

## Attachment 2 to CP 329: Draft instrument



**ASIC**  
Australian Securities &  
Investments Commission

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# **ASIC Superannuation (Consent to Pass on Costs of Providing Advice) Instrument 2020/XX**

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I, <insert name>, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 2020

[CONSULTATION DRAFT – NOT FOR SIGNATURE]

<signature>

<insert name>

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## Contents

<b>Part 1—Preliminary</b>	<b>3</b>
1 Name of legislative instrument.....	3
2 Commencement .....	3
3 Authority.....	3
4 Definitions .....	3
<b>Part 2—Determination</b>	<b>3</b>
5 Requirements for giving written consent to pass on advice costs to member	3

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## Part 1—Preliminary

### 1 Name of legislative instrument

This is the *ASIC Superannuation (Consent to Pass on Costs of Providing Advice) Instrument 2020/XX*.

### 2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at [www.legislation.gov.au](http://www.legislation.gov.au).

### 3 Authority

This instrument is made under subsection 99FA(2) of the *Superannuation Industry (Supervision) Act 1993*.

### 4 Definitions

In this instrument:

*Act* means the *Superannuation Industry (Supervision) Act 1993*.

*financial product advice* has the meaning given by section 766B of the *Corporations Act 2001*.

*ongoing fee arrangement* has the meaning given by section 962A of the *Corporations Act 2001*.

## Part 2—Determination

### 5 Requirements for giving written consent to pass on advice costs to member

- (1) The requirements in this section are specified for the purposes of subparagraph 99FA(1)(d)(ii) of the Act in relation to a member of a regulated superannuation fund giving written consent for the trustee or trustees of the regulated superannuation fund to pass the cost of providing financial product advice in relation to the member on to the member where the advice is provided to the member under an arrangement that is not an ongoing fee arrangement.
- (2) A written consent may only be given by a member by signing, or otherwise agreeing in writing (including electronically) to the terms of, a document seeking consent which complies with this section.
- (3) The document seeking consent must include the following information:

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- (a) the name of the member;
  - (b) the name and contact details of the fund;
  - (c) an explanation of why the member's consent is being sought;
  - (d) how long the consent will last;
  - (e) information about the services that the member will be entitled to receive under the arrangement;
  - (f) as applicable:
    - (i) where the cost is passed on to the member by way of deducting fees from the member's superannuation interest—a statement to that effect, including details of the interest;
    - (ii) otherwise—an explanation of how the cost is passed on to the member;
  - (g) as applicable:
    - (i) where subparagraph (f)(i) applies—both of the following:
      - (A) the dollar amount of the fees to be deducted from the member's superannuation interest;
      - (B) if applicable—a breakdown of the proportion of the fees that will be deducted from any specified investment options;
    - (ii) otherwise—an estimate of the dollar amount of the cost and how the estimate was calculated;
  - (h) a warning of benefits to which the member is entitled that may cease or be reduced because the cost is passed on to the member;
  - (i) a statement to the effect that the member can withdraw their consent at any time by contacting the fund.
- (4) The document seeking consent must be worded and presented in a clear, concise and effective manner.
- (5) The written consent must bear a date indicating when it was given.

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