



## Attachment 2 to CS 22: Draft RG 168—Summary of changes

This table summarises proposed changes to Regulatory Guide 168 *Disclosure: Product Disclosure Statements (and other disclosure obligations)* ([RG 168](#)): see the draft updated regulatory guide (draft RG 168) at Attachment 1 to ASIC's consultation *Proposed update to ASIC's guidance on Product Disclosure Statements* ([CS 22](#)).

Note: The table is not an exhaustive list of all wording and structural changes made to improve the drafting.

**Table: Summary of changes**

Topic	Proposed changes
<b>Title of RG 168</b>	Amends the title to ' <i>Product Disclosure Statements: Disclosure and other obligations</i> ' to reflect removal of Financial Services Guide (FSG) and Statement of Advice (SOA) guidance that overlaps with other regulatory guidance.
<b>Section A</b> General content changes	Removes duplicative content contained in other sections of RG 168, while simplifying and clarifying the layout.
Key points	Removes duplicative summaries, such as the summary of the 'Good Disclosure Principles' outlined in Section E.
References to 'responsible person'	Replaces references to 'responsible person' with 'product issuer', noting that, in most cases, the product issuer is expected to be the responsible person.
PDS requirements	Adds a summary paragraph on the basic Product Disclosure Statement (PDS) requirements for issuers of a PDS and removes duplicative content, including the summary under 'Shorter, simpler PDS disclosure' of content in Section D of the current RG 168.
<b>Section B</b> General content changes	Clarifies and simplifies guidance on the PDS requirements, while removing content on FSGs and SOA requirements that overlaps with guidance in: <ul style="list-style-type: none"><li>Regulatory Guide 175 <i>AFS licensing: Financial product advisers—Conduct and disclosure</i> (<a href="#">RG 175</a>); and</li><li>Information Sheet 291 <i>FAQs: FSGs and website disclosure information</i> (<a href="#">INFO 291</a>).</li></ul>
Key points	Replaces the summary of the requirements for SOAs and FSGs in the current RG 168 with a summary of the requirements for issuers of a PDS.

Topic	Proposed changes
The content requirements for a PDS	<p>Includes streamlined guidance on the general requirements for a PDS in a numbered list.</p> <p>Removes duplicative content on FSGs and SOAs by:</p> <ul style="list-style-type: none"> <li>• omitting the guidance on disclosure in the broader investment process (currently contained under the heading 'Disclosure in the investment process', including Figure 1);</li> <li>• removing the guidance on FSGs (currently contained under heading 'When a client wants a financial service'); and</li> <li>• removing the guidance on SOAs (currently contained under heading 'When a client seeks financial advice').</li> </ul> <p>Removes the duplicative content from the summary of requirements for PDSs (currently contained under the heading 'When a client buys a financial product').</p>
What must be attached to a PDS	Includes streamlined guidance on what must be attached to a PDS.
When a client must receive a PDS	Simplifies and clarifies the guidance on when a client must receive a PDS, including when a client may be provided with a PDS later.
When a PDS is not needed	Simplifies and clarifies the guidance on when a PDS is not needed with the addition of numbered lists and removes content relating to certain corporate collective investment vehicles (CCIV) sub-funds.
<b>Section C</b> General content changes	Renames Section D in the current RG 168 as Section C and consolidates the existing guidance on different tailored PDS requirements.
Title of Section C	Amends the heading of Section C to 'Tailored PDS requirements' to reflect the updates to this section.
Key points	Updates wording to clarify that Section C outlines the different tailored PDS requirements.
Short-Form PDS regime	Amends the content to reflect the list of products exempted from the Short-Form PDS regime.
Shorter PDS regime	Clarifies and simplifies the guidance on 'Shorter, simpler PDS regime for specified products' to briefly outline the shorter PDS regime, including content requirements, and removes duplication of information now included in Appendix 3.
PDS regime for non-standard margin lending facilities	Incorporates relevant PDS guidance from Regulatory Guide 219 <i>Non-standard margin lending facilities: Disclosure to investors</i> ( <a href="#">RG 219</a> ), including additional disclosures for a non-standard margin lending PDS. We propose to withdraw RG 219 when the updated RG 168 is published.
PDS regime for general insurance products	Amends and simplifies the current guidance by summarising what information does not need to be included in a PDS for a general insurance product. Updates and simplifies guidance on dollar disclosure relief under a separate heading.
Transaction-specific PDSs	Incorporates relevant PDS guidance from Regulatory Guide 66 <i>Transaction-specific disclosure for PDSs</i> ( <a href="#">RG 66</a> ). We propose to withdraw RG 66 when the updated RG 168 is published.

Topic	Proposed changes
Incorporation by reference	Incorporates content from Section D of the current RG 168 on how and what information can be incorporated by reference. Specific guidance on the shorter PDS regime for superannuation products, simple managed investment schemes and simple sub-fund products has been moved to Appendix 3.
Supplementary PDS	Amends and simplifies the content without changing its substance.
<b>Section D</b> General content changes	Renames Section E in the current RG 168 as Section D and reframes this section to focus on general disclosure concerns and responses to them.
Title of Section D	Amends the title of Section D to 'General disclosure concerns' to reflect the updates to this section.
Key points	Amends the key points previously under Section E in the current RG 168 to reflect the revised guidance in Section D.
Lodging PDSs with ASIC and in-use notices	Removes guidance on 'Lodging PDSs with ASIC and in-use notices', which is now included in Section F on lodgement and notification.
What are some disclosure considerations for a PDS	Re-labels the guidance on misleading and deceptive conduct to highlight that it includes examples of our disclosure concerns with PDSs and areas for particular consideration without changing its substance.
When a product issuer must take remedial action	Retains the guidance on defective PDSs in Section E of the current RG 168 under a new, more fitting heading 'When a product issuer must take remedial action' without changing its substance.
When we may issue a stop order for a PDS	Replaces the current guidance on what we do when there are disclosure concerns, our general approach and compliance reviews with guidance on our stop order powers and a reference to Information Sheet 151 <i>ASIC's approach to enforcement</i> ( <a href="#">INFO 151</a> ).
<b>Section E</b> General content changes	Renames Section C in the current RG 168 as Section E and revises and updates guidance on the Good Disclosure Principles for greater clarity.
Key points	Replaces the word 'consumers' with 'clients' for consistency throughout RG 168.
1 Disclosure should be timely	Simplifies the content without changing its substance, including clarifying the legislative basis for this principle and removing the note on when a client can be provided with a PDS later, which is covered in Section B.
2 Disclosure should be relevant and complete	Simplifies the content without changing its substance, including clarifying the legislative basis for this principle and adding a reference to the Australian Financial Complaints Authority in relation to external dispute resolution.
3 Disclosure should promote product understanding	Simplifies the content without changing its substance, including: <ul style="list-style-type: none"> <li>• clarifying the legislative basis for this principle;</li> <li>• clarifying when a greater level of disclosure may be needed if a product is not well understood; and</li> <li>• removing duplicate content on the dollar disclosure provisions, which is covered in Regulatory Guide 182 <i>Dollar disclosure</i> (<a href="#">RG 182</a>).</li> </ul>

Topic	Proposed changes
4 Disclosure should promote product comparison	Simplifies the content without changing its substance. We have also clarified the legislative basis for this principle.
5 Disclosure should highlight important information	<p>Simplifies the content without changing its substance, including clarifying the legislative basis for this principle and removing:</p> <ul style="list-style-type: none"> <li>the reference to Report 201 <i>Review of disclosure for capital protected products and retail structured or derivative products</i> (<a href="#">REP 201</a>) published in 2010, due to declining relevance; and</li> <li>the note referring to <a href="#">ASIC Corporations (Updated Product Disclosure Statements) Instrument 2016/1055</a>, which repeats content under '1 Disclosure should be timely'.</li> </ul>
6 Disclosure should have regard to clients' needs	Clarifies and simplifies our guidance, omitting suggestions about consumer testing, but retaining guidance about client feedback and complaints without changing its substance. We have also clarified the legislative basis for this principle.
<b>Section F</b>	Includes a new Section F on lodgement and notification, incorporating relevant guidance from Information Sheet 94 <i>Notification requirements for Product Disclosure Statements</i> ( <a href="#">INFO 94</a> ) and Regulatory Guide 197 <i>Warrants: Out-of-use notices</i> ( <a href="#">RG 197</a> ).
Key points	Includes key points for the new Section F.
What are the notification requirements for certain PDSs	Incorporates relevant PDS guidance on lodging PDSs with ASIC from Section E of the current RG 168.
What are the notification requirements for other PDSs	Incorporates and simplifies relevant PDS guidance from <a href="#">INFO 94</a> . We propose to withdraw INFO 94 when the updated RG 168 is published.
Relief from notification requirements	Incorporates and simplifies relevant PDS guidance from <a href="#">RG 197</a> . We propose to withdraw RG 197 when the updated RG 168 is published.
<b>Appendix 1</b>	Adds a new table setting out how and when other ASIC regulatory guides apply to the PDS requirements.
<b>Appendix 2</b>	Incorporates the current guidance in Regulatory Guide 65 <i>Section 1013DA disclosure guidelines</i> ( <a href="#">RG 65</a> ). We propose to withdraw RG 65 when the updated RG 168 is published.
<b>Appendix 3</b>	Incorporates relevant PDS guidance from <i>Information Sheet 155 Shorter PDSs—Complying with requirements for superannuation products, simple managed investment schemes and simple sub-fund products</i> ( <a href="#">INFO 155</a> ) and relevant material on 'incorporation by reference' from the current Section B of RG 168. We propose to withdraw INFO 155 when the updated RG 168 is published.
<b>Key terms and related information</b>	Includes consequential amendments relating to the proposed content changes.