deposit advertising standards. We propose that these standards will be merged to become one of the following:
- (a) this product is not a bank deposit and, accordingly, repayment of the money you have invested is less certain; or
 - (b) this product is not a bank deposit and, accordingly, there is more risk you could lose some or all of your money.

Your feedback

- C1Q1 Do you agree with this proposal? Please explain why or why not.
- C1Q2 Which of the proposed standards do you think is better? Please explain why.
- C1Q3 Do you think the proposed standards should also refer to deposits with credit unions and building societies in addition to bank deposits? Please explain why.
- C1Q4 Do you think the proposed standards raise sufficient awareness to fulfil the primary objective of protecting investors from being misled or from confusing the risks of these products with the risks of bank deposits? Please explain why.

C1Q5 Do you think ASIC should remove the repayment of principal and comparison with bank deposit standards entirely from RG 156 and RG 45? If so, please explain why.

Rationale

- 24 We note that a debenture, in its simplest form, is an undertaking to repay the amount invested with interest at a future point in time. The term of the debenture may be a set period or it may even be ‘at call’. The nature of the product means that it is susceptible to being confused with a bank deposit, especially where advertising is used to attract funds in competition with a bank product. Confusion is also likely to occur where there are marked similarities between the features of a debenture, note or unsecured note and a bank deposit—for example, where debentures, notes or unsecured notes are issued on terms ‘at call’ or with similar transaction features as bank deposits.
- 25 RG 156 and RG 45 provide guidance on debenture, unsecured note and mortgage scheme advertisements to address this risk of confusion. These regulatory guides provide that issuers of debentures and unsecured notes and responsible entities of mortgage schemes that fail to comply with the advertising standards risk making false or misleading statements or engaging in misleading or deceptive conduct. One of these standards is that all advertisements for notes that are offered to retail investors should include a prominent statement to the effect that investors risk losing some or all of their principal investment (i.e. the ‘repayment of principal’ standard). Another is that advertisements for notes should state that the note is not a bank deposit (i.e. the ‘comparison with bank deposit’ standard).
- 26 However, concerns have been expressed that, in particular, the repayment of principal standard is too harsh on debenture and unsecured note issuers. This concern has arisen because the advertising standards only apply to advertisements for debentures, unsecured notes and interests in mortgage schemes, even though the risk of losing some or all of the principal investment is not confined to investment in these products.
- 27 We believe that, by effectively merging the repayment of principal standard with the comparison with bank deposit standard, our proposal removes the perceived harshness of the current repayment of principal standard and more closely aligns our policy with the problem we are trying to address—that is, to protect retail investors from confusing debentures, unsecured notes or mortgage scheme investments with a bank deposit. We consider that either of the proposed modifications to the advertising standards highlights the different nature of the products, rather than simply highlighting the consequences of the inherent risk of business failure.

- 28 We consider that investors either receiving advice or having regard to our investor guide on these products should appreciate the underlying business model and security arrangements and understand that repayment of a debenture, note, unsecured note or interest in a managed investment scheme is less certain than with a bank deposit. It is important for investors to understand that debentures, notes and unsecured notes do not have the protective features of a bank deposit.
- 29 Issuers of debentures and unsecured notes and responsible entities of mortgage schemes that have or will have advertisements complying with the current standards will not be required to amend their advertisements if the standards are revised.
- 30 Further, the advertising standard in both RG 156 and RG 45 relating to 'risk free' suggestions shall remain unaffected by the proposed changes.
- 31 We will continue to monitor the market and the level of investor understanding of these types of financial products to ensure that the advertising standards in RG 156 and RG 45 are appropriate and relevant.

D Regulatory and financial impact

- 32 In developing the proposals in this paper, we have carefully considered their regulatory and financial impact. On the information currently available to us we think they will strike an appropriate balance between:
- (a) promoting disclosure that better informs investors about the business models and risks of debenture issuers; and
 - (b) not unduly interfering with the market and the flexibility of the public fundraising process.
- 33 Before settling on a final policy, we will comply with the Australian Government's regulatory impact analysis (RIA) requirements by:
- (a) considering all feasible options, including examining the likely impacts of the range of alternative options which could meet our policy objectives;
 - (b) if regulatory options are under consideration, notifying the Office of Best Practice Regulation (OBPR); and
 - (c) if our proposed option has more than minor or machinery impact on business or the not-for-profit sector, preparing a Regulation Impact Statement (RIS).
- 34 All RISs are submitted to the OBPR for approval before we make any final decision. Without an approved RIS, ASIC is unable to give relief or make any other form of regulation, including issuing a regulatory guide that contains regulation.
- 35 To ensure that we are in a position to properly complete any required RIS, we ask you to provide us with as much information as you can about:
- (a) the likely compliance costs;
 - (b) the likely effect on competition; and
 - (c) other impacts, costs and benefits,
- of our proposals or any alternative approaches: see 'The consultation process', p. 4.

Key terms

Term	Meaning in this document
ASIC	Australian Securities and Investments Commission
bank deposit	A deposit with a bank, building society or credit union regulated by the Australian Prudential Regulation Authority
Corporations Act	<i>Corporations Act 2001 (Cth)</i> , including regulations made for the purposes of that Act
RG 156 (for example)	An ASIC regulatory guide (in this example numbered 156)
s283BH (for example)	A section of the Corporations Act (in this example, numbered 283BH)

List of proposals and questions

Proposal	Your feedback
<p>B1 We propose to modify the law (by way of class order relief) to enable certain debt instruments to be described as a 'note', for the purposes of s283BH of the Corporations Act, in the circumstances set out in B2–B4.</p>	<p>B1Q1 Do you agree with the proposal to introduce this new category of 'notes'? If not, please explain why.</p> <p>B1Q2 Do you consider we should instead permit the use of the term 'secured note' to describe debt instruments that are offered in the circumstances set out in B2–B4? Please explain why. If not, please describe a preferred term.</p> <p>B1Q3 Do you think that the proposed class order relief or the alternative term, 'secured notes', would benefit or disadvantage issuers and/or investors? Please provide your reasons.</p>
<p>B2 We propose that, to rely on the proposed class order relief described in B1, issuers must meet the following requirements in relation to security over assets:</p> <p>(a) the issuer, or any guarantor, provides a first ranking charge in favour of the trustee over property (including intangible property);</p> <p>(b) the issuer provides a detailed explanation of the security (including a confirmation of the sufficiency of the assets supporting the security) in any disclosure document relating to the offer; and Note: See proposal B3 for details of the explanation of the security.</p> <p>(c) the issuer prominently discloses, in documents relating to the offer, how the product is classified under the modified s283BH of the Corporations Act.</p>	<p>B2Q1 Do you think that issuers should be able to describe their product as a 'note' where the issuer, or any guarantor, has provided security other than a first ranking charge in favour of the trustee over property—for example, a second ranking charge? If so, please explain why.</p> <p>B2Q2 Do you agree with these security conditions? If not, please explain why.</p>
<p>B3 We propose that the detailed explanation of the security described in B2(b) should disclose:</p> <p>(a) information on the nature of the first ranking charge;</p> <p>(b) a description of the assets secured by the charge; and</p> <p>(c) a statement that the assets that constitute the security for the charge are sufficient and are reasonably likely to be sufficient to meet the liabilities for the repayment of all such money and all other liabilities:</p> <p>(i) that have been made or incurred; and</p> <p>(ii) that rank in priority to, or equally with, that liability.</p>	<p>B3Q1 Are there any practical concerns with providing a detailed explanation of the underlying security in a manner consistent with the presentation of benchmark disclosure in RG 69 in disclosure documents and ongoing disclosures (including quarterly reports) as proposed? If so, please explain why.</p> <p>B3Q2 Is there any other information about the security that should be disclosed? If so, what is it?</p> <p>B3Q3 Should the issuer be able to include receivables from related parties or from transactions that are not arm's length in the assessment of whether the security is sufficient? If so, why? If not, please explain why not.</p>

Proposal	Your feedback
<p>B4 We propose that, to rely on the proposed class order relief described in B1, issuers must meet the following requirements in relation to reporting:</p> <ul style="list-style-type: none"> (a) the issuer includes in its quarterly report, required under s283BF of the Corporations Act, an update of the detailed explanation of the security; and (b) the issuer publishes its quarterly report, with the detailed explanation of the security, on its website each time the quarterly report is due. <p>The version of the quarterly report to be published on an issuer's website or emailed to investors under proposal B4(b) would not need to include details of:</p> <ul style="list-style-type: none"> (i) circumstances under s283BF(c)(i) unless they materially prejudice the borrower or any of the guarantors; (ii) a change to a subsidiary's business under s283BF(4)(d) unless the change is also a substantial change in the nature of the business of the borrower or of any of the guarantors; or (iii) a matter specified in s283BF(4)(a) and (b)(iii) (which deal with compliance with the terms of the note and the trust deed and whether any right or remedy under the terms of the note or the trust deed has become immediately enforceable) unless it is material to the holders of the 'notes'. 	<p>B4Q1 Do you agree that the updates of the detailed explanation of the security in the quarterly report should be published on the issuer's website? If not, please explain why.</p> <p>B4Q2 ASIC has provided relief, in the context of listed debenture offers, that is conditional on issuers establishing an email facility to allow investors to be notified by email when a new quarterly report (or other ongoing disclosure) is available: see [CO 10/321] <i>Offers of vanilla bonds</i>. Do you consider that our proposed relief for the naming of debentures should also be conditional on issuers making this type of email facility available to investors? Please explain why.</p> <p>B4Q3 Do you think it would generally benefit all debenture issuers to publish their quarterly report on their website or provide them to investors via email? If not please explain why.</p> <p>B4Q4 We are proposing to allow issuers to publish a modified version of the quarterly report on their website rather than the full report. Do you agree that these changes are necessary and appropriate? If not, please explain why. If the full report is not published, will that raise any investor protection concerns?</p>
<p>C1 We propose to update RG 156 and RG 45 by revising the repayment of principal and comparison with bank deposit advertising standards. We propose that these standards will be merged to become one of the following:</p> <ul style="list-style-type: none"> (a) this product is not a bank deposit and, accordingly, repayment of the money you have invested is less certain; or (c) this product is not a bank deposit and, accordingly, there is more risk you could lose some or all of your money. 	<p>C1Q1 Do you agree with this proposal? Please explain why or why not.</p> <p>C1Q2 Which of the proposed standards do you think is better? Please explain why.</p> <p>C1Q3 Do you think the proposed standards should also refer to deposits with credit unions and building societies in addition to bank deposits? Please explain why.</p> <p>C1Q4 Do you think the proposed standards raise sufficient awareness to fulfil the primary objective of protecting investors from being misled or from confusing the risks of these products with the risks of bank deposits? Please explain why.</p> <p>C1Q5 Do you think ASIC should remove the repayment of principal and comparison with bank deposit standards entirely from RG 156 and RG 45? If so, please explain why.</p>