



ASIC

Australian Securities & Investments Commission

CONSULTATION PAPER 211

Facilitating electronic offers of securities: Update to RG 107

June 2013

About this paper

This consultation paper sets out ASIC's proposals for updating our guidance in Regulatory Guide 107 *Electronic prospectuses* (RG 107) to facilitate the use of the internet and other electronic means to make offers of securities under Ch 6D of the *Corporations Act 2001* (Corporations Act).

It seeks the views of retail investors, persons offering securities, and distributors and publishers, on our proposals on the distribution of disclosure documents and application forms for offers of securities using the internet and other electronic means.

This paper attaches a draft updated version of RG 107 (draft updated RG 107), renamed *Fundraising: Facilitating electronic offers of securities*, which incorporates our guidance in Regulatory Guide 150 *Electronic applications and dealer personalised applications* (RG 150), and seeks feedback on our proposed guidance.

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 17 June 2013 and is based on the Corporations Act as at the date of issue.

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 electronic disclosure under the fundraising provisions in Ch 6D of the Corporations Act. 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 C, '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 12 August 2013 to:

Alyssa Frederick
Senior Lawyer
Corporations
Australian Securities and Investments Commission
Level 29, 120 Collins Street
Melbourne VIC 3000
GPO Box 9827 Melbourne VIC 3001
Facsimile: 03 9280 3288
Email: policy.submissions@asic.gov.au

What will happen next?

Stage 1	17 June 2013	Release of ASIC consultation paper and draft updated RG 107
Stage 2	12 August 2013 October 2013	Comments due on the consultation paper Final drafting of updated regulatory guide
Stage 3	November 2013	Updated regulatory guide released

A Background to the proposals

Key points

Disclosure documents used for offers of securities have historically been lengthy paper-based documents. However, it is becoming increasingly common for persons offering securities (offerors) under Ch 6D of the *Corporations Act 2001* (Corporations Act) to make offers for securities using the internet and other electronic means. It is also becoming increasingly important for investors to receive and access information electronically.

This paper sets out our proposals to assist offerors that use the internet and other electronic means to make offers of securities. We have attached to this paper a draft update to Regulatory Guide 107 *Electronic prospectuses* (RG 107), incorporating our proposed amendments to both RG 107 and Regulatory Guide 150 *Electronic applications and dealer personalised applications* (RG 150).

We are seeking comments on:

- our proposed revocation of Class Order [CO 00/44] *Electronic disclosure documents, electronic application forms and dealer personalised applications* and whether this is consistent with the use of the internet and other electronic means for making offers of securities;
- our proposed revisions to RG 107, including our proposed 'good practice guidance' and whether this will assist offerors that use the internet and other electronic means to make offers of securities;
- our proposed class order to permit the continued use of personalised and Australian financial services (AFS) licensee created application forms; and
- your experience of current market practices involving the distribution of disclosure documents and application forms, including the use of paper, the internet and other electronic means.

Facilitating electronic offers of securities

- 1 There are many advantages of using the internet and other electronic means to distribute disclosure documents and application forms for offers of securities, including the ease and convenience of use for investors. Electronic disclosure documents and electronic application forms can also be more interactive, which can make the information easier to read and understand for investors. The use of electronic disclosure documents also has advantages for offerors, distributors and publishers by reducing costs and increasing the speed and availability of information.

Note: In this document, 'offeror' means any person making an offer of securities under Ch 6D and also includes any person issuing or transferring securities under Ch 6D.

Offering securities includes inviting applications for the issue of securities and inviting offers to purchase the securities: s700(2).

- 2 It is also important to maintain the availability of paper-based disclosure documents and application forms for individuals without access to the internet or for those who still prefer to receive paper versions of these documents.

Consultation Paper 155

- 3 In April 2011 we released Consultation Paper 155 *Prospectus disclosure: Improving disclosure for retail investors* (CP 155) to stimulate discussion on, among other things, how disclosure documents under Ch 6D of the Corporations Act can be made more ‘clear, concise and effective’. In particular, we asked questions to help us determine whether further ASIC guidance may be needed to facilitate the use of the internet and other electronic means to distribute disclosure documents.

Note: In this document, references to sections (s), divisions (Divs), parts (Pts) and chapters (Chs) are to the Corporations Act, unless otherwise specified.

- 4 In November 2011 we released Report 261 *Response to submissions on CP 155 Prospectus disclosure: Improving disclosure for retail investors* (REP 261), which provided a summary of the submissions received in response to CP 155. As noted in REP 261, some submissions argued that our existing relief and guidance needed to be updated to reflect advances in technology.
- 5 There was also a request for clarification on the application of [CO 00/44] on the basis that there was some industry uncertainty about whether class order relief was actually needed. Other submissions stated that paper disclosure documents should not be discontinued because some investors do not have adequate access to the internet.
- 6 In REP 261, we noted that the issues involved with electronic disclosure documents were complex and, as a result, more extensive revisions and consultation would be required to advance any changes to our guidance or relief.

Our proposals

- 7 Taking into account the submissions we received in response to CP 155, we have considered our regulatory approach to the use of the internet and other electronic means for making offers of securities. In particular, we have reviewed our interpretation of the fundraising provisions in the Corporations Act and the application of our class order relief in [CO 00/44].

- 8 As a result of this review, we are consulting on our proposed updated guidance and relief, which aim to assist offerors, distributors and publishers by:
- (a) explaining our interpretation of the fundraising provisions in Ch 6D and the application of these provisions to using the internet and other electronic means for the distribution of disclosure documents and application forms (see proposal B1);
 - (b) revoking [CO 00/44] and issuing a new class order for personalised or AFS licensee created application forms (see proposal B1);
 - (c) providing good practice guidance to assist offerors, distributors and publishers in using the internet and other electronic means when making offers of securities (see proposals B2–B5); and
 - (d) incorporating our previous guidance in Regulatory Guide 150 *Electronic applications and dealer personalised applications* (RG 150) (now superseded SRG 150) into our good practice guidance (see proposal B5).
- 9 We think that our proposed guidance and relief better reflect recent developments in technology and current market practices for distributing disclosure documents and application forms using the internet and other electronic means when making offers of securities.
- 10 We also think that our proposed good practice guidance will assist offerors, distributors and publishers with using the internet and other electronic means to comply with their legal obligations in a way that is both commercially practicable and investor focused.
- 11 The underlying objective of our proposals is to balance the benefits of improved efficiency and business with the need to ensure that investors are confident and informed and the principles underlying Ch 6D are observed.

B Proposed amendments to our guidance and relief

Key points

This section sets out our proposed guidance on the application of the fundraising provisions in Ch 6D to the use of the internet and other electronic means for the distribution of disclosure documents and application forms.

In our guidance, we are proposing to clarify how offerors can make offers using electronic disclosure documents and electronic application forms without the need for ASIC relief: see proposal B1.

We are also proposing to provide good practice guidance to assist offerors, distributors and publishers to comply with the law when distributing disclosure documents and application forms using the internet and other electronic means, and to ensure that retail investors continue to receive clear, concise and effective disclosure: see proposal B2.

We discuss specific aspects of our proposed good practice guidance on:

- the methods of electronic distribution (see proposal B3);
- the permissible differences between paper and electronic disclosure documents (see proposal B4); and
- the use of electronic application forms and facilities (see proposal B5).

Proposed revocation of [CO 00/44] and new class order relief for personalised or AFS licensee created application forms

Proposal

B1 We propose to revoke the class order relief in [CO 00/44] for electronic disclosure documents and electronic application forms because we think that these documents can be made available to investors through the internet and other electronic means in compliance with Ch 6D without relief.

We propose to continue our relief for personalised or AFS licensee created application forms through a new class order.

Your feedback

B1Q1 Do you agree with our proposed revocation of [CO 00/44]?
If not, why not?

- B1Q2 Do you use personalised or AFS licensee created application forms? If yes, how often do you use this type of application form, for what types of securities offering do you use this type of application form, and why do you use this type of application form?
- B1Q3 Do you agree that we should continue our class order relief for personalised and AFS licensee created application forms? If not, why not?
- B1Q4 Do you consider any other ASIC relief would be desirable (either similar to [CO 00/44] or otherwise)?

Rationale

- 12 In light of our understanding of current market practices for distributing electronic disclosure documents and electronic application forms, we consider that it is no longer necessary to retain our class order relief for the use and distribution of electronic disclosure documents and electronic application forms. We consider that class order relief is still required for the issue of securities where personalised or AFS licensee created application forms are used.
- 13 ASIC granted relief to permit electronic disclosure documents, electronic application forms and personalised application forms before the enactment of the *Corporate Law Economic Reform Program Act 1999* (CLERP Act). We granted this relief because the old Corporations Law did not otherwise permit the use of electronic disclosure documents, electronic application forms or personalised application forms.
- 14 We continued the relief under [CO 00/44] to remove legal doubts, while the use of electronic technologies was still relatively new, about whether electronic disclosure documents and electronic application forms were permitted under Ch 6D. We consider that the use of electronic technologies for making offers of securities is now more advanced and that the same doubts no longer exist.
- 15 We consider that the provisions in Ch 6D allow for the distribution of disclosure documents and application forms using the internet or other electronic means. Specifically, we note that there is no requirement in Ch 6D for a disclosure document or application form used for an offer of securities to be in a prescribed form.
- 16 We therefore consider that there is no requirement in Ch 6D for a disclosure document to be printed and provided on paper only (other than the provisions dealing with the lodgement of documents with ASIC which requires paper lodgement, and which will be retained). As such, we think that the Ch 6D requirements may be satisfied by the distribution, using the

- internet or other electronic means, of a disclosure document to investors that is the same as the paper disclosure document lodged with ASIC.
- 17 Offerors, distributors and publishers who distribute an electronic disclosure document that is materially different in content and presentation from that of the paper disclosure document lodged with ASIC may contravene Ch 6D.
- 18 Generally, we consider that the use of electronic disclosure documents would only be prohibited if the policy objectives underlying the provisions of Ch 6D have not been met or are being avoided—for example, if there are material differences between the electronic disclosure document and the paper disclosure document lodged with ASIC that are likely to mislead or deceive.
- 19 We are proposing to continue to provide relief to permit applications being received in response to a personalised or AFS licensee created application form, being either paper or electronic application forms. We consider that s723 does not permit the use of personalised or AFS licensee created application forms unless they are distributed by the person issuing or transferring the securities. We believe that the use of personalised or AFS licensee created application forms should continue to be permitted under Ch 6D as long as certain conditions are complied with, including ensuring that the application form was included or accompanied by the disclosure document.
- 20 We are seeking feedback on how often personalised or AFS licensee created application forms are used, for what type of offerings and why they are currently being used, to understand whether the proposed class order relief is relevant to current market practice.

Proposed good practice guidance for electronic disclosure documents and electronic application forms

Proposal

- B2** We propose to issue good practice guidance for the use and distribution of electronic disclosure documents and electronic application forms, as set out in Section D of the draft updated RG 107 (attached to this paper), to ensure that retail investors continue to receive clear, concise and effective disclosure.

Our proposed good practice guidance applies to any electronic method of distributing disclosure documents and application forms for offers of securities.

Your feedback

- B2Q1 Do you agree with our proposed good practice guidance in Section D of the draft updated RG 107? If not, which part(s) of the guidance do you disagree with and why?
- B2Q2 Do you think that the good practice guidance is useful? If not, what other guidance do you think is necessary to help offerors, distributors and publishers comply with the law and to promote confident and informed retail investors?
- B2Q3 Are there any practical problems with our proposed good practice guidance? Please give details.
- B2Q4 Do you think our proposed good practice guidance is too restrictive? If so, please provide details.
- B2Q5 Do you think that our proposed good practice guidance is likely to result in additional compliance costs for offerors? Please give details, including your reasons and the specific costs involved.
- B2Q6 Do you think that our proposed good practice guidance is likely to result in additional risks or costs for investors? Please give details, including any figures and reasons.

Rationale

- 21 We aim to facilitate the use of the internet and other electronic means for distributing disclosure documents for offers of securities. Our proposed good practice guidance is aimed at assisting offerors, distributors and publishers involved in the distribution of disclosure documents and application forms using the internet or other electronic means to comply with their legal obligations in a way that is commercially practicable and investor focused.
- 22 Our proposals aim to strike a balance between the practical and commercial realities faced by offerors and the need to try to mitigate some of the risks to investors associated with the internet and other electronic means. These risks include that:
- (a) investors may receive an application form without a disclosure document;
 - (b) a disclosure document may have been tampered with or altered;
 - (c) investors may be exposed to phishing, scams or fraud involving their personal details; and
 - (d) investors may be unsure whether the information they are reading is promotional material or part of the disclosure document, and may not make investment decisions based on the disclosure document.
- 23 Offerors, distributors and publishers should take into consideration our good practice guidance when distributing disclosure documents and application

forms using the internet or other electronic means: see proposals B3, B4 and B5 for a discussion on specific details of our proposed good practice guidance.

Methods of electronic distribution

Proposal

B3 In Principles 1–8 of our proposed good practice guidance in Section D of the draft updated RG 107, we set out guidance on the methods we believe offerors, distributors and publishers should use to distribute disclosure documents and application forms to investors using the internet or other electronic means.

In particular, we propose to issue guidance on:

- (a) how to make electronic disclosure documents easy for investors to access, read, retrieve and save; and
- (b) how to minimise exposure to the risks associated with electronic distribution, such as unauthorised tampering and security risks.

We also think it is good practice for offerors and distributors to continue to make free paper copies of disclosure documents and application forms available to investors on request.

Your feedback

- B3Q1** Do you agree with our proposed guidance in Principles 1–8? If not, which part(s) of the guidance do you disagree with and why?
- B3Q2** In Principle 1, we have listed the most likely means by which electronic documents are currently made available to investors. Are there any other means of electronic distribution that are not listed and that are currently being used in the market?
- B3Q3** In relation to Principle 4, do you use, or are you aware of, any other measures that offerors, distributors or publishers take to protect electronic disclosure documents from unauthorised alteration or tampering? Please provide details.
- B3Q4** In relation to Principle 5, do you agree that offerors and distributors should continue to make paper copies of disclosure documents and application forms available free of charge to investors? If not, why not?
- B3Q5** In your experience, is paper still the primary means of distributing disclosure documents in the market? If so, what are the reasons for not using the internet or other electronic distribution channels?
- B3Q6** If you mostly distribute disclosure documents electronically, do you receive many requests for paper copies? If available, please provide us with any figures on the use of paper and electronic disclosure documents.

B3Q7 In relation to Principle 7, what do you think is a reasonable period of time for offerors, distributors and publishers to ensure that disclosure documents remain accessible from a link, website or electronic facility?

Rationale

- 24 In light of the increasing use of the internet and other electronic means for the distribution of disclosure documents and application forms, we aim to facilitate the use of technology for making offers of securities and giving disclosure.
- 25 In our regulatory guidance, we propose to clarify that, under the current law, disclosure documents and application forms can be distributed using the internet and technology, including by sending investors an email or notification with:
- (a) an electronic copy of the disclosure document that can be downloaded—for example, a portable document format (PDF) or tagged image file format (TIFF) file, or other similar formats that are widely available; and/or
 - (b) a hypertext link to the disclosure document, or a reference to a website address or electronic facility containing the disclosure document.
- Note: See Principle 1 in Section D of the draft updated RG 107.
- 26 We recognise that there may be other methods of distribution that are also possible under the law. It is up to the offeror to assess what is an appropriate method of distribution that allows investors to have access to the disclosure document in the future. This includes the ability to download, save or print the disclosure document.
- 27 Offerors should determine which method of making offers and giving disclosure best suits investors. Offerors, distributors and publishers should also implement reasonable measures to protect investors (and themselves) from the risk of fraud and unauthorised tampering with disclosure documents.
- 28 We also think that paper-based disclosure is still an important distribution channel for disclosure documents and application forms, particularly for those investors in remote areas or those with limited access to the internet. As such, our good practice guidance states that it is good practice for offerors and distributors to make paper copies of disclosure documents and application forms available to investors on request and free of charge.

Permissible differences between paper and electronic disclosure documents

Proposal

B4 In Principles 9 and 10 of our proposed good practice guidance in Section D of the draft updated RG 107, we set out what we think may be good practice for the preparation of electronic disclosure documents.

In particular, we propose that:

- (a) to comply with the requirements of Ch 6D, electronic disclosure documents must contain the same information in the same sequence and with the same prominence as the paper disclosure document lodged with ASIC; and
- (b) it is good practice for electronic disclosure documents to only contain hypertext links within the disclosure document itself or to documents lodged with ASIC and incorporated by reference under s712.

Your feedback

B4Q1 Do you agree with our proposed guidance in Principle 9? If not, why not?

B4Q2 Are there any practical problems with our proposed guidance in Principle 9? Please give details.

B4Q3 Do you agree with our proposed guidance in Principle 10 on the use of hypertext links in electronic disclosure documents?

B4Q4 Are there any other situations where you think hypertext links should be permitted? Please provide details.

Rationale

- 29 We think that the provisions in Ch 6D allow an offeror or distributor to distribute an electronic disclosure document if that document contains the same information in the same sequence and with same prominence as the paper disclosure document lodged with ASIC.
- 30 We recognise that the internet and other forms of electronic software have extended commercial capabilities and functionality, which we consider can make disclosure documents more interactive and easier for investors to read and understand. As such, we think that some differences between paper and electronic disclosure documents should be permitted, particularly where those differences enhance investors' understanding and their engagement with the document.
- 31 However, we think that differences between the paper disclosure document lodged with ASIC and the electronic disclosure document distributed to investors should only be allowed where those differences are immaterial and

reflect necessary adjustments or increased functionality when using the internet or other electronic means—for example:

- (a) the use of hypertext links only within the disclosure document itself and to documents incorporated by reference;
- (b) formatting changes required as a result of compatibility issues (i.e. font sizes, page margins and general formatting changes required, for example, as a result of displaying the document in an internet browser);
- (c) the use of software or other electronic means that does not affect the content of the document, such as:
 - (i) a facility for searching defined expressions;
 - (ii) prompts to assist investors to use and find information in the electronic disclosure document;
 - (iii) ‘pop-ups’ that explain definitions, in place of standard glossaries; or
 - (iv) a zoom facility so that investors may enlarge or reduce the size of the information displayed; and
- (d) prompts that encourage investors to read the disclosure document before they complete the application form. Such prompts should not contain substantive information that does not appear in the paper disclosure document lodged with ASIC.

32 We think that any differences made to the electronic disclosure document must not undermine the integrity of the paper disclosure document lodged with ASIC and must not cause an investor to confuse all or part of the disclosure document with any other document.

Guidance on electronic application forms and facilities

Proposal

B5 In Principles 11–13 of our proposed good practice guidance in Section D of the draft updated RG 107, we set out how offerors, distributors and publishers should make electronic application forms available to investors.

This proposed guidance also incorporates and updates our previous guidance in RG 150.

Your feedback

B5Q1 Are there any practical difficulties with our recommended reasonable measures in Principle 11 for ensuring that the electronic application form is distributed to investors with the electronic disclosure document? If yes, please provide details.

B5Q2 In relation to Principle 11, are there any other measures that offerors, distributors and publishers currently take that are not listed in the proposed good practice guidance? Please provide details.

B5Q3 In relation to Principle 12, do you agree that these warnings should be displayed on all electronic application forms and facilities? If not, why not? If yes, are you currently displaying these warnings on your electronic application forms?

B5Q4 In relation to Principle 13, do you agree that offerors and distributors should take reasonable measures to verify the identity of an applicant using an electronic application form or facility to apply for securities? If not, why not?

B5Q5 Do you think that Principles 11–13 of our proposed good practice guidance are too restrictive? If so, please provide details.

Rationale

33 We think there is an increased risk that investors may receive an application form without a disclosure document, or that investors may not make investment decisions based on the disclosure document, where the disclosure document or application form is distributed using the internet or other electronic means.

34 As such, we think that offerors, distributors and publishers must take reasonable measures to ensure that an investor who is issued with an electronic application form is given access, at the same time and by the same means, to the electronic disclosure document. In particular, we propose to issue guidance that the following steps should be taken:

- (a) the application form and disclosure document should be contained in the same electronic document file (e.g. a PDF or TIFF file);
- (b) if investors can apply for securities online, a mechanism should be used so that investors can only gain access to the electronic application form if they have first received and accessed the electronic disclosure document; and/or
- (c) if investors can apply for securities online, a mechanism should be used so that offerors can verify that the investor received and accessed the electronic disclosure document before accessing and completing the electronic application form.

35 We consider our proposed good practice guidance on electronic application forms and facilities will assist offerors, distributors and publishers to comply with their obligations under Ch 6D. In particular, our suggested measures for electronic application forms and our recommended warning statements are examples of ways in which offerors can satisfy themselves that there are reasonable grounds to believe that the electronic application form was included in, or accompanied by, an electronic disclosure document.

C Regulatory and financial impact

- 36 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) facilitating business activity by making compliance with the disclosure requirements for offers of securities easier;
 - (b) making it easier for retail investors to receive more timely information and user-friendly disclosure documents; and
 - (c) ensuring that retail investors understand and appreciate the risks associated with the internet and electronic environment.
- 37 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).
- 38 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.
- 39 To ensure that we are in a position to properly complete any required RIS, please give us as much information as you can about our proposals or any alternative approaches, including:
- (a) the likely compliance costs;
 - (b) the likely effect on competition; and
 - (c) other impacts, costs and benefits.

See 'The consultation process', p. 4.

List of proposals and questions

Proposal	Your feedback
<p>B1 We propose to revoke the class order relief in [CO 00/44] for electronic disclosure documents and electronic application forms because we think that these documents can be made available to investors through the internet and other electronic means in compliance with Ch 6D without relief.</p> <p>We propose to continue our relief for personalised or AFS licensee created application forms through a new class order.</p>	<p>B1Q1 Do you agree with our proposed revocation of [CO 00/44]? If not, why not?</p> <p>B1Q2 Do you use personalised or AFS licensee created application forms? If yes, how often do you use this type of application form, for what types of securities offering do you use this type of application form, and why do you use this type of application form?</p> <p>B1Q3 Do you agree that we should continue our class order relief for personalised and AFS licensee created application forms? If not, why not?</p> <p>B1Q4 Do you consider any other ASIC relief would be desirable (either similar to [CO 00/44] or otherwise)?</p>
<p>B2 We propose to issue good practice guidance for the use and distribution of electronic disclosure documents and electronic application forms, as set out in Section D of the draft updated RG 107 (attached to this paper), to ensure that retail investors continue to receive clear, concise and effective disclosure.</p> <p>Our proposed good practice guidance applies to any electronic method of distributing disclosure documents and application forms for offers of securities.</p>	<p>B2Q1 Do you agree with our proposed good practice guidance in Section D of the draft updated RG 107? If not, which part(s) of the guidance do you disagree with and why?</p> <p>B2Q2 Do you think that the good practice guidance is useful? If not, what other guidance do you think is necessary to help offerors, distributors and publishers comply with the law and to promote confident and informed retail investors?</p> <p>B2Q3 Are there any practical problems with our proposed good practice guidance? Please give details.</p> <p>B2Q4 Do you think our proposed good practice guidance is too restrictive? If so, please provide details.</p> <p>B2Q5 Do you think that our proposed good practice guidance is likely to result in additional compliance costs for offerors? Please give details, including your reasons and the specific costs involved.</p> <p>B2Q6 Do you think that our proposed good practice guidance is likely to result in additional risks or costs for investors? Please give details, including any figures and reasons.</p>

Proposal	Your feedback
<p>B3 In Principles 1–8 of our proposed good practice guidance in Section D of the draft updated RG 107, we set out guidance on the methods we believe offerors, distributors and publishers should use to distribute disclosure documents and application forms to investors using the internet or other electronic means.</p> <p>In particular, we propose to issue guidance on:</p> <ul style="list-style-type: none"> (a) how to make electronic disclosure documents easy for investors to access, read, retrieve and save; and (b) how to minimise exposure to the risks associated with electronic distribution, such as unauthorised tampering and security risks. <p>We also think it is good practice for offerors and distributors to continue to make free paper copies of disclosure documents and application forms available to investors on request.</p>	<p>B3Q1 Do you agree with our proposed guidance in Principles 1–8? If not, which part(s) of the guidance do you disagree with and why?</p> <p>B3Q2 In Principle 1, we have listed the most likely means by which electronic documents are currently made available to investors. Are there any other means of electronic distribution that are not listed and that are currently being used in the market?</p> <p>B3Q3 In relation to Principle 4, do you use, or are you aware of, any other measures that offerors, distributors or publishers take to protect electronic disclosure documents from unauthorised alteration or tampering? Please provide details.</p> <p>B3Q4 In relation to Principle 5, do you agree that offerors and distributors should continue to make paper copies of disclosure documents and application forms available free of charge to investors? If not, why not?</p> <p>B3Q5 In your experience, is paper still the primary means of distributing disclosure documents in the market? If so, what are the reasons for not using the internet or other electronic distribution channels?</p> <p>B3Q6 If you mostly distribute disclosure documents electronically, do you receive many requests for paper copies? If available, please provide us with any figures on the use of paper and electronic disclosure documents.</p> <p>B3Q7 In relation to Principle 7, what do you think is a reasonable period of time for offerors, distributors and publishers to ensure that disclosure documents remain accessible from a link, website or electronic facility?</p>

Proposal	Your feedback
<p>B4 In Principles 9 and 10 of our proposed good practice guidance in Section D of the draft updated RG 107, we set out what we think may be good practice for the preparation of electronic disclosure documents.</p> <p>In particular, we propose that:</p> <p>(a) to comply with the requirements of Ch 6D, electronic disclosure documents must contain the same information in the same sequence and with the same prominence as the paper disclosure document lodged with ASIC; and</p> <p>(b) it is good practice for electronic disclosure documents to only contain hypertext links within the disclosure document itself or to documents lodged with ASIC and incorporated by reference under s712.</p>	<p>B4Q1 Do you agree with our proposed guidance in Principle 9? If not, why not?</p> <p>B4Q2 Are there any practical problems with our proposed guidance in Principle 9? Please give details.</p> <p>B4Q3 Do you agree with our proposed guidance in Principle 10 on the use of hypertext links in electronic disclosure documents?</p> <p>B4Q4 Are there any other situations where you think hypertext links should be permitted? Please provide details.</p>
<p>B5 In Principles 11–13 of our proposed good practice guidance in Section D of the draft updated RG 107, we set out how offerors, distributors and publishers should make electronic application forms available to investors.</p> <p>This proposed guidance also incorporates and updates our previous guidance in RG 150.</p>	<p>B5Q1 Are there any practical difficulties with our recommended reasonable measures in Principle 11 for ensuring that the electronic application form is distributed to investors with the electronic disclosure document? If yes, please provide details.</p> <p>B5Q2 In relation to Principle 11, are there any other measures that offerors, distributors and publishers currently take that are not listed in the proposed good practice guidance? Please provide details.</p> <p>B5Q3 In relation to Principle 12, do you agree that these warnings should be displayed on all electronic application forms and facilities? If not, why not? If yes, are you currently displaying these warnings on your electronic application forms?</p> <p>B5Q4 In relation to Principle 13, do you agree that offerors and distributors should take reasonable measures to verify the identity of an applicant using an electronic application form or facility to apply for securities? If not, why not?</p> <p>B5Q5 Do you think that Principles 11–13 of our proposed good practice guidance are too restrictive? If so, please provide details.</p>