ASIC

Australian Securities & Investments Commission

**REPORT 23**

# A model for fee disclosure in product disclosure statements for investment products

July 2003

The fee disclosure model issued with this report in July 2003 was replaced with a revised fee disclosure model in June 2004: see Appendix A.

The revised model has been superseded by the requirements of the *Corporations Amendment Regulations 2005 (No.1)* (the enhanced fee disclosure regulations). For answers to some common questions about these regulations, see Regulatory Guide 97 *Enhanced fee disclosure regulations: Questions and answers* (RG 97).

# What this report is about

The aim of this report is to:

(a) provide issuers of investment products with a good practice model for disclosing fees in a discrete fees section of a Product Disclosure Statement (PDS);

(b) explain how the good practice model was developed (in consultation with key stakeholders);

(c) outline potential areas for further improvement in disclosing fees and charges in a PDS.

## Contents

# Section 1 Introduction

1.1 On 20 December 2001, ASIC announced the first stage of a new project to foster better disclosure of fees and charges in product disclosure statements (PDS) for investment products. This project followed the release of ASIC Policy Statement 168 *Disclosure: Product Disclosure Statements (and other disclosure obligations)* foreshadowing further work on key disclosure subject matters (eg fees, risks) to promote better comparability between products.

1.2 In early 2002, as part of our fee disclosure project, we commissioned Professor Ian Ramsay to report on the disclosure of fees and charges in managed funds. A report titled *Disclosure of Fees and Charges in Managed Funds* (the Ramsay report) was released in September 2002. This marked the completion of the first stage of our fee[1] disclosure project. Following the release of the Ramsay report, the Senate disallowance of the more prescriptive superannuation disclosure requirements in the Corporations Regulations[2] and initial consultations with key stakeholders, we decided to try and foster industry consensus on a good practice model for disclosing fees. Our aim was to assist product issuers to comply with sections 1013C and 1013D of the *Corporations Act 2001* by addressing issues identified in the Ramsay report, such as:

- use of common terms;
- standardised descriptions;
- the purpose of particular fees;
- improved disclosure of adviser remuneration arrangements; and
- transparency of fees.

1.3 We decided to use the Ramsay report as the cornerstone for building consensus. We saw the project as an exciting opportunity to develop a good practice model for fee disclosure, with a consumer focus.

1.4 This report outlines the development of our good practice fee disclosure model for inclusion in a PDS for investment products. We developed this model in consultation with stakeholders and we acknowledge their valuable contribution during this process. The model proposes an “at a glance” table for the disclosure of significant fees. It necessarily represents a compromise between the diversity of views and

[1] In this report, the term "fee" includes all fees relating to a financial product however charged or described. It includes fees, charges, costs and expenses.

[2] Regulations 7.9.10, 7.9.11 and Schedules 10B and 10C of the Corporations Regulations.

focus of our stakeholders. The final version of our fee disclosure model is attached in Appendix A and provides a basis for stand-alone fee disclosure in a PDS. Explanatory notes are included to guide you in using the model.

1.5 In particular, this report outlines:

- the purpose and application of our fee disclosure model;
- the framework used to develop our model, including consideration of key aspects of the Ramsay report, legislative requirements and our policy, research and consumer protection objectives;
- our approach; and
- further potential for industry standards.

## Making the transition

1.6 We recognise that industry requires time to adopt our fee disclosure model. We hope that its early release will allow you sufficient time to incorporate it into PDSs dated on or after 11 March 2004. We also encourage product issuers who have already opted into the new regime (or intend to opt in shortly) to consider using this model, at least for PDSs given to a person on or after 11 March 2004. Once industry has made the transition, we will continue to monitor developments to adapt and improve the template over time including, in particular, those areas that we have identified for further industry standards.

# Section 2 Purpose

2.1 Our model is for disclosing fees in a discrete fees section of a PDS. We intend it to cover all financial products with an investment component, including managed funds, superannuation funds and investment-linked life policies and bonds (including friendly society products).

2.2 The model was developed in the context of the Ramsay report and takes into account extensive stakeholder feedback on earlier models. The aim of the model is to improve disclosure of fees through adopting the good disclosure principles outlined in our Policy Statement 168 *Disclosure: Product Disclosure Statements (and other disclosure obligations)* [PS 168]. We consider that this model will help product issuers comply with sections 1013C and 1013D of *the Corporations Act 2001*.

2.3 It is important to remember that the ambit of the fee disclosure project (like the ambit or aims of the Ramsay report) was not restricted to ensuring that fees disclosure for investment products achieves compliance with strict legal requirements. The aim of the project was to develop, in consultation with stakeholders, a model for fee disclosure that improves:

- the overall quality of disclosure about fees, including transparency and comparability of fees; and
- the ability of consumers to make informed decisions.

2.4 Consumer comprehension is, therefore, also a key focus of this good practice model. Our consumer focus has been heightened by the recent results of ANZ’s survey into national financial literacy levels. The key financial skills, services and products that were troublesome for consumers included superannuation, planning for retirement and knowledge of fees and charges. The use of a standard format should help consumers make meaningful comparisons, allowing them to readily extract information about fee structures for investment-based products.

2.5 We recommend industry-based consumer testing of this final model. There may also be merit in consumer testing occurring at the product level where a product is targeted to a particular group of consumers or is complex.

2.6 We will have regard to our good disclosure model when monitoring PDSs and enforcing the PDS requirements. Our general approach is set out in Part C of [PS 168]. At [PS 168.81] we state that our assessment of whether to take enforcement action will include whether any industry standards or codes have been followed.

# Section 3 Framework for developing the model

3.1 The framework in which we developed the fee disclosure model included:

- the recommendations of the Ramsay report (the relevant recommendations are outlined in more detail below);
- legislative requirements for disclosure of fees to prospective retail clients, in particular, Part 7.9 of the Corporations Act and the consumer protection provisions in the *Australian Securities and Investments Commissions Act 2001*;
- international developments on fee disclosure, including the analysis of international requirements in the Ramsay report[3];
- research about fees and their disclosure, including consumer and industry-based research[4]; and
- the good disclosure principles and other guidance provided in [PS 168] (eg the principle that a PDS should promote product understanding).

3.2 It was recognised early in the consultation phase that building consensus about improvements to fee disclosure in a PDS for investment products would need to be a staged process. That is, we accepted it would not be possible to address all the recommendations made by Professor Ramsay at the same time. Without diminishing the significance of any of the individual recommendations made by Professor Ramsay, we identified that a first basic step in improving disclosure about fees to consumers of investment products was to develop an "at a glance" fee disclosure table setting out a simple, consistent and easy-to-read snapshot of the significant fees for a particular product. We have also accepted that, to provide product issuers with sufficient time to design their PDS before the transition period ends, we needed to focus on improvements in disclosure about which there was some broad consensus.

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[3] For example, the work of the Financial Services Authority (UK) on packaged products and the work of the Securities Exchange Commission (US) on fees and charges for mutuals.

[4] For example, a report prepared for ASIC in November 2000 by Phillips Fox entitled *Financial Services Reform Act: Product Disclosure of Fees, Charges and Commissions.*

## Ramsay recommendations

3.3 The first step in developing disclosure standards involved considering the following key aspects of Professor Ramsay's recommendations:

- standardised descriptions and definitions of fees;
- disclosure of the purpose of fees;
- improved disclosure of entry/contribution and exit/withdrawal fees;
- use of common terms;
- improved disclosure of fees paid to advisers;
- a standardised definition of buy–sell spread; and
- standardised disclosure about the ability to negotiate rebates with advisers.

3.4 Other aspects of Professor Ramsay's recommendations considered during the project were:

- clarifying that entry fees or contribution fees are payable not just on an initial investment but may also be payable on subsequent investments (where this is the case. Professor Ramsay considered that the term "entry fee" should not be used at all);
- clearly stipulating timing of payments (eg some fees are payable monthly, some annually, some are charged in arrears and some in advance);
- clarifying how the basis for calculation of asset-based fees is described (ie there is lack of uniformity in the description of the asset base upon which management fees are charged, such as "total tangible assets" and "total gross investments of the fund");
- showing fees in both percentage and dollar terms (because consumers better understand dollars), which means, where a percentage fee applies, it should be illustrated in dollar terms;
- improving disclosure on the circumstances in which fees can be changed; and
- improving disclosure on maximum fees.

3.5 We have not fully developed Professor Ramsay's recommendations about comparability mechanisms for consumers (eg single expense measures like the ongoing management charge (OMC) or management expense ratio (MER), fee impact tables and fee calculators). The use of expense measures and fee impact tables is contentious and requires further development in consultation with stakeholders. For this reason, it has not been possible to achieve industry consensus on a preferred comparability tool in sufficient time before the expiry of the transition period. Accordingly, at this stage, we have provided principles-based guidance only about these issues.

3.6 We note that a number of stakeholders have been actively developing various comparability mechanisms for consumers and we commend these efforts. These initiatives will provide consumers with a range of tools with which to compare the fees for various products. We encourage industry to carefully consider whether to use one or more of these tools.

## Legislative requirements

3.7 We consider that our good practice model will help product issuers comply with sections 1013C and 1013D of the *Corporations Act 2001*. Under section 1013D(1)(d) of the Act a PDS must contain the following information:

(a) the cost of the product;

(b) any amounts that will or may be payable by a holder of the product in respect of the product after its acquisition and the times at which those amounts will or may be payable. This requirement can be met by the PDS stating the basis on which the amount of liability would be calculated rather than specifying an amount;

(c) if the amounts paid in respect of the financial product and the amounts paid in respect of other financial products are paid into a common fund – any amounts that will or may be deducted from the fund by way of fees, expenses or charges.

3.8 An amount will or may be payable in respect of a financial product by the holder of the financial product if:

(a) the holder will or may have to pay an amount in respect of the product: or

(b) the amount will or may be deducted from:

- (i) a payment to be made by the holder; or
- (ii) a payment to be made to the holder; or
- (iii) an amount held on the holder's behalf under the financial product; or

(c) an account representing the holder's interest in the financial product will or may be debited with an amount.

It includes an amount that the holder will or may have to pay, or that will or may be deducted or debited, as a fee, expense or charge in relation to a particular transaction in relation to the financial product: s1013D(2).

3.9 If the product will or may generate a return to a holder of the product – the PDS must contain information about any commission, or other similar payments, that will or may impact on the amount of such a return: s1013D(1)(e).

3.10 A PDS must also contain information about any other significant characteristics or features of the product or of the rights, terms, conditions and obligations attaching to the product: s1013D(1)(f). There is also a general obligation under section 1013E for the PDS to contain any other information that might reasonably be expected to have a material influence on the decision of a reasonable person, as a retail client, whether to acquire the product.

## Policy framework

3.11 Our good practice model is underpinned by the guidance provided in [PS 168]. [PS 168] provides broad policy guidance on preparing a PDS in compliance with the PDS requirements of the *Corporations Act 2001* including the following Good Disclosure Principles:

1 Disclosure should be timely

2 Disclosure should be relevant and complete

3 Disclosure should promote product understanding

4 Disclosure should promote comparability

5 Disclosure should highlight important information

6 Disclosure should have regard to consumers' needs.

3.12 All of these Good Disclosure Principles are relevant to the disclosure of fees in PDS. In [PS 168.58] we identify the disclosure of fees in PDS as an important aspect of promoting product understanding and comparability. Information about fees is a key consideration for consumers when making decisions about financial products and research shows that it is often the most difficult information for consumers to understand.

3.13 [PS.168] also recognised that, because the PDS requirements do not generally prescribe the detailed content and format of a PDS, comparability goals are likely to be effectively achieved only through an industry-wide approach to product disclosure. In particular, the development of and compliance with effective industry standards or codes that provide detailed and meaningful guidance about PDS disclosure can help consumers to compare products.

# Section 4 The consultation process

4.1 The fee disclosure project was conducted in consultation with several stakeholders and we acknowledge the cooperation we have received during this process.

4.2 A number of steps were undertaken during our consultations:

- The first step was a round of consultations with key stakeholders to get feedback on their reaction to each of the recommendations in the Ramsay report and ascertain their existing priorities and initiatives relating to fee disclosure. This also enabled us to identify the key points of disagreement among these stakeholders. After this first round of consultations, we determined that the most effective way we could facilitate a consensus-based fee disclosure model was to produce a draft fee disclosure model and an accompanying background paper for stakeholders to consider.
- Our second round of consultations with stakeholders involved seeking more detailed feedback certain issues about fee disclosure (in particular, the format and content of the model) based on our draft fee disclosure model.
- Our third round of consultations with stakeholders focused on a revised version of the fee disclosure model (taking into account detailed comments on our first version). We have considered stakeholders' comments on this revised version in producing the final fee disclosure model in Appendix A.

4.3 While it was apparent at an early stage that there was universal acceptance among stakeholders of the broad principles in the Ramsay report, we recognised that the "devil is in the detail". Translation of Professor Ramsay's recommendations into workable disclosure standards for the investment sector involved a number of challenges, including:

- Fees are described, calculated and grouped together or packaged in different ways by different segments of the investment industry. For example, fees can be categorised as:
    - **Mandatory or discretionary fees:** A switching fee may be regarded as discretionary because it is only imposed on investors who switch or it could equally be regarded as activity-based. Entry fees may also be classified as discretionary because some or all may be rebated.
    - **Investment management or administration fees:** While these fees are key components of the ongoing fees incurred by consumers in investment products, the terms "investment management" and "administration" are not always used

consistently. A number of stakeholders raised the need for agreement to be reached about which charges should be included in each category before determining how information about investment fees and non-investment fees can be communicated effectively to investors.

  - **Product charges or investment and fund charges:** Product charges are referred to as including contribution charges, member charges, and transfer and termination fees. Investment and fund charges are referred to as including ongoing management charges, investment charges, switching charges, fund expenses, and trustee and custodian fees.
  - **Flat dollar or percentage-based fees.**

- Enhanced fee disclosure has the potential to increase the length of the fees and charges information in a PDS (and, therefore, increase the overall length of the PDS) particularly for products with multiple investment options. We note that section 1013C of the *Corporations Act 2001* includes a requirement for information in a PDS to be presented in a clear, concise and effective manner. Also, consumer research has shown that lengthy disclosure material is a barrier to effective disclosure. Consumers may not read or understand lengthy disclosure documents.

4.4 We addressed these challenges by exploring a number of discrete questions that we identified as relevant to determining the preferred format and content of our fee disclosure model. These questions are listed in Appendix B.

# Section 5 Our fee disclosure model

5.1 Our good practice fee disclosure model has three components:

1. Significant fees table (Table 1 of Appendix A)
2. Breakdown of ongoing fees table (Table 2 of Appendix A)
3. A section for important additional disclosure items.

## Table format

5.2 The **Significant fees** table (Table 1 of Appendix A) discloses all significant fees in an easy-to-understand, comparable format and ensures the following key aspects are covered:

- what the fee is for;
- the amount of the fee, in dollars preferably or if a percentage-based fee applies, illustrated by a dollar example; and
- how/when the fee is charged (eg against assets, against contributions).

If a particular fee is not charged, state “nil” or “not applicable”.

We have opted for an “at a glance” table of *significant* fees (instead of a totally comprehensive table that includes *all* fees) because of the complexity and diversity of fee structures within the industry. If fee structures for investment products are streamlined and simplified in future, it may be possible to produce a model that encompasses all fees.

5.3 All fees must be disclosed in the fees section of the PDS, but for the table to be kept to a manageable size, we have:

- provided you with a separate table to use — **Table 2: Breakdown of ongoing fees**
- accepted that some fee information may be appropriately disclosed outside these tables in an important additional items section.

5.4 We appreciate that it may be difficult to:

- include a single ongoing fee for investment products with a large number of investment choices, each with different fee structures
- include a single investment management fee in the breakdown of ongoing fees.

Therefore, a fee range can be provided in the tables with appropriate cross-referencing to the fee structures for the various options. The fee structures for each of the investment options should also be shown in the same format to ensure consistency and comparability.

5.5 Similarly, insurance premiums for death and disability cover may require separate disclosure, but should be mentioned in the fees section with appropriate cross-referencing.

5.6 With more complex fee structures, we recommend you use an index to help consumers find their way around the PDS.

## Listing of fees

5.7 Significant fees are listed according to their purpose and generally in the order consumers encounter them, to enhance comparability and understanding. There are many different ways in which fees can be shown (eg according to whether they are charged against amounts invested, the account balance or the total assets of a fund). On balance we considered that it would be more meaningful to consumers to show fees according to their purpose rather than listing fees according to how they are charged.

## Standard terms and descriptions

5.8 The diversity in industry fee structures (including the number of different fee types and the use of descriptions in different ways) presents a barrier to achieving standard terms. The tables reflect a compromise position, where the most common significant fees are included, with preferred nomenclatures for significant fees and a short description of the fee's purpose. We (and many of our stakeholders) preferred not to have a separate glossary of fees, but rather brief descriptions of the purpose of each fee as part of the table with the information on the amount of the fee and how/when it is paid.

5.9 Other less significant fees appear separately under "important additional disclosure items", but should be included Table 1 if significant.

5.10 We note that fees may be shown gross or net of tax. We understand that there may be varying industry practices for the treatment of tax in this context. Whatever practice is adopted for a particular product, it should be clearly stated and applied consistently.

## Key disclosure items

5.11 Table 1 of Appendix A (Significant Fees) comprises three main disclosure items:

1. **The fee and a brief description of its purpose:** The purpose of each fee is stated in our model, as agreed with stakeholders. Where the purpose of a fee includes the remuneration of advisers, this should also be indicated in the fee description. All stakeholders agreed to the need for improved disclosure of adviser remuneration. It is important in a good practice model to clearly disclose whether a particular fee includes commission. This includes fees that include a component for commission:

   (a) if the consumer has not consulted or received financial advice from an adviser; and

   (b) if the consumer is paying for advice provided to a third party. For example, in the superannuation context, the product fees incurred by a member of a superannuation fund may include a component for advice provided to the member's employer.

   To ensure that the table is concise, we have accepted that it is not necessary to have a separate column dealing with adviser remuneration. Instead, you can give details about commission arrangements (including the amount or range of commissions payable) by including an asterisk or something similar against each fee that includes adviser remuneration, with an appropriate cross-reference to the "important additional disclosure items" section, where the details will appear.

2. **The amount of the fee:** The fee should be shown in dollar terms where possible and otherwise as a percentage, taking care to show what the percentage is being charged against (eg the consumer's account balance). If the amount of a fee is negotiable, this should be indicated in the table. This can be done by an asterisk or something similar with an appropriate cross-reference to the "important additional disclosure items" section.

3. **How and when the fee is paid:** For example, a fee might be paid monthly by deduction from the consumer's account, by deduction from contributions before they are credited to the consumer's account or annually before returns are credited to the consumer's account. It is important that this section of the table clearly conveys to consumers that some fees may be deducted from investment returns before they are credited to the consumer's account or before the unit price is struck.

5.12 Table 2 of Appendix A (Breakdown of ongoing fees) also contains these three main disclosure items:

1. Each fee included in the ongoing fees and a brief description of its purpose. All known and material ongoing fees should be unbundled,

as far as they can, into the itemised categories (administration fee, issuer fee, expense recoveries and member fee). Where this is not reasonably practicable, this should be stated.

2. Fee amount.

3. How and when the fee is paid.

5.13 The **administration fee** item should cover all ongoing fees not separately itemised, as the total fees disclosure in the breakdown of ongoing fees table should equal the ongoing fee amount in the significant fees table. The **issuer fee** includes, in a stand-alone fund, the fee payable to the trustee, responsible entity or product issuer for managing the operations of the fund and/or, in a master trust or wrap arrangement, the platform fee payable to the platform provider for administrative services connected with the offer of underlying financial products. **Expense recoveries** should provide an indication of the items covered, such as auditing fees, accounting fees and custodian fees.

5.14 We have adjusted our tables to accommodate fee options such as nil contribution options by dividing the "Amount" column in each of the tables into 2 sub-columns. This approach can be used where such options are a feature of a particular product. This approach does not have to be adopted where a product does not contain contribution options (ie the product always has a contribution fee or always has no contribution fee). Fee options should be clearly explained so that consumers understand how they operate and the implications of choosing each option.

## Important additional disclosure items

5.15 We accept that certain items warranting disclosure in a good practice model do not readily lend themselves to the table format. These items may be disclosed outside the tables but still within the fees section of the PDS. However, if these amounts are significant, they should be included in Table 1. They include incidental fees, eg cheque dishonour fees or fees for additional statements and transactions costs such as brokerage or a buy–sell spread (which is an historical estimate that may not be applicable to all types of investment products). A description and estimate of any additional costs should be given. It should also be made clear that these costs are additional to the fees shown in Table 1. The points at which such additional costs may be incurred should be clearly indicated in Table 1 with an asterisk or something similar (eg if a buy-sell spread is applied to contributions and withdrawals, these items should be asterisked in Table 1).

5.16 Important additional disclosure items sitting outside the tables also include:

- **More detailed information about which fees include an amount for adviser remuneration** and a description of the commission arrangements, including the amount or range, where it is not a predetermined amount. This additional information should include how commission can be negotiated (and with whom); any available rebate arrangements and what happens if an adviser is not used (eg a statement that commission is still payable, if applicable). It should also include information about soft dollar arrangements. We believe that improved disclosure of adviser remuneration at all stages of the investment decision-making process (including the PDS) is an important consumer issue. Professor Ramsay identified the need for better disclosure of the source of commissions in a product's fee structure and the implications of commission arrangements on the amount of product fees ultimately paid by the consumer.
- More detailed information about which fees are negotiable, including with whom and how they may be negotiated.
- **Dollar examples of fees:** Examples are an important tool to help consumers digest the practical impact of complex fee arrangements, in particular, fees expressed in percentage terms. We accept that the template may become too unwieldy if examples for each of the percentage-based fees are shown in the table itself. We have, therefore, accepted that examples are more appropriately positioned outside the table. We accept that the examples can encompass all fees, rather than providing separate examples for each fee. However, we encourage the use of separate worked examples to illustrate commission arrangements. Where different fee options are available (ie contribution fee option and nil contribution fee option), we would also encourage the use of examples to convey to consumers the implications of each option. In particular, the examples should illustrate whether the nil contribution fee option may be more expensive for certain periods of investment.
- **Guidance to enable consumers to assess the risk of fee changes:** This includes disclosure of maximum fees and the circumstances in which a maximum fee might be charged so that the consumer can ascertain the likely *actual* fee. Also, if fees can change depending on the employment status of the consumer, this should be clearly disclosed. If the amount of any dollar-based fees is subject to indexation, this should also be shown.

5.17 A best practice approach — suggested by one of our stakeholders during our consultations — was that product issuers should not increase fees where a termination fee applies to the product (in particular, where the contribution fee has been deferred or spread). We encourage industry to give further consideration to fee structures that may penalise consumers who have chosen a nil contribution option and later seek to respond to a fee increase by exiting the product. Alternatively, it may be that in such circumstances the termination fee should be waived.

## Other comparability and comprehension tools

5.18 We believe that the table format, if consistently used by product issuers, enhances consumers' understanding and ability to compare products. A table format for significant fees is also consistent with the legislative mandate to disclose costs in a clear, concise and effective manner.

5.19 ASIC has a calculator for single contribution investment products on our website to help consumers compare investment products. There are also similar calculators available on the websites of industry stakeholders.

5.20 Although we have not been able, at this stage of the transition period, to achieve industry consensus on other comparability tools (eg a single fee measure to enable consumers to readily compare costs between funds, and projections to help consumers appreciate the impact of fees over time) we believe that there is still potential for industry consensus on these issues to be reached.

5.21 We recognise that a number of industry stakeholders are undertaking their own initiatives in this area. These initiatives include a single fee measure, impact of fees information and consumer checklists. We recommend broader industry-based consumer testing of any additional comparability measures.

### Single fee measure

5.22 An acceptable percentage-based figure may provide consumers with an effective comparability tool. If such a tool is used we consider that:

- The purpose of the figure should be clearly stated.
- The product issuer should clearly disclose what fees are included (and not included) in the calculation of the figure.
- Any such figure should be supplemented by dollar examples. All funds should use the same base figures for these examples. We encourage the development of a common industry standard.
- There should be a clear warning that the figure does not represent the actual costs of the fund.

5.23 We do not believe that a single fee measure can be an effective comparability tool unless it is used by industry participants consistently, applying the same calculation methodology. This includes, for example, a consistent approach to the treatment of fees deducted from returns (including fees charged by an underlying investment vehicle) before earnings rates or unit prices are determined.

### Impact of fees information

5.24 It is important that consumers understand the impact of fees on their investment over time. You can promote a greater understanding of the impact of fees by:

- recommending the use of online tools to help consumers understand the impact of fees over time; and
- using illustrations and examples.

5.25 We note that different forms of fee impact tables are being developed by industry to convey the impact of fees to consumers. If fee impact tables are used we consider that:

- The purpose of the table should be clearly stated (ie to show the impact of fees). It is not the purpose of the table to give consumers an estimate or projection of the future value of their investment or benefits.
- The product issuer should clearly disclose what fees are included (and not included) in the fee impact table.
- The assumptions used in the table should be clearly and prominently disclosed. All funds should use the same assumptions, base amounts and time horizons to improve comparability. We encourage the development of a common industry standard. We note that we have no power to set these assumptions.
- There should be a clear warning that the fee impact table does not necessarily reflect the actual costs of the fund.

5.26 There is a risk that consumers might interpret figures in the table as forecasts of future returns or benefits. We believe that this risk must be counteracted before industry participants use fee impact tables.

### Consumer checklists

5.27 It may be helpful for consumers to use additional tools, such as a checklist, to help them extract and compare the fee information in a PDS. We understand that one of our stakeholders is developing such a checklist. We consider that the presentation of fee information in a common format will help consumers use such a tool.

5.28 We intend to contact stakeholders following the release of this model to further discuss industry initiatives in these areas and to test how far those initiatives might be universally accepted.

# Section 6 Further potential for industry standards

6.1 It has become apparent to us and to our stakeholders that improving fee disclosure is an ongoing exercise. Our good practice model for fee disclosure is an important foundation on which other industry-based initiatives can be built. It necessarily represents a compromise of stakeholder views in the interests of achieving consensus well before the transitional period ends, to allow sufficient time for product issuers to adopt the model in their PDS.

6.2 Additional key areas (some of which have already been noted) in which industry consensus can aid consumer understanding of fees and charges include:

- **Agreement on some form of single fee measure:** As noted above, we do not believe a single fee measure can be an effective tool for comparing disclosure unless it is used by industry participants consistently, applying the same calculation methodology.
- **Agreement on using projections in a PDS to illustrate the impact of fees:** For example, tables showing the effect of fees over differing periods of time based on different balances.
- **Consistent approaches to showing fees gross or net of tax:** It has been suggested to us that there are currently different approaches to calculating and disclosing fees and charges for the application of tax and that, consequently, it is not always apparent to the consumer whether fees are gross or net of tax. Our good practice model envisages disclosure of whether fees are shown gross or net of tax. However, we would encourage industry to not only specify whether fees are shown gross or net of tax but to develop standards which ensure that fees and charges are calculated and shown on the same basis across all investment-based products.

6.3 More broadly, we also believe, as indicated in PS 168,[5] that simpler fee design has a role to play in improving the disclosure of fees to consumers. The complexity and diversity of existing fee structures (including the different categories or description of fees and charges) constitutes a barrier to consistent, comparable and transparent disclosure. This means that there is a role for industry to establish standardised fee structures or designs so that, for example, an investment management charge covers the same types of fees for all investment products.

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[5] See [PS 168.51 – 168.54]

# Appendix A: Our fee disclosure model

The fee disclosure model issued with this report in July 2003 was replaced with the following revised fee disclosure model in June 2004: see Appendix A.

This revised model has been superseded by the requirements of the *Corporations Amendment Regulations 2005 (No.1)* (the enhanced fee disclosure regulations). For answers to some common questions about these regulations, see Regulatory Guide 97 *Enhanced fee disclosure regulations: Questions and answers* (RG 97).

## Purpose

Our fee disclosure model sets out good practice for the disclosure of fees and costs in a discrete section of a Product Disclosure Statement (PDS). It aims to cover all financial products with an investment component, including managed funds, superannuation funds and investment-linked life policies and bonds (including friendly society products).

## Focus

Our model was developed in the context of Professor Ramsay's report on the *Disclosure of fees and charges in managed funds.* The focus of our model is on:

- improving disclosure of fees through adopting the good disclosure principles outlined in Policy Statement 168 *Disclosure: Product Disclosure Statements (and other disclosure obligations)* (PS 168);
- helping product issuers meet the requirements of sections 1013C and 1013D of the *Corporations Act 2001*; and
- improving consumer comprehension of the fees and costs associated with investment products and the services covered by each fee. The use of a common table format should also enhance comparability.

## Development of the model

We published an earlier version of our fee disclosure model prior to transition in our report *A Model for Fee Disclosure in Product Disclosure Statements for Investment Products* (July 2003). That version took into account extensive industry stakeholder feedback received in response to earlier versions of the model. Following early experience with the model and further industry consultation (including feedback from consumer testing conducted by some stakeholders), we now provide a revised version.

This revised version is our preferred model of good practice for fee disclosure going forward. We will continue to monitor its use in practice and consider further revisions in response to ongoing developments relating to improved fee disclosure.

## Transition arrangements

ASIC proposes to undertake consumer testing of this revised version, in conjunction with stakeholders. It is envisaged that stakeholders who are able to contribute to the consumer testing process would form part of a project board.

ASIC intends to allow a transition period of one year for product issuers to move to the revised model. However if a PDS is being prepared for the first time or is being replaced within this one year period, ASIC would encourage product issuers to include the revised model at an earlier date.

## Fees and other costs

This table shows fees and other costs that you may be charged. These fees and costs may be deducted from your money or from the returns on your investment or from the fund assets as a whole. Taxes and insurance premiums are set out in another section of this document. [*If relevant*] Fees and costs for particular investment options appear at page X.

[*If relevant*] You have 2 different fee payment options: (a) to pay contribution fees upfront — at the time when you make each investment into the fund; or (b) to pay contribution fees later (eg on termination of your investment or by way of other increased fees).

You should read all of the information about fees and costs, as it is important to understand their impact on your investment.

| **Type of fee or cost** | **Amount** | | **How and when paid** |
|---|---|---|---|
| | ***Option to pay contribution fees upfront*** | ***Option to pay contribution fees later*** | |
| **Fees when your money moves in or out of the fund**<br>***You may also incur a buy-sell spread[1] when your money moves in or out of the fund.*** | | | |
| *Establishment fee*: This is the fee to set up your initial investment. | | | |
| *Contribution fee*: This is the fee for the initial and every subsequent investment you make (or that may be made on your behalf, eg by an employer). [2] | | | |
| *Withdrawal fee*: This is the fee for each withdrawal you make (including any instalment payments and your final payment). | | | |
| *Termination fee*: This is the fee when you finally close your investment.[2] | | | |
| **Management costs** | | | |
| *Administration costs* are the fees and costs for operating the fund. They include administration and other fees charged by the product issuer, | | | |

| **Type of fee or cost** | **Amount** | | **How and when paid** |
|---|---|---|---|
| | ***Option to pay contribution fees upfront*** | ***Option to pay contribution fees later*** | |
| distribution costs and other expenses[3] incurred in operating the fund. [2] | | | |
| *Investment costs* are the fees and costs for investing the assets. They include fees charged by the product issuer, fees paid to external investment managers and other expenses[3] incurred in investing the assets (excluding transaction costs[4]). [The amount you pay for specific investment options is shown at page X]. | | | |
| Additional service fees[5] | | | |
| *Switching fee*: This is the fee for when you switch between investment options. You may also incur a buy-sell spread[1] when switching between investment options. | | | |
| *Adviser service fee*: This is the fee for extra advice from your adviser about your investment. (An adviser may also be paid other amounts as commission out of one or more of the fees listed above.) | | | |

1 [Where relevant, include this sentence in the table and use this footnote to refer to an explanation of buy/sell spread under “Important additional information”.]

2 [Where relevant] This fee includes an amount payable to an adviser for advice about this product. See “Adviser remuneration” under “Important additional information”.

3 [Specify what expenses are included.]

4 See “Transaction costs” under “Important additional information”.

5 [If there are other minor service fees, such as special request fees, use this footnote to refer to an explanation of these fees under “Important additional information”.]

## Important additional information

[For other important information about fees and costs that product issuers should include in the fees section, see explanatory notes 6–9 below.]

# Explanatory notes

## 1. Table format

All fees and costs must be disclosed in the fees section of the PDS. The fees section comprises both a standard table and an important additional information section.

The table must contain a reference to all fees and costs, whether directly debited to a member's account or indirectly levied from a common fund (eg deducted from reserves or otherwise reflected in the reduction of the value of the investment). Costs include expenses paid by the product issuer from the fund.

The amount of the fee or cost must also be shown in the table. If:

- a particular fee or cost is not charged, state "nil" or "not applicable";
- it is not possible to include a single amount, a fee range may be provided;
- the exact amount of expenses is not known, an estimated amount (clearly designated as an estimate) should be provided — we consider that it would be more meaningful for this estimate to be provided on a "per investor" basis;
- a fee or cost has a number of components, the amounts can be listed separately (eg $1 per week + 1% of fund assets). We consider that this may be more meaningful for consumers than a bundled amount or range.

Details of how and when the fee or cost is paid must be included in the final column of the table.

If a buy-sell spreads applies, it should be described in the important additional information section. The description should include its purpose, the amount (this should at least be shown as a percentage and translated into dollar terms but, if not known, can be estimated) and how it is charged. The important additional information section should also state whether any part of the buy-sell spread is paid to the product issuer or an external manager.

For comparability purposes, fees and costs should be shown gross of tax (including GST), but net of any applicable RITC.

For products subject to tax, a footnote should state whether the benefit of any tax deduction is passed onto the investor in the form of a reduced charge. For life products, the actual gross amount should be given, but where this cannot be ascertained a hypothetical gross should be shown, together with the actual charge if the product issuer would like to present the benefit of the tax deduction in this way.

Tax and insurance premiums will require separate disclosure but should be mentioned in the fees section with appropriate cross-referencing to the “Tax” and “Insurance” sections of the PDS.

## 2. Key disclosure items

The table contains three main disclosure items:

- the fee and a brief description of its purpose;
- the amount — to be shown in dollar terms where possible, otherwise as a percentage, taking care to show what the percentage is being charged against (eg the member’s investment balance). The percentage should also be translated into dollar terms using a $1000 example (eg 5% or $50 per $1000 invested); and
- how and when the fee is recovered (eg monthly by deduction from the member’s investment balance, by deduction from contributions or withdrawals, or annually before returns are credited to the member’s account balance).

The model accommodates the fee options: “option to pay contribution fees upfront” or “option to pay contribution fees later”. This terminology should be used if these fee options are a feature of the product (eg for “nil entry” fee options). The fee options should be clearly explained before the table, so that the consumer understands how they operate and the implications of choosing each option. In the notes preceding the table, we have included a brief sample description of the contribution options, which can be expanded as appropriate.

## 3. Description and listing of fees and costs

Fees and costs are described and listed according to their purpose and the stages at which the consumer encounters them. However fees are also grouped broadly according to how they are charged.

The diversity in industry fee structures (including the number of different fee types and the use of descriptions in different ways) makes achieving standard terms difficult. One of the aims of the model is to standardise disclosure so consumers can compare products. Generally, the format and language used in the table must be used, except where the model expressly contemplates the omission of inapplicable information (eg information referred to in the footnotes). Because of the diversity of investment products to which the model applies, use of a term other than “fund” may be adopted if it more closely reflects your particular product or product type (eg “plan”, “scheme” or the product name) as long as it is consistently applied.

Our revised model reflects stakeholder views on terms and definitions for fees and costs and a short description of their purpose. We have simplified some terminology in response to preliminary consumer testing conducted by some stakeholders. In some cases we now use descriptions instead of labels, where a description might be more easily understood.

### 4. Adviser remuneration

All stakeholders agreed on the need for improved disclosure of adviser remuneration. We consider it important in a good practice model to disclose whether a particular fee or cost includes commission (ie by providing a footnote against the relevant item which states: “This fee includes an amount payable to an adviser for advice about this product” and directs consumers to the “Important additional information” section for a more detailed explanation). This should assist investors to understand that adviser’s remuneration is payable from their investment in the product (and when it is payable).

The table should also clearly indicate which fees and costs are negotiable (eg by stating in “How and when Paid” column: “The amount of this fee can be negotiated.”). This statement should be cross-referenced to an explanation provided outside the table in the “Important additional information” section, including with whom and how the fee or cost can be negotiated. This should assist investors to understand when they may have the opportunity to negotiate fees.

The additional important information on adviser remuneration should be confined to adviser remuneration that forms part of the establishment, contribution or management fee. Separate adviser remuneration for additional advice services (by agreement between investor and adviser) should be shown as part of the adviser service fee.

### 5. Breakdown of management costs

The second table (which contained a breakdown of ongoing management fees) has been removed in this version of the model. Instead the one table should include all fees and costs that are charged for administration and investment under the heading “management costs”. Individual fees and costs should be split between administration and investment categories so that consumers can make informed decisions based on the administration and investment services provided under the product. In the case of bundled fees, the product issuer should make a reasonable allocation. If it is unclear into which category a fee or cost should be placed, it can be placed in either category or apportioned on a consistent basis from year to year, as long as the total amount of all management fees and costs (however designated) is disclosed.

The **administration costs** include, in a stand-alone fund, the fee payable to the trustee, responsible entity or product issuer for managing the operations of the fund and/or, in a master trust or wrap arrangement, the platform fee payable to the platform provider in connection with the administration of the platform. This item should include distribution costs and other operational expenses and reimbursements. A footnote should specify the services covered by the expense items, such as auditing fees and accounting fees.

The **investment costs** include the fee for managing the fund's investments, including any estimated investment performance fees. This would include any amounts taken out of the returns before allocation to the fund, by way of fees, costs, charges or expenses retrieved by the external fund manager. Estimated investment performance fees should be shown as a separate amount from any investment costs that are not contingent on investment performance. How and when they are paid should be shown separately in last column of the table

We appreciate that it may be difficult to include a single investment management fee for investment products with a large number of investment choices, each with different fee structures. In this case a fee range may be included, with appropriate cross-referencing to the fee structures for the various options. However if the number of investment choices is small (say, less than 5) we would expect the fee information to be included in the table, so that the table achieves a "see at a glance" snapshot of all fees and costs.

Investment-related expenses payable from the fund should also be included under this item except for transaction costs, which are to be described and estimated under "Important additional information". For platform providers we suggest that it may be appropriate to include here the component of the platform fee attributable to the offer of underlying investment products. A footnote should specify the services covered by investment-related expenses.

### 6. Important additional information items

Items that should be included under "Important additional information" are:

- Worked examples, showing the effect of a range of fees on different investment amounts and, if relevant, different fee options. Examples are an important tool to help consumers digest complex fee information. We do not prescribe the form of example but suggest that the examples should show the effect of the full range of fees and fee options, including fees that investor may have difficulty understanding. For example, if investment performance fees are charged, we suggest an example that includes an investment performance fee. It may be helpful to also briefly explain here the criteria for payment of this fee.

- Any incidental fees, such as cheque dishonour fees or special request fees.
- Transaction costs, such as brokerage and buy-sell spreads, including a description, amounts (or estimates, if amounts are not known) and how and when they are recovered. We recommend the development of standard industry descriptions. The table indicates where the cross-reference to these descriptions should be located. It should be made clear that these are an additional cost to the investor.
- Adviser remuneration, including commission amounts or ranges and whether (and how) they are negotiable or rebatable. A worked example should be given. This will assist the investor to make the appropriate link with the amounts disclosed by the adviser in the Financial Services Guide or Statement of Advice document.
- Where applicable, with whom and how the amount of any other fees may be negotiated.

Other relevant items that should be included in the important additional information are listed below.

### 7. Fee changes

It is important that consumers understand the risk of fees changing, including the likelihood of this occurring. We consider that the following should be disclosed:

- the issuer's right to change fees without the investor's consent (if the issuer reserves this right) including any indexation arrangements which may be in place;
- factors influencing fee changes (if actually known);
- the period of advance notice;
- any change in fee structure that is dependent on a person's employment status.

### 8. Maximums and waivers

It is important that consumers know precisely what fees are payable. This is particularly the case where the issuer claims the right to charge a maximum or where the issuer has waived a fee. We consider that the following should be disclosed if the issuer reserves to itself a flexible charging structure:

- when any maximum would apply (if actually known); and
- when any waiver would not apply (if actually known).

These figures should be given for each applicable fee.

### 9. Protection of small accounts

Member protection rules may be relevant for superannuation funds. Disclosure of the impact of these rules should be given under "Important additional information".

### 10. Additional comparability and comprehension tools

We believe that the table format, if consistently used, enhances comparability and understanding. The table format is also consistent with the legislative mandate to disclose costs in a clear, concise and effective manner. However the onus remains with the product issuer to ensure that its disclosure complies with the law. Use of table does not of itself ensure compliance with the law.

The table and important additional information items should be viewed as a package, which can be supplemented by other comparability and comprehension tools. For example, ASIC has a managed fund calculator and a superannuation calculator on our website to help consumers understand the impact of fees on their retirement savings.

# Appendix B Questions we explored

Devising a workable fee disclosure model for the investment sector meant we needed to explore a variety of discrete questions, including:

1. Is a table, or multiple tables, the preferred format for standardised descriptions of fees?
2. Should the table be divided into segments and what should those segments be (eg ongoing charges grouped together and transaction-based charges grouped together)?
3. What should be included (eg what the fee is for, amount, how charged, when charged, portion payable to advisers, negotiability)?
4. What should be the primary method for identifying fee types, including the nature of the fee and how the fee is charged (eg fees charged against contributions, against benefits or against assets)?
5. Should each fee type be given a standardised title or are catchwords, phrases or questions focusing on what the fee is for more meaningful (eg “what do you pay for joining”)?
6. What approach should be taken to the use of the term “entry fee”? Should this term be limited only to a fee that is charged once on entry into a product?
7. What is the best way of achieving dollar-terms disclosure if percentage fees apply (eg a standardised basis or approach for providing illustrations supported by appropriate warnings)?
8. Where a percentage fee is subject to a maximum/minimum, what should be shown in addition to the range (eg historical fee information; details about the factors which will/may influence the amount of the fee)?
9. Is it practicable (in terms of length of disclosure) or necessary to separately highlight *from* where the fee is levied, or is this something that can be dealt with in a secondary source of information?
10. When showing that fees include commissions payable to advisers, how much more about these commissions should be shown (eg amount/portion attributable to commissions or refer investor to Financial Services Guide and Statement of Advice)?

11. How should each of these components be shown, for example:
    (a) Should other service providers (ie other than advisers) be identified as the recipients of fees in the PDS or should this information be accessible elsewhere?
    (b) Is it practicable (in terms of length of disclosure) or necessary to separately highlight negotiability of certain fees? What, if anything, should be shown about negotiability (eg negotiable with who; what happens if you don’t use an adviser)?
    (c) Are specific warnings and/or illustrations needed in any standardised descriptions (eg a warning about the distinction between one-off or transaction-based fees *and* ongoing fees)? Is this better achieved through an illustration of these different fees? Is a warning needed for dollar illustrations to eliminate any risk that consumers might not realise that they may pay a different dollar amount in their particular circumstances?
12. How should buy-sell margins be described? Should they be referred to as buy–sell margins or something else? Where is the best place to show buy–sell margins?