

**Important:** This document contains Schedule 10 of the Corporations Regulations 2001 (Cth), as amended by:

- Class Order 14/1252
- ASIC Corporations (Amendment and Repeal) Instrument 2015/876
- ASIC Corporations (Amendment) Instrument 2016/1224
- ASIC Corporations (Amendment and Repeal) Instrument 2017/65;
- ASIC Corporations (Amendment) Instrument 2017/664; and
- ASIC Corporations (Amendment) Instrument 2017/1138;
- Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019; and
- ASIC Corporations (Amendment) Instrument 2019/599.

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## Schedule 10—Disclosure of fees and other costs

(regulations 7.9.16K, 7.9.16M and 7.9.16N)

### Part 1—Interpretation

#### 101 Definitions

In this Schedule:

**activity fee**, for a superannuation product, has the meaning given by subsection 29V(7) of the SIS Act.

**administration fee** has the meaning given by clause 209A.

**advice fee**:

- (a) for a superannuation product—has the meaning given by subsection 29V(8) of the SIS Act; and
- (b) for a managed investment product—means an amount that is:

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- (i) paid or payable to a financial adviser for financial product advice to a retail client or product holder about an investment; and
- (ii) not included in a contribution fee, withdrawal fee, exit fee, establishment fee or management cost.

***balanced investment option*** means an investment option in which the ratio of investment in growth assets, such as shares or property, to investment in defensive assets, such as cash or bonds, is as close as practicable to 70:30.

***borrowing costs*** means costs, including costs in an interposed vehicle, relating to a credit facility within the meaning of regulation 7.1.06 relating to the provision of credit within the meaning of subregulation 7.1.06(3) to:

- (a) a trustee of a superannuation entity; or
- (b) an interposed vehicle, or a trustee of an interposed vehicle, in or through which the property of a superannuation fund is invested.

Explanatory Statement to ASIC Instrument 2017/664

Paragraph 3 in Schedule 1 to the Amendment Instrument modifies sub-paragraph 6(a)(iaa) in [CO 14/1252] to clarify the definition of borrowing costs. The amendment ensures that costs that relate to lending are not treated as borrowing costs.

***brokerage*** means an amount paid or payable to a broker for undertaking a transaction for the acquisition or disposal of a financial product.

***buy-sell spread:***

- (a) for a superannuation product—has the meaning given by subsection 29V(4) of the SIS Act; or
- (b) for a managed investment product—means an amount, deducted from the value of a financial product of a product holder, that represents an apportionment, among product holders, of the actual or estimated transaction costs incurred by the managed investment scheme.

***contribution fee*** means an amount paid or payable against the initial, and any subsequent, contributions made into a product by or for a retail client for the product.

Note: A contribution may be made by an employer on behalf of the product holder or retail client.

***distribution costs*** means the costs or amounts paid or payable for the marketing, offer or sale of a product.

Note: This includes any related adviser remuneration component other than an advice fee.

***establishment fee*** means an amount paid or payable for the establishment of a client's interest in a product.

Note: This does not include contribution fees paid or payable against the initial contribution into the product.

***exit fee:***

- (a) for a superannuation product—has the meaning given by subsection 99BA(2) of the SIS Act; and
- (b) for a managed investment product—means an amount paid or payable on the disposal of all interests held in the product.

Explanatory Statement to Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019

Items 3 to 5, 8, 14 to 19, 23 and 28 amend the Corporations Regulations to update or remove references to exit fees in product disclosure statements for superannuation products to reflect that these fees can no longer be charged. These amendments apply to product disclosure statements given on or after 1 July 2019.

***financial year*** means:

- (a) in relation to a managed investment product—a financial year of the registered scheme to which the managed investment product relates; and
- (b) in relation to a superannuation product—a period of 12 months ending at the end of a fund reporting period determined under regulation 7.9.32 for holders of the superannuation product.

***incidental fees*** means costs or amounts, other than costs or fees defined in this clause, that are:

- (a) paid or payable in relation to the product; and
- (b) not material to a retail client's decision to acquire, hold or dispose of his or her interest in the product.

Example: Cheque dishonour fees.

***indirect cost*** has the meaning given by clause 101A.

***insurance fee***, for a superannuation product, has the meaning given by subsection 29V(9) of the SIS Act.

***interposed vehicle*** has the meaning given by clause 101B.

***investment fee*** has the meaning given by clause 209A.

***lifecycle MySuper product*** has the meaning given by regulation 7.9.07N.

***lifecycle stage*** has the meaning given by regulation 7.9.07N.

***performance***, of a managed investment product, a superannuation product, a MySuper product or an investment option, includes:

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- (a) income in relation to the assets of, or attributed to, the managed investment product, the superannuation product, the MySuper product or the investment option; and
- (b) capital appreciation (realised or unrealised) to the value of the managed investment product, the superannuation product, the MySuper product or the investment option.

**performance fee** means an amount paid or payable, calculated by reference to the performance of a managed investment product, a superannuation product, a MySuper product or an investment option.

**property operating costs** means amounts that are paid or payable in relation to the holding of real property or an interest in real property, but do not include any of the following:

- (a) borrowing costs;
- (b) amounts that are paid or payable relating to the acquisition or disposal of real property or an interest in real property;
- (c) an amount that is otherwise charged as any of the following:
  - (i) an administration fee;
  - (ii) a buy-sell spread;
  - (iii) a switching fee;
  - (iv) an exit fee;
  - (v) an activity fee;
  - (vi) an advice fee;
  - (vii) an insurance fee.

Explanatory Statement to ASIC Instrument 2017/664

Paragraph 4 in Schedule 1 to the Amendment Instrument inserts after sub-subparagraph 6(a)(iia) in [CO 14/1252] sub-subparagraph 6(a)(iib) that defines 'property operating costs'. This definition is inserted to facilitate providing superannuation trustees by the Amending Instrument the option until 30 September 2018 to disclose 'property operating costs' under 'Additional Information about fees and costs' in the product disclosure statement rather than as part of the Investment fee or Indirect Costs.

**service fees** means advice fees, special request fees and switching fees.

**special request fees** includes fees paid or deducted from a product holder's managed investment product for a request made to the managed investment scheme.

Example: This applies to a fee for a request for additional information from a managed investment scheme.

**switching fee:**

- (a) for a MySuper product—has the meaning given by subsection 29V(5) of the SIS Act; or
- (b) for a superannuation product other than a MySuper product—means a fee to recover the costs of switching all or part of a

- member's interest in the superannuation entity from one investment option or product in the entity to another; or
- (c) for a managed investment product—means an amount paid or payable when a product holder transfers all or part of the product holder's interest in the managed investment product from one investment option to another.

Explanatory Statement to Class Order 14/1252

**Switching Fee**

Subparagraph 6(a)(iii) of the class order modifies the definition of *switching fee* in Schedule 10 so that, for a MySuper Product, it has the meaning given by subsection 29V(5) of the *Superannuation Industry (Supervision) Act 1993* (the **SIS Act**). For a superannuation product other than a MySuper product, a switching fee means a fee to recover the costs of switching all or part of a member's interest in the superannuation entity from one investment option or product in the entity to another. For a managed investment product a switching fee means an amount paid or payable when a product holder transfers all or part of the product holder's interest in the managed investment scheme from one investment option to another.

*withdrawal fee, for a collective investment product* means an amount, other than an exit fee, paid or payable in respect of:

- (a) a withdrawal; or
- (b) the disposal of an interest in a product.

Explanatory Statement to Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019

Items 3 to 5, 8, 14 to 19, 23 and 28 amend the Corporations Regulations to update or remove references to exit fees in product disclosure statements for superannuation products to reflect that these fees can no longer be charged. These amendments apply to product disclosure statements given on or after 1 July 2019.

**101A Indirect costs**

- (1) Despite subsection 1013C(2) of the Act, the indirect cost of a MySuper product, an investment option offered within a superannuation product other than a MySuper product, managed investment product or investment option offered by a managed investment scheme means any amount that:
- (a) either:
- (i) a responsible person knows, or reasonably ought to know or, where this is not the case, may reasonably estimate has reduced or will reduce (as applicable) whether directly or indirectly the return on the product or option that is paid from or reduces the amount or value of:

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- (A) the income of or the property attributable to the product or option; or
    - (B) the income of or property attributable to an interposed vehicle in or through which the property attributable to the product or option is invested; or
  - (ii) satisfies both the following:
    - (A) the amount is paid or payable by or on behalf of a person who may make payments that form part of the return on, or the value of, the product or option whether directly or through an interposed vehicle;
    - (B) payment of the amount is a benefit that increases the returns or value of the product or option or provides a benefit to the issuer in relation to the product or option that is retained by the issuer; and
  - (b) for a MySuper product or an investment option offered within a superannuation product other than a MySuper product, is not charged to a member as a fee; and
  - (c) is not a fee as defined in clause 209A or an insurance fee; and
  - (d) subject to subsection (3), would, if the amount had been paid as a cost out of a superannuation entity, be an investment fee or administration fee for the superannuation product or, if the amount had been paid out of the scheme property of the registered scheme, be a management cost of the managed investment product.
- (2) For the purposes of subclause (1):
- (a) property is invested in or through an interposed vehicle even if:
    - (i) the property is in turn invested in or through one or more other interposed vehicles; or
    - (ii) the property was invested in the first mentioned interposed vehicle through or by another interposed vehicle; and
  - (b) property is not invested in or through an interposed vehicle if the property is invested in the vehicle by a body, trust or partnership that:
    - (i) is not an interposed vehicle; and
    - (ii) is not the trustee or responsible entity.
- (3) Without limiting subclause (1), the indirect costs of a product or investment option referred to in subclause (1) include:
- (a) the following amounts where the responsible person knows, or reasonably ought to know or, where this is not the case, may reasonably estimate those amounts:

- (i) in relation to a derivative financial product that is not an option to acquire or dispose of a financial product—the amount that is the difference between the underlying return and the actual return for the derivative financial product, where the actual return on the product or option is less than the underlying return on the derivative financial product over the relevant financial year; or
  - (ii) in relation to a derivative financial product that is an option to acquire or dispose of a financial product—any amount by which the cost incurred to acquire the derivative financial product exceeds the amount that would be obtained on its disposal at that time; or
- (b) where the responsible person does not know, does not believe they reasonably ought to know, and is not able to reasonably estimate without taking steps that the responsible person considers unreasonable, the amount in paragraph (a) (as applicable) in relation to a derivative financial product—the following amounts in relation to the derivative financial product:
  - (i) in relation to a derivative financial product that is not an option to acquire or dispose of a financial product—the greater of:
    - (A) the amount calculated using the following formula:  
$$\text{relevant percentage} \times \text{value} \times (n/365)$$
where:  
**n** means the number of days that the derivative financial product was held by the responsible person or interposed vehicle during the relevant financial year.  
**relevant percentage** means 0.1%.  
**value**, in relation to a derivative financial product, means the value of the ultimate reference assets, in each case taking into account any leverage, offsets or similar adjustments applied to or between the ultimate reference assets under the terms of the derivative financial product; and
    - (B) the minimum amount that the responsible person believes or has reasonable grounds to believe would apply under paragraph (a);
  - (ii) in relation to a derivative financial product that is an option to acquire or dispose of a financial product—the lesser of:
    - (A) the amount that would apply under subparagraph (i) if the exclusion from that subparagraph (i) of options did not apply; and

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- (B) the premium paid by the responsible person or interposed vehicle for the option,

where the amount referred to in paragraph (a) or (b) is attributable to:

- (c) the product or investment option; or  
(d) an interposed vehicle through which the property attributable to the product or investment option is invested.

- (3A) In subclause (3):

**actual return** means the return that has been or would be received (as applicable), or loss that would be payable, by the responsible entity, trustee or interposed vehicle in relation to the derivative financial product over the relevant financial year if the derivative financial product was:

- (a) acquired at the time the derivative financial product was acquired, or, if the derivative financial product was not acquired during the relevant financial year, acquired at the commencement of the relevant financial year for the same price at which it would have been disposed at the end of the preceding financial year; and  
(b) disposed of at the time the derivative financial product was disposed of, or, if the derivative financial product was not disposed of during the relevant financial year, disposed of at the end of the relevant financial year for the price at which it would have been disposed of at that time.

**derivative financial product** means a financial product that:

- (a) is:

- (i) a derivative; or  
(ii) either:

- (A) a security other than a share in a body or a debenture of a body; or  
(B) a managed investment product or financial product referred to in paragraph 764A(1)(ba) of the Act other than an interest in a managed investment scheme,

under which:

- (C) financial products (**delivery products**) will be delivered or an amount paid at a specified time (**maturity**) in the future; and  
(D) the value of the delivery products to be delivered at maturity or the amount to be paid is ultimately determined, derived from or varies by reference to the value or amount of one or more of the following (each, a **reference asset**):  
(I) financial products other than the delivery products;  
(II) an asset other than a financial product;



- (III) a rate (including an interest rate or exchange rate);
- (IV) an index;  
provided that the reference asset is not related to the value of:
- (V) a share in a body or debenture of a body to which the delivery products relate; or
- (VI) the assets of the managed investment scheme to which the delivery products relate; or
- (VII) the assets attributable to a class of interests in the managed investment scheme to which the delivery products relate; and

(b) is not able to be traded on a financial market at the time it is acquired.

***reference asset:***

- (a) in relation to a derivative financial product that is a derivative—means the something else that the amount of the consideration, or the value of the arrangement, is ultimately determined, derived from, or varies by reference to and, if the something else is a rate of interest or inflation, the amount on which that rate is applied under the derivative financial product in determining the amount to be paid or received;
- (b) in relation to a derivative financial product that is a security, managed investment product or financial product referred to in paragraph 764A(1)(ba) of the Act other than an interest in a managed investment scheme—has the meaning given by clause 101A(3A)(a)(ii)(D).

***relevant financial year*** means the financial year for which responsible person is calculating indirect costs.

***ultimate reference asset***, in relation to a derivative financial product and each reference asset for the derivative financial product, means:

- (a) to the extent that the reference asset is:
  - (i) a derivative financial product; or
  - (ii) rights in an entity that would be an interposed vehicle if it were held by the superannuation entity or scheme;  
or
  - (iii) an index that includes a derivative financial product referred to in sub-paragraph (i) or rights in an entity referred to in sub-paragraph (ii),

the asset or assets from which the returns from the derivative financial product or rights in the entity are determined, or any asset or assets that are held in or through any other derivative financial products or entities that would be an interposed vehicle if they were held as part of the superannuation entity or scheme;

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(b) to the extent that the reference asset is not covered by any of the subparagraphs in paragraph (a)—the reference asset.

***underlying return***, in relation to a derivative financial product, means the return that has been or would be received (as applicable), or loss that would be payable, because of the change in the value of the ultimate reference assets taking into account any leverage, offsets or similar adjustments applied to or between the ultimate reference assets under the terms of each relevant derivative financial product or interest in an interposed vehicle over the relevant financial year for which the derivative financial product was held.

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Explanatory Statement to ASIC Instrument 2015/876

**Costs of derivative financial products**

Paragraph 9 in Schedule 1 to the Instrument replaces notional subclause 101A(3) in [CO 14/1252] with a new subparagraph that defines the costs of derivatives that must be disclosed as part of indirect costs.

Derivative financial products that are not traded on a financial market (OTC derivatives) are sometimes used in a similar manner to interposed vehicles, that is to gain ongoing economic exposure to movements of particular assets, such as commodities, as part of the product issuer's investment strategy to meet the product or investment option's investment objective.

Without limiting the definition of indirect costs of a product or investment option in subclause 101A(1), the new subclause 101A(3) defines the cost amount of derivative financial products to be included as part of the indirect costs of a product or investment option or an interposed vehicle through which the property attributable to the product or investment option is invested, and that must be included where the responsible person knows, ought to know or may reasonably estimate the amount. The amount that must be included as part of the indirect costs depends on whether the derivative financial product is an option. Under the new subparagraph 101A(3)(a)(i), in the case where the derivative financial product is not an option, the amount is equal to the difference between the return for the derivative financial product and the underlying return on the derivative financial product over the relevant financial year, where the actual return on the product or investment option is less than the underlying return on the derivative financial product. The underlying return is a measure based on the return that would apply based on the underlying assets if there were no fees, costs or other adjustments made. Under new subparagraph 101A(3)(a)(ii), in the case where the derivative financial product is an option, the amount is equal to any amount by which the cost incurred to acquire the derivative financial product exceeds the amount that would be obtained on its disposal at that time.

In the case where the responsible person does not know, does not believe they reasonably ought to know, and is not able to reasonably estimate, without taking steps that the responsible person considers unreasonable, the amount in subparagraph 101A(3)(a)(i) or (ii) (as applicable) in relation to a derivative financial product, then the responsible person must determine that amount based on paragraph 101A(3)(b). Subparagraph 101A(3)(b)(i) requires that the amount for a derivative financial product that is not an option is the greater of the amount calculated using the formula outlined under this subparagraph to be used for determining the cost amount of a derivative financial product and the minimum amount that the responsible

person believes, or has reasonable grounds to believe, would be required to be disclosed under paragraph 101A(3)(a). The formula under sub-subparagraph 101A(3)(b)(i)(A) is the relevant percentage, which is 0.1%, multiplied by the value of the derivative financial product multiplied by the number of days the derivative financial product was held by the responsible person or interposed vehicle during the relevant financial year divided by 365.

Subparagraph 101A(3)(b)(ii) in [CO 14/1252] requires, in relation to a derivative financial product that is an option, the amount referred to in sub-subparagraphs 101A(3)(b)(i)(A) and (B) that would apply under subparagraph 101A(3)(b)(i) if the exclusion from subparagraph (i) of options did not apply or the premium paid by the responsible person or interposed vehicle for the option, whichever is less.

Subclause 101A(3A) in [CO 14/1252] defines terms used in subclause 101A(3). The defined terms are 'actual return', 'derivative financial product', 'reference asset', 'relevant financial year', 'ultimate reference asset', and 'underlying return'.

Explanatory Statement to ASIC Instrument 2016/1224

Paragraph 3 in Schedule 1 to the Instrument modifies notional clause 101A of Schedule 10 to the Regulations inserted by [CO 14/1252]. The modification to notional clause 101A clarifies that amounts that, if they had been paid as a cost out of a superannuation entity, would not be an investment fee or administration fee for the superannuation product are not included as an indirect cost of the superannuation product. It also clarifies that amounts that, if they had been paid out of the scheme property of a registered scheme, would not be a management cost of the managed investment product are not included as management costs of the managed investment scheme.

Explanatory Statement to ASIC Instrument 2017/664

This modification (Paragraph 5 in Schedule 1 to the Amendment Instrument) also clarifies the application of notional paragraph 101A(1)(a)). This modification is to avoid doubt that amounts that are paid by persons who are paying returns to the relevant product or investment option or to the issuer of the relevant product or option that are retained by the issuer are included as indirect costs, subject to defined exceptions. This includes any payments of expenses by tenants for the benefit of the landlord who is the issuer or an interposed vehicle, and includes any fees and costs paid by borrowers from loan-based funds, such as mortgage funds and marketplace lending funds, retained by the issuer.

This paragraph also clarifies the definition of 'indirect costs' in notional paragraph 101A(1)(b).

- (4) Despite subclause (1) and (3), indirect costs of a managed investment product or an investment option of a managed investment scheme do not include amounts referred to in subclause (3):
- (a) where the derivative financial product referred to in subclause (3) is acquired or disposed of for the primary purpose of avoiding or limiting the financial consequences of fluctuations in, or in the value of, receipts or costs of the

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managed investment scheme whether or not the receipts or costs arise in or through an interposed vehicle; and

- (b) where the indirect costs were calculated under paragraph (3)(a), to the extent that the difference would result from the incurring of transactional or operational costs in relation to the ultimate reference assets.

Note: Costs excluded under subparagraph (4) are likely to be transaction costs under clause 102. Indirect costs for superannuation products generally include transaction costs.

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Explanatory Statement to Class Order 14/1252

**Indirect Costs**

Subparagraph 6(a)(iv) of the class order inserts a new clause 101A into Schedule 10 which in effect modifies the definition of *indirect costs*. The modified indirect cost definition applies to superannuation trustees of entities offering a MySuper products and superannuation products other than MySuper products. It also applies to responsible entities of registered schemes. Its application to responsible entities of registered schemes is to ensure that indirect costs associated with investing through interposed vehicles, other than any exclusions allowed for by Schedule 10 such as transactional costs, are included in schemes' management costs.

An indirect cost under the new clause means any amount that a trustee of a superannuation entity or a responsible entity:

- knows or reasonably ought to know or,
  - where this is not the case, may reasonably estimate;
- that will directly or indirectly reduce the return on the product or option that is paid from or reduces the amount or value of the income of or property attributable to the product or option or the income of or property attributable to an interposed vehicle in or through which the property attributable to the product or option is invested.

For example, a superannuation fund invests in term deposits and other cash investments by acquiring a life product from a life insurance company that makes these investments. The superannuation fund trustee will need to include in the fund's indirect costs the amount deducted from the income earned on the term deposits and other cash investments, including any amount deducted by the life insurance company from the income. Any amount that is charged to a member as a fee or, for superannuation products, is a fee under section 29V of the SIS Act is not an indirect cost.

Notional paragraph 101A(2)(a) makes it clear that where property is invested through a chain of interposed vehicles, costs incurred by each of the interposed vehicles are to be taken into account. For example, an investment in securities, such as shares or bonds, that is held through multiple layers, such as fund of funds structure, would still be regarded as property for the purposes of calculating the indirect costs of investing in those securities.

Conversely, notional paragraph 101A(2)(b) makes it clear that it is not necessary to take into account the costs imposed at the level of any vehicle through which a body, trust or partnership that is not of itself an interposed vehicle invests. For example, if a superannuation product invests in a listed company that is not an interposed vehicle and this company invests in another vehicle such as an investment trust then the costs

of this downstream interposed vehicle will not be taken into account by the issuer of the superannuation product for the purposes of disclosing the product's costs in the PDS.

The indirect cost of a product or option includes an over the counter (OTC) derivative buy-sell spread. The buy-sell spread is the amount that would be required to acquire the derivative at the relevant time exceeds the amount that would be obtained on its disposal at that time attributable to the product or option or an interposed vehicle through which the property attributable to the product or option is invested. Derivatives that are not traded on a financial market (OTC derivatives) are sometimes used in a similar manner to interposed vehicles, that is to gain ongoing economic exposure to movement of particular assets, such as commodities, as part of the product issuer's investment strategy to meet the product or investment option's investment objective. The buy-sell spread will include the costs of the counterparty managing the exposure. It is therefore important that the buy-sell spread of OTC derivatives is included in the indirect costs of the product or investment option.

The indirect costs of a managed investment product or an investment option of a registered scheme does not include the buy-sell spread and any other costs associated with the acquisition or disposal of an OTC derivative where the derivative is acquired or disposed of for the primary purpose of avoiding or limiting the financial consequences of fluctuations in, or in the value of, receipts or costs of the managed investment scheme (hedging). This is the case regardless of whether the property is held or invested through an interposed vehicle. Any buy/sell spread and other costs of an OTC derivative that are excluded from the indirect cost of a managed investment product or an investment option of a registered scheme because of the OTC derivative was acquired or disposed for the purposes of hedging are likely to be transaction costs under clause 102 of Schedule 10. Transaction costs are included in indirect costs for superannuation products and investment options.

Explanatory Statement to ASIC Instrument 2015/876

Paragraph 10 of Schedule 1 to the Instrument omits and substitutes notional subclause 101A(4)) in [CO 14/1252], excluding the note. The replacement notional subclause 101A(4)) in [CO 14/1252] clarifies that, despite subclauses 101A(1) and (3) that require costs of derivative financial products to be disclosed, indirect costs of managed investment products or an investment option of a managed investment product do not include amounts that subclause (3) requires to be included as costs of derivative financial products where these products are acquired or disposed of for the primary purpose of avoiding or limiting the financial consequences of fluctuations in, or in the value of, receipts or costs of the managed investment scheme whether or not the receipts or costs arise in or through an interposed vehicle. Further, under paragraph 101A(4)(b) in [CO 14/1252] indirect costs of managed investment products or an investment option of a managed investment product do not include indirect costs calculated under paragraph 101A(3)(a) to the extent that the difference would result from the incurring of transactional or operational costs in relation to the ultimate reference assets.

## **101B Interposed vehicle**

- (1) A body, partnership or trust (each an *entity*) is an *interposed vehicle* in relation to a product or investment option if both of the following are satisfied:

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- (a) property attributable to the product or investment option to which the Product Disclosure Statement relates is invested in or through the entity;
  - (b) the responsible person for the Product Disclosure Statement believes or has reasonable grounds to believe that the entity has more than 70% of its assets by value invested in securities or other financial products.
- (2) For the purposes of subclause (1) and subject to subclause (3), in determining whether an entity (the **first entity**) has more than 70% of its assets by value invested in securities or other financial products, disregard for the numerator, securities or other financial products that:
  - (a) are reasonably regarded as a means by which the first entity makes an investment in real property or an infrastructure entity; or
  - (b) confer on the first entity control of another entity (the **second entity**), unless the responsible person for the Product Disclosure Statement has reasonable grounds to believe that the second entity has more than 70% of its assets by value invested in securities or other financial products.
- (3) For the purposes of paragraph (2)(b), in determining whether the second entity has more than 70% of its assets by value invested in securities or other financial products, apply subclause (2) to the second entity as if the second entity was the first entity referred to in that subclause.
- (4) An entity is also an **interposed vehicle** in relation to a product or investment option if, having regard to the Product Disclosure Statement for the product or investment option and any other information issued by the responsible person, a security or interest in the entity could be reasonably regarded, by retail clients who may be expected to be given the Product Disclosure Statement or other information, as the means by which the benefit of investments by or through the entity is obtained, rather than the investment of the superannuation entity or registered scheme to which the product or investment option relates.
- (4A) Subject to subclause (4B), an entity is also an **interposed vehicle** in relation to a product or investment option if:
  - (a) the Product Disclosure Statement for the product or investment option or any other information issued by the responsible person relating to the product or investment option issued by the responsible person that has been given or may be reasonably be expected to be given to retail clients refers to “property”, “real estate” or “land” or similar terms in the description of the product or investment option or as one of the assets (**relevant asset**) in which investment may be made under the product or investment option; and

Clause 101B Interposed vehicle

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- (b) real property or an interest in land to which the reference relates is directly or indirectly held by or through the entity.
- (4B) An entity is not an *interposed vehicle* because of subclause (4A) if both the following are satisfied:
- (a) the reference in the Product Disclosure Statement or other information is merely part of a reference to an entity (whether specified or not) that directly or indirectly invests in real property or interests in land or to physical infrastructure referred to in paragraphs (a) to (j) of the definition of *infrastructure entity* in subclause (6);
  - (b) a retail client who has read the Statement or other information could not reasonably believe that the product or investment option or the relevant asset may be intended for persons predominantly intending to benefit from increases in the value of, or returns from holding, real property or an interest in land other than physical infrastructure referred to in paragraphs (a) to (j) of the definition of *infrastructure entity* in subclause (6).
- (4C) Subject to subclause (4D), an entity is also an *interposed vehicle* in relation to a product or investment option if:
- (a) the Product Disclosure Statement for the product or investment option or any other information issued by the responsible person relating to the product or investment option that has been given or may be reasonably expected to be given to retail clients refers to the product or option as being directly or indirectly invested in or through an entity (whether specified or not) other than an infrastructure entity which the responsible person believes has a majority of its assets invested in physical infrastructure referred to in paragraphs (a) to (j) of the definition of *infrastructure entity* in subclause (6); and
  - (b) the reference relates to the entity.
- (4D) An entity is not an *interposed vehicle* because of subclause (4C) if:
- (a) either of the following is satisfied:
    - (i) the entity is admitted to the official list of a prescribed financial market or a financial market operated outside of this jurisdiction that is regulated by a foreign government or an agency of a foreign government;
    - (ii) the issuer of the securities or financial products of the entity has applied, or stated in a regulated disclosure that they will apply, for such admission; and
  - (b) the securities or financial products of the entity are, or are to be, held under an investment strategy for the product or investment option that:
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Clause 101B Interposed vehicle

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- (i) relates to, or is publicly measured by the responsible person by reference to, a widely used index (***reference index***) of securities or financial products of entities that satisfy subparagraph (a)(i); and
- (ii) is a strategy of holding directly or indirectly securities or financial products:
  - (A) of entities that satisfy paragraph (a); and
  - (B) that represent at least 80% by value of the net assets attributable to the investment strategy; and
- (c) the value of all the securities or financial products of the entity that are in the same class as the securities or financial products held under the investment strategy does not exceed 30% of the value of the reference index.

Note: If paragraphs (a) to (c) are satisfied in relation to an entity, the entity may still be an ***interposed vehicle*** because of provisions of clause 101B other than subclause (4C).

- (5) Despite anything in subclauses (1) to (4D), an entity will not be an ***interposed vehicle*** in relation to a product or investment option if all of the following apply:
  - (a) the Product Disclosure Statement for the product or an investment option states that a holder of the product may give instructions, directions or requests for financial products to be acquired;
  - (b) the responsible person for the Product Disclosure Statement has published a list of financial products in relation to which the instructions, directions or requests may be given that includes a security or interest in the entity;
  - (c) the arrangement under which the instructions would be acted on is a custodial arrangement as defined in subsection 1012IA(1) of the Act.
- (6) In this clause:

***infrastructure entity*** means an entity that provides a return to its shareholders or members mainly from owning or operating any of the following:

  - (a) airports;
  - (b) electricity generation, transmission or distribution facilities;
  - (c) gas transmission or distribution facilities;
  - (d) hospitals;
  - (e) ports;
  - (f) railways;
  - (g) roads;
  - (h) sewerage facilities;
  - (i) telecommunication facilities;
  - (j) water supply facilities; or



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(k) other physical infrastructure.

Explanatory Statement to ASIC Instrument 2015/876

**Interposed vehicle**

Paragraph 11 of Schedule 1 to the Instrument inserts after notional clause 101A, inserted by [CO 14/1252], notional clause 101B with the heading '**Interposed vehicle**'. Notional clause 101B inserts a new definition for interposed vehicle in relation to a MySuper product, an investment option offered within a superannuation product other than a MySuper product, a managed investment product or an investment option offered by a managed investment scheme in paragraph 101 of Schedule 10 to the Regulations.

Notional subclause 101B(1) defines an interposed vehicle as a body, partnership or trust (each an entity) in relation to a product or investment option if both paragraphs 101B(1)(a) and (b) are satisfied. Notional paragraph 101B(1)(a) provides an entity is an interposed vehicle only when property attributable to the product or investment option to which the Product Disclosure Statement relates is invested in or through the entity. Subject to notional subclause 101B(5), notional paragraph 101B(1)(b) includes as an interposed vehicle, an entity that the responsible person for the Product Disclosure Statement believes or has reasonable grounds to believe that the entity has more than 70% of its assets by value invested in securities or other financial products.

Notional subclause 101B(2), for the purposes of notional subclause (1) and subject to subclause (3), specifies securities and financial products that can be disregarded for the purposes of determining whether an entity (**the first entity**) has more than 70% of its assets by value invested in securities or other financial products. In particular notional paragraph 101B(2)(a) provides that securities or financial products can be disregarded if they are traded on a financial market on which the issuer of the financial products is listed and are reasonably regarded as a means by which the first entity makes an investment in real property or an infrastructure entity. Under notional paragraph 101B(2)(b) the securities or financial products can be disregarded if they confer on the first entity control of another entity (**the second entity**), unless the responsible person for the Product Disclosure Statement believes or has reasonable grounds to believe that the second entity has more than 70% of its assets by value invested in securities or other financial products. Notional subclause 101B(3) requires that for the purposes of paragraph (2)(b), in determining whether the second entity has more than 70% of its assets by value invested in securities or other financial products, notional subclause (2) applies to the second entity as if the second entity was the first entity referred to in that notional subclause.

Further, under notional subclause 101B(4) an entity is an interposed vehicle in relation to a product or investment option if having regard to each Product Disclosure Statement for the product or investment option, a security or interest in the entity could be reasonably regarded, by retail clients who may be expected to be given the Product Disclosure Statement, as the means by which the benefit of investments by or through the entity is obtained, rather than the investment of the superannuation entity or registered scheme to which the product or investment option relates. This means, for example, that a managed investment scheme that invests directly in property will be an interposed vehicle unless the Product Disclosure Statement for the product or investment option that invests in this scheme makes it clear to retail clients reading the Product Disclosure Statement that the scheme is not to be regarded as the means by which the benefit of investing in property is obtained, but rather the end investment of

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Clause 101B Interposed vehicle

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the product or investment option.

Notional subclause 101B(5) addresses the circumstances under which a body, trust or partnership that is offered as an investment option or product through a platform type arrangement, including investor directed portfolio services and similar platforms, is not an interposed vehicle. The subclause provides that a body, trust or partnership is not an interposed vehicle if the Product Disclosure Statement for the product or investment option states that a holder of the product may give instructions, directions or requests for financial products that have been published in a list by the responsible person for the Product Disclosure Statement to be acquired, and the responsible person for the Product Disclosure Statement has published a list of financial products in relation to which the instructions, directions or requests may be given as stated in the Statement which includes a security or interest in the body, trust or partnership. This exclusion applies where the arrangement under which the instructions would be acted on is a custodial arrangement as defined in subsection 1012IA(1) of the Act.

Notional subclause 101B(6) defines an ‘infrastructure entity’ and ‘listed’ in relation to an entity.

Paragraph 12 of Schedule 1 to the Instrument omits and substitutes sub-subparagraph 6(b)(iii) of [CO 14/1252]. The substituted paragraph omits and substitutes paragraph 2(h) of clause 102 of Schedule 10 to the Regulations. The new paragraph 2(h) clarifies that costs that an investor would incur if he or she invested directly in an asset, which are excluded from management costs for a managed investment product or investment option, do not include costs related to a security, interest in an interposed vehicle or derivative financial product within the meaning of subclause 101A(3A).

Explanatory Statement to ASIC Instrument 2016/1224

Subparagraph 4(a) of the Instrument omits the reference in paragraph 101B(2)(a) to a security or financial product being traded on a financial market on which the entity to which the financial product relates is listed. This omission clarifies that the exclusion provided in paragraph 101B(2)(a) is not dependent on the securities being listed by modifying the interposed vehicle definition. It removes the requirement for securities that are a means of gaining exposure to property to be listed in order for those securities to be disregarded for the numerator in the asset test part of the interposed vehicle definition.

Subparagraph 4(b) to the Instrument modifies notional subclause 101B(4) to clarify that the determination of whether an entity is an interposed vehicle under the PDS test part of the interposed vehicle definition should also have regard to other information, issued by the responsible person, about the product or option that is likely to be given to retail clients who may acquire the product under the PDS.

Subparagraph 4(c) to the Instrument modifies notional subclause 101B(6) to omit the definition of listed from [CO 14/1252].

Explanatory Statement to ASIC Instrument 2017/664

Paragraph 6 in Schedule 1 to the Amendment Instrument modifies Sub-subparagraph 6(a)(v) in [CO 14/1252]. The modifications to this sub-subparagraph insert after notional paragraph 101B(4) paragraphs 101B(4A), 101B(4B), 101B(4C) and 101B(4D) to Schedule 10 the Regulations. These paragraphs modify the definition of interposed vehicle. The amendments make more certain that entities through which exposures to property or similar are obtained are interposed vehicles. Further the

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amendments make clear that investments in entities that are not infrastructure entities, as defined, are treated as interposed vehicles unless the entities form part of an investment strategy that is directed to securities of listed entities.

## 102 Management costs

- (1) **Management costs**, for a managed investment product, means any of the following:
- (a) an amount payable for administering the managed investment scheme;
  - (b) for a custodial arrangement—the cost involved, or amount paid or payable, for gaining access to, or participating in, the arrangement;
  - (c) distribution costs;
  - (d) other expenses and reimbursements in relation to the managed investment scheme;
  - (e) amounts paid or payable for investing in the assets of the managed investment scheme;
  - (f) amounts deducted from a common fund by way of fees, costs, charges or expenses, including:
    - (i) amounts retrieved by an external fund manager or a product issuer; and
    - (ii) amounts deducted from returns before allocation to the fund;
  - (g) estimated performance fees;
  - (h) any other investment-related expenses and reimbursements, including any associated with custodial arrangements;
  - (i) indirect costs.
- (2) The following fees and costs are not management costs for a managed investment product:
- (a) a contribution fee;
  - (b) transactional and operational costs other than those costs under subclause 101A(3);
  - (c) an additional service fee;
  - (d) an establishment fee;
  - (e) a switching fee;
  - (f) an exit fee;
  - (g) a withdrawal fee;
  - (h) costs (related to a specific asset (other than a security or interest in an interposed vehicle or derivative financial product within the meaning of subclause 101A(3A)) or activity to produce income) that an investor would incur if he or she invested directly in the asset;
  - (i) incidental fees.

Explanatory Statement to Class Order 14/1252

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Subparagraph 6(b)(i) of the class order modifies paragraph 102(1)(h) of Schedule 10 by including indirect costs in the definition of *management costs*. This modification avoids any doubt that indirect costs, as modified by the class order, will need to be included in the calculation of the management costs.

Subparagraph 6(b)(ii) of the class order modifies paragraph 102(2)(b) of Schedule 10 to exclude from the transactional costs and operational costs, which are not management costs for a managed investment product, any buy/sell spread of an OTC derivative included in the indirect cost under notional paragraph 101A.

Subparagraph 6(b)(iii) of the class order modifies paragraph 102(2)(h) of Schedule 10 to exclude from costs, which are not management costs for a managed investment product, any costs (related to a specific asset, other than a right or holding in an interposed vehicle, or activity to produce income) that an investor would incur if he or she invested directly in the asset. The effect of the amendment is to ensure costs in interposed vehicles are not excluded from management costs on this basis.

**103 Transactional and operational costs**

(1) *Transactional and operational costs* include the following:

- (a) brokerage;
- (b) buy-sell spread;
- (c) settlement costs (including custody costs);
- (d) clearing costs;
- (e) stamp duty on an investment transaction;
- (ea) where an asset is acquired other than through a financial market, any part of the acquisition price of the asset that exceeds the price at which the asset could have been disposed of;
- (eb) where an asset is acquired through a financial market, any part of the acquisition price of the asset that exceeds the bid price in the financial market that would apply without the acquisition having occurred either:
  - (i) immediately following the acquisition; or
  - (ii) if the acquisition was a part of multiple acquisitions reflecting a single and non-recurring instruction to acquire, after the last acquisition made in accordance with the instruction;
- (ec) property operating costs;
- (f) costs incurred in or by an interposed vehicle that would be transactional and operational costs if they had been incurred by the superannuation entity to which the superannuation product or investment option relates or for the registered scheme to which the managed investment products relate, and for a superannuation product does not include borrowing costs or costs that are indirect costs because of subclause 101A(3).

(1A) Before 30 September 2020 transactional and operational costs do not include property operating costs for a MySuper product or

investment option if details of the property operating costs are disclosed in accordance with paragraph 209(ma).

Explanatory Statement for ASIC Instrument 2016/1224

Paragraph 6 in Schedule 1 to the Instrument modifies the definition of ‘transactional and operational costs’ in clause 103 to Schedule 10 of the Regulations. The modifications clarify that transactional and operational costs includes transactional and operational costs incurred in an interposed vehicle. The modification under paragraph 6 also clarifies that the transactional and operational costs do not include borrowing costs for a superannuation product.

Explanatory Statement to ASIC Instrument 2017/664

Paragraph 8 in Schedule 1 to the Amendment Instrument repeals and replaces sub-paragraph 6(baa). The replacement sub-paragraph inserts (baa) in clause 103((definition of *transactional and operational costs*) to Schedule 10 to the Regulations. The amendment makes clear for avoidance of doubt that transactional costs that are included in the price of an asset being acquired are to be included as transactional and operational costs, even if they are not a buy-sell spread (the buy-sell spread is already required to be disclosed).

Explanatory Statement to ASIC Instrument 2017/1138

Items 1,2,3 and 9 of Schedule 1 to the Amendment Instrument extend the time period for compliance with Schedule 10 of the Regulations as modified by [CO14/1252] and modifies [CO 14/1252] itself in relation to requiring property operating costs to be disclosed as part of the investment fee or indirect costs in a Product Disclosure Statement for superannuation products.

## 104 Indirect cost ratio

- (1) The *indirect cost ratio (ICR)*, for a MySuper product or an investment option offered by a superannuation entity, is the ratio of the total of the indirect costs for the MySuper product or investment option, to the total average net assets of the superannuation entity attributed to the MySuper product or investment option.

Note: A fee deducted from a member’s account or paid out of the superannuation entity is not an indirect cost.

- (1A) The *indirect cost ratio (ICR)*, for an investment option offered by a managed investment scheme, is the ratio of the management costs for the option that are not deducted directly from a product holder’s account, to the total average net assets of the managed investment scheme that relates to the investment option.

Note: A fee deducted directly from a product holder’s account is not included in the indirect cost ratio.

- (2) Despite clause 214, the ICR for a Product Disclosure Statement that is available during a particular financial year is to be determined for the previous financial year except that if the product

**Schedule 10** Disclosure of fees and other costs

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**Division 1** The fees and costs template for superannuation products

Clause 104

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or investment option was not offered from at least 11 months before the end of the previous financial year, the ICR for the Statement is to be determined based on the responsible person's reasonable estimate at the time the Statement is prepared of the ICR that will apply for the current financial year and if the product or investment option was first offered in the current financial year, since the time the product or investment option was first offered, adjusted to reflect a 12 month period.

- (2A) Despite clause 214, the part of a fee for a MySuper product or an investment option offered by a superannuation entity disclosed in a Product Disclosure Statement that is available during a particular financial year that relates to the costs incurred by the trustee of the superannuation entity or in an interposed vehicle or derivative financial product, is to be determined for the previous financial year except that if the product or investment option was not offered from at least 11 months before the end of the previous financial year, the costs are to be determined based on the responsible person's reasonable estimate at the time the Statement is prepared of those costs that will apply for the current financial year and if the product or investment option was first offered in the current financial year, since the time the product or investment option was first offered, adjusted to reflect a 12 month period.
- (3) The ICR for a periodic statement is to be determined over the latest reporting period.

Explanatory Statement to ASIC Instrument 2015/876

**New products or investment options**

Paragraph 13 of Schedule 1 to the Instrument inserts after subparagraph 6(b) of [CO 14/1252] a number of subparagraphs. First, it inserts subparagraph 6(ba) which omits the note under subclause 104(1) of Schedule 10 to the Regulations. Second, it inserts subparagraph 6(bb) which omits subclause 104(2) of Schedule 10 to the Regulations and substitutes a new subclause 104(2). This new subclause provides that, despite clause 214, the indirect cost ratio for a Product Disclosure Statement that is available during a particular financial year is to be determined for the previous financial year except that if the product or investment option was not offered from at least 11 months before the end of the previous financial year, the ICR for the Statement is to be determined based on the responsible person's reasonable estimate at the time the Statement is prepared of the ICR that will apply for the current financial year, and if the product or investment option was first offered in the current financial year, since the time the product or investment option was first offered, adjusted to reflect a 12 month period.

Further, paragraph 13 of Schedule 1 to the Instrument inserts subparagraphs 6(bc) and 6(bd) into [CO 14/1252]. Subparagraph 6(bc) inserts after subclause 104(2) of Schedule 10 to the Regulations subclause 104(2A). Subclause 104(2A) requires, despite clause 214, that the part of a fee for a MySuper product or an investment option offered by a superannuation entity disclosed in a Product Disclosure Statement that is available during a particular financial year that relates to the costs incurred by the trustee of the

superannuation entity or in an interposed vehicle or derivative financial product, is to be determined for the previous financial year except that if the product or investment option was not offered from at least 11 months before the end of the previous financial year, the costs are to be determined based on the responsible person's reasonable estimate at the time the Statement is prepared of those costs that will apply for the current financial year, and if the product or investment option was first offered in the current financial year, since the time the product or investment option was first offered, adjusted to reflect a 12 month period.

#### **104A Costs in management costs**

Despite clause 214, the part of the management costs for an investment option offered by a managed investment scheme disclosed in a Product Disclosure Statement that is available during a particular financial year that is not a fee payable to the responsible entity, other than a performance fee, is to be determined for the previous financial year except that if the investment option was not offered from at least 11 months before the end of the previous financial year, that part of the management costs is to be determined based on the responsible person's reasonable estimate at the time the Statement is prepared of those costs that will apply for the current financial year and if the product or investment option was first offered in the current financial year, since the time the product or investment option was first offered, adjusted to reflect a 12 month period.

#### Explanatory Statement to ASIC Instrument 2015/876

The newly inserted subparagraph 6(bd) in [CO 14/1252] inserts, after clause 104 of Schedule 10 to the Regulations, clause 104A '**Costs in management costs**'. Clause 104A requires, despite clause 214, that the part of the management costs for an investment option offered by a managed investment scheme disclosed in a Product Disclosure Statement that is available during a particular financial year that is not a fee payable to the responsible entity, other than a performance fee, is to be determined for the previous financial year except that if the investment option was not offered from at least 11 months before the end of the previous financial year, that part of the management costs is to be determined based on the responsible person's reasonable estimate at the time the Statement is prepared of those costs that will apply for the current financial year, and if the product or investment option was first offered in the current financial year, since the time the product or investment option was first offered, adjusted to reflect a 12 month period.

**Schedule 10** Disclosure of fees and other costs

**Part 2** Fees and Costs Template, example of annual fees and costs and Consumer Advisory Warning for Product Disclosure Statements

**Division 1** The fees and costs template for superannuation products

Clause 201

**Part 2—Fees and Costs Template, example of  
annual fees and costs and Consumer  
Advisory Warning for Product Disclosure  
Statements**

**Division 1—The fees and costs template for  
superannuation products**

**201 Template for superannuation products**

**Fees and other costs**

This document shows fees and other costs that you may be charged. These fees and other costs may be deducted from your money, from the returns on your investment or from the assets of the superannuation entity as a whole.

Other fees, such as activity fees, advice fees for personal advice and insurance fees, may also be charged, but these will depend on the nature of the activity, advice or insurance chosen by you. Entry fees and exit fees cannot be charged.

Taxes, insurance fees and other costs relating to insurance are set out in another part of this document.

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

*[If relevant]* The fees and other costs for each MySuper product offered by the superannuation entity, and each investment option offered by the entity, are set out on page *[insert page number]*.

<i>[Name of superannuation product]</i>		
Type of fee	Amount	How and when paid
Investment fee <sup>1</sup>		
Administration fee <sup>1</sup>		
Buy-sell spread		
Switching fee		
Advice fees relating to all members investing in a particular MySuper product or investment option		
Other fees and costs <sup>2</sup>		
Indirect cost ratio <sup>1</sup>		

- [If your account balance for a product offered by the superannuation entity is less than \$6,000 at the end of the entity's income year, the total combined amount of administration fees, investment fees and indirect costs charged to you is capped at 3% of the account balance. Any amount charged in excess of that cap must be refunded.]*
- [If there are other fees and costs, such as activity fees, advice fees for personal advice or insurance fees, include a cross-reference to the "Additional Explanation of Fees and Costs".]*



Explanatory Statement to Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019

Items 3 to 5, 8, 14 to 19, 23 and 28 amend the Corporations Regulations to update or remove references to exit fees in product disclosure statements for superannuation products to reflect that these fees can no longer be charged. These amendments apply to product disclosure statements given on or after 1 July 2019.

Items 6, 7, 9 to 13, 21 to 22, and 24 to 27 amend the Corporations Regulations to update the template texts in product disclosure statements and shorter form product disclosure statements. The updated template texts will explain that certain fees and costs are subject to the cap and any amount charged in excess of the cap must be refunded to the member's account.

## **Division 2—The fees and costs template for managed investment products**

### **202 Template for a multiple fee structure—managed investment products**

#### **Fees and other costs**

This document shows fees and other costs that you may be charged. These fees and costs may be deducted from your money, from the returns on your investment or from the assets of the managed investment scheme as a whole.

Taxes are set out in another part of this document.

You have 2 different fee payment options:

- (a) to pay contribution fees upfront, at the time when you make each investment into the managed investment scheme; or
- (b) to pay contribution fees later (for example, on the termination of your investment or by way of other increased fees).

Note: You may pay more in total fees if you choose to pay contribution fees later.

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

*[If relevant]* Fees and costs for particular investment options are set out on page *[insert page number]*.

<i>[Name of managed investment product]</i>			
Type of fee or cost	Amount		How and when paid
	Option to pay contribution fees upfront	Option to pay contribution fees later	
<b>Fees when your</b>			

**Schedule 10** Disclosure of fees and other costs

**Part 2** Fees and Costs Template, example of annual fees and costs and Consumer Advisory Warning for Product Disclosure Statements

**Division 2** The fees and costs template for managed investment products

Clause 202A

<i>[Name of managed investment product]</i>			
Type of fee or cost	Amount		How and when paid
<b>money moves in or out of the managed investment product</b>			
<i>Establishment fee</i> The fee to open your investment			
<i>Contribution fee<sup>1</sup></i> The fee on each amount contributed to your investment			
<i>Withdrawal fee<sup>1</sup></i> The fee on each amount you take out of your investment			
<i>Exit fee<sup>1</sup></i> The fee to close your investment			
<b>Management costs</b>			
<i>The fees and costs for managing your investment<sup>1</sup></i> The amount you pay for specific investment options is shown at page <i>[insert page number]</i>			
<b>Service fees<sup>2</sup></b>			
<i>Switching fee</i> The fee for changing investment options			

1. This fee includes an amount payable to an adviser. (See Division 4, “Adviser remuneration” under the heading “Additional Explanation of Fees and Costs”.)
2. [If there are other service fees, such as advice fees or special request fees, include a cross-reference to the “Additional Explanation of Fees and Costs”.]

**202A Template for single fee structure—managed investment products**

**Fees and other costs**

This document shows fees and other costs that you may be charged. These fees and costs may be deducted from your money, from the returns on your investment or from the assets of the managed investment scheme as a whole.

Taxes are set out in another part of this document.

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

*[If relevant]* Fees and costs for particular investment options are set out on page *[insert page number]*.

<i>[Name of managed investment product]</i>		
Type of fee or cost	Amount	How and when paid
<b>Fees when your money moves in or out of the managed investment product</b>		
<i>Establishment fee</i> The fee to open your investment		
<i>Contribution fee<sup>1</sup></i> The fee on each amount contributed to your investment		
<i>Withdrawal fee<sup>1</sup></i> The fee on each amount you take out of your investment		
<i>Exit fee<sup>1</sup></i> The fee to close your investment		
<b>Management costs</b>		
<i>The fees and costs for managing your investment<sup>1</sup></i> The amount you pay for specific investment options is shown at page <i>[insert page number]</i>		
<b>Service fees<sup>2</sup></b>		
<i>Switching fee</i> The fee for changing investment options		

**Schedule 10** Disclosure of fees and other costs

**Part 2** Fees and Costs Template, example of annual fees and costs and Consumer Advisory Warning for Product Disclosure Statements

**Division 3** How to fill in the template

Clause 203

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1. This fee includes an amount payable to an adviser. (See Division 4, “Adviser remuneration” under the heading “Additional Explanation of Fees and Costs”.)
2. *[If there are other service fees, such as advice fees or special request fees, include a cross-reference to the “Additional Explanation of Fees and Costs”.]*

**Division 3—How to fill in the template**

**203 The preamble**

The material in the preamble to the template should only include matters that are relevant to the product.

Example: Insurance costs will generally not be relevant to a managed investment product.

**204 Column 2—presentation of amounts**

- (1) This clause, clause 205 and clause 206 are subject to regulations 7.9.15A, 7.9.15B and 7.9.15C.
- (2) If a particular fee or cost is not charged, ‘nil’, ‘zero’, ‘0’ or ‘not applicable’ (if it would not be misleading) must be written in column 2 opposite the type of fee or cost.
- (3) If it is not possible to determine a single amount or percentage of a fee or cost, it may be written as a range of fees or costs.
- (4) If the exact amount of a fee or cost paid or payable is not known, an amount that is a reasonable estimate of the amount attributable to the retail client must be shown.
- (5) An amount set out in accordance with subclause (4) must be clearly designated as an estimate.
- (6) If an amount or cost has a number of components, the amount of each component must be listed separately.  
Example: Management costs: 1.8% of product holder’s balance + \$70 per year.
- (7) A cost or amount paid or payable must include, if applicable:
  - (a) GST less any reduced inputs tax credits; and
  - (b) stamp duty.

**205 Column 2—include information for each MySuper product or investment option**

- (1) The fee information must be set out:
  - (a) for superannuation products—for each MySuper product and each investment option offered by the relevant superannuation entity; and
  - (b) for managed investment products—for each investment option offered by the relevant managed investment scheme.
- (2) It may be:

- (a) set out in the table; or
- (b) cross-referenced in the table to another section of the Product Disclosure Statement that contains the relevant fee information.

## **206 Presentation of multiple fee payment options**

If a superannuation entity or managed investment scheme has more than 2 options for the payment of fees:

- (a) the number of fee payment options must be set out in the preamble; and
- (b) details of all fee payment options must be set out in the template.

## **207 Column 3—how and when fees and costs are payable**

Column 3 of the template must set out:

- (a) how the fee is or will be recovered, for example by deduction from:
  - (i) the member's investment balance; or
  - (ii) the assets of the superannuation entity or managed investment scheme;
  - (iii) contributions; or
  - (iv) withdrawals; and
- (b) the recurrence of the recovery of the fee; and
- (c) the timing of the recovery of the fee.

## **208 Other material to be included in the template**

- (1) The template must clearly indicate which fees and costs are negotiable (for example, by stating in column 3 'The amount of this fee can be negotiated.').
- (2) An indication that a fee or cost is negotiable must be cross-referenced to an explanation outside the template in the 'Additional Explanation of Fees and Costs' part of the fees section.

## **Division 4—Additional explanation of fees and costs**

### **209 Matters to be included as additional explanation of fees and costs**

The following information, if relevant to the particular superannuation product or managed investment product, must be included under the heading 'Additional Explanation of Fees and Costs':

- (a) the explanation of the fees mentioned in footnote 2 for superannuation products and footnote 2 for managed investment products;

**Schedule 10** Disclosure of fees and other costs

**Part 2** Fees and Costs Template, example of annual fees and costs and Consumer Advisory Warning for Product Disclosure Statements

**Division 4** Additional explanation of fees and costs

Clause 209

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- (b) information on performance fees including:
  - (i) a statement about how performance fees affect administration fees and investment fees for a superannuation product, or management costs for a managed investment product; and
  - (ii) the method for calculating the fees; and
  - (iii) the amount of the fees, or an estimate of the amount if the amount is not known;
- (c) for tax—a cross reference to the “Tax” part of the Product Disclosure Statement;
- (ca) for insurance fees and other costs relating to insurance (if relevant)—a cross reference to the “Insurance” part of the Product Disclosure Statement;
- (d) if the product is subject to tax—whether the benefit of any tax deduction is passed on to the investor in the form of a reduced fee or cost;
- (e) an explanation of adviser remuneration that forms part of any fee or cost in the table, including (if known to the product issuer):
  - (i) the method of calculation; and
  - (ii) the amounts of commission or the range of amounts; and
  - (iii) whether the amounts are negotiable or rebatable; and
  - (iv) the way in which amounts may be negotiated or rebated;
- (f) an explanation of advice fees;
- (g) for a negotiated fee or cost—contact details of the person or body with whom the fee or cost can be negotiated and the manner of negotiation;
- (h) worked examples (if appropriate);
- (i) additional details of incidental fees (if appropriate);
- (j) details of transactional and operational costs such as brokerage and buy-sell spread, including:
  - (i) a description of the cost; and
  - (ii) the amount, or an estimate if the amount is not known; and
  - (iii) how and when the costs are recovered; and
  - (iv) a statement that the cost is an additional cost to the investor; and
  - (v) whether any part of the buy-sell spread is paid to the product issuer or an external manager;
- (k) the following information about fee changes:
  - (i) if applicable, a statement about the issuer’s right to change the amount of fees without the investor’s consent;
  - (ii) any indexation arrangements that apply;
  - (iii) the period of advance notice required for fee changes;

- (iv) any change in fee structure that is dependent on a person's employment;
- (l) if the issuer has instituted a flexible charging structure, for each applicable fee, if known:
  - (i) any maximum, and when it would apply; and
  - (ii) any waiver, and when it would not apply;
- (m) for a superannuation product—details of borrowing costs including:
  - (i) a description of the cost; and
  - (ii) the amount, or an estimate if the amount is not known; and
  - (iii) how and when the costs are recovered; and
  - (iv) a statement that the cost is an additional cost to the investor;
- (ma) before 30 September 2020, details of property operating costs to the extent those costs are not included in the investment fee or indirect costs for the relevant MySuper product or investment option offered by a superannuation entity, including:
  - (i) a description of the cost; and
  - (ii) the amount, or an estimate if the amount is not known; and
  - (iii) how and when the costs are recovered; and
  - (iv) a statement that the cost is an additional cost to the investor.

Explanatory Statement to Class Order 14/1252

Subparagraph 6(e) of the class order omits paragraph 209(m) of Schedule 10. This paragraph is not required for superannuation products from 1 July 2013 as a result of the abolishment of member protection rules.

Explanatory Statement to ASIC Instrument 2016/1224

Paragraph 7 in Schedule 1 to the Instrument substitutes subparagraph 6(e) in [CO 14/1252]. The substituted subparagraph 6(e) in [CO 14/1252] modifies paragraph 209(m) in Schedule 10 to the Regulations. This modification sets out how borrowing costs, in relation to a superannuation product must be disclosed in under the "Additional Explanation of Fees and Costs" heading in a PDS.

Explanatory Statement to ASIC Instrument 2017/664

Paragraph 9 in Schedule 1 to the Amendment Instrument modifies sub-paragraph 6(e). The modification to sub-paragraph 6(e) inserts, after clause 209(m) in Schedule 10 to the Regulations, clause 209(ma) which provides for disclosure of the amount of property operating costs before 30 September 2018, if the superannuation trustee elects not to include property operating costs in the disclosed investment fee or indirect costs in a PDS until then.

**Schedule 10** Disclosure of fees and other costs

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**Explanatory Statement to ASIC Instrument 2015/876**

Additional explanation of fees and costs

Clause 209

Explanatory Statement to ASIC Instrument 2017/1138

Items 1, 2, 3 and 9 of Schedule 1 to the Amendment Instrument extend the time period for compliance with Schedule 10 of the Regulations as modified by [CO14/1252] and modifies [CO 14/1252] itself in relation to requiring property operating costs to be disclosed as part of the investment fee or indirect costs in a Product Disclosure Statement for superannuation products.

Explanatory Statement to Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019

Items 6, 7, 9 to 13, 21 to 22, and 24 to 27 amend the Corporations Regulations to update the template texts in product disclosure statements and shorter form product disclosure statements. The updated template texts will explain that certain fees and costs are subject to the cap and any amount charged in excess of the cap must be refunded to the member's account.

**209AA Calculating transactional and operational costs**

For paragraphs 209(j) and (m), information about transactional and operational costs and, for a superannuation product or investment option in a superannuation product, borrowing costs and property operating costs for a product or investment option disclosed in a Product Disclosure Statement that is available during a particular financial year is to be determined for the previous financial year except that if product or investment option was not offered from at least 11 months before the end of the previous financial year, the transactional and operational costs and, for a superannuation product or investment option in a superannuation product, borrowing costs and property operating costs are to be determined based on the responsible person's reasonable estimate at the time the Statement is prepared of those costs that will apply for the current financial year, and if the product or investment option was first offered in the current financial year, since the time the product or investment option was first offered, adjusted to reflect a 12 month period.

Explanatory Statement to ASIC Instrument 2015/876

Paragraph 14 of Schedule 1 to the Instrument inserts, after subparagraph 6(e) of [CO 14/1252], subparagraph 6(ea). This subparagraph inserts, after clause 209 of Schedule 10 to the Regulations, clause 209AA '**Calculating transactional and operational costs**'. Clause 209AA requires that, for subclause 209(j) of Schedule 10 to the Regulations, information about transactional and operational costs for a product or investment option disclosed in a Product Disclosure Statement that is available during a particular financial year is to be determined for the previous financial year except that if product or investment option was not offered from at least 11 months before the end of the previous financial year, the transactional and operational costs are to be determined based on the responsible person's reasonable estimate at the time the Statement is prepared of those costs that will apply for the current financial year,



Clause 209

and if the product or investment option was first offered in the current financial year, since the time the product or investment option was first offered, adjusted to reflect a 12 month period.

Explanatory Statement to ASIC Instrument 2016/1224

Paragraph 8 in Schedule 1 to the Instrument modifies subparagraph 6(ea) in [CO 14/1252] that inserts notional clause 209AA to Schedule 10 of the Regulations. The amendment to notional clause 209AA is to apply this clause to borrowing costs for superannuation products.

Explanatory Statement to ASIC Instrument 2017/664

Paragraph 10 in Schedule 1 to the Amendment Instrument modifies Subparagraph 6(ea) (notional clause 209AA) omits from notional clause 209AA “subclause 209(j) and paragraph 209(m)” and substitutes “paragraphs 209(j) and (m)”. This corrects a previously incorrect description. It also inserts by inserting "and property operating costs" after “borrowing costs” (wherever occurring), to allow for reasonable estimates of property operating costs to be included in Product Disclosure Statements in certain situations.

## **Division 4A—Defined fees for superannuation products**

### **209A Defined fees for superannuation products**

The following definitions must be included for a superannuation product under the heading “Defined fees”, or incorporated by reference:

#### *Activity fees*

A fee is an **activity fee** if:

- (a) the fee relates to costs incurred by the trustee [*OR the trustees*] of the superannuation entity that are directly related to an activity of the trustee [*OR the trustees*]:
  - (i) that is engaged in at the request, or with the consent, of a member; or
  - (ii) that relates to a member and is required by law; and
- (b) those costs are not otherwise charged as an administration fee, an investment fee, a buy-sell spread, a switching fee, an advice fee or an insurance fee.

#### *Administration fees*

An **administration fee** is a fee that relates to the administration or operation of the superannuation entity and includes costs that relate to that administration or operation, other than:

- (a) borrowing costs; and
- (b) indirect costs that are not paid out of the superannuation entity that the trustee has elected in writing will be treated as indirect costs and not fees, incurred by the trustee [*OR the trustees*] of the entity or in an interposed vehicle or derivative financial product; and
- (c) costs that are otherwise charged as an investment fee, a buy-sell spread, a switching fee, an activity fee, an advice fee or an insurance fee.

#### *Advice fees*

A fee is an **advice fee** if:

- (a) the fee relates directly to costs incurred by the trustee [*OR the trustees*] of the superannuation entity because of the provision of financial product advice to a member by:
  - (i) a trustee of the entity; or
  - (ii) another person acting as an employee of, or under an arrangement with, the trustee [*OR the trustees*] of the entity; and
- (b) those costs are not otherwise charged as an administration fee, an investment fee, a switching fee, an activity fee or an insurance fee.

*Buy-sell spreads*

A **buy-sell spread** is a fee to recover transaction costs incurred by the trustee [*OR the trustees*] of the superannuation entity in relation to the sale and purchase of assets of the entity.

*Exit fees*

An **exit fee** is a fee, other than buy-sell spread, that relates to the disposal of all or part of a member's interests in a superannuation entity.

*Indirect cost ratio*

The **indirect cost ratio (ICR)**, for a MySuper product or an investment option offered by a superannuation entity, is the ratio of the total of the indirect costs for the MySuper product or investment option, to the total average net assets of the superannuation entity attributed to the MySuper product or investment option.

Note: A fee deducted from a member's account or paid out of the superannuation entity is not an indirect cost.

*Investment fees*

An **investment fee** is a fee that relates to the investment of the assets of a superannuation entity and includes:

- (a) fees in payment for the exercise of care and expertise in the investment of those assets (including performance fees); and
- (b) costs that relate to the investment of assets of the entity, other than:
  - (i) borrowing costs; and
  - (ii) indirect costs that are not paid out of the superannuation entity that the trustee has elected in writing will be treated as indirect costs and not fees, incurred by the trustee [*OR the trustees*] of the entity or in an interposed vehicle or derivative financial product; and
  - (iii) costs that are otherwise charged as an administration fee, a buy-sell spread, a switching fee, an activity fee, an advice fee or an insurance fee.

Note: The costs referred to in paragraph (b) do not include transactional and operational costs referred to in paragraphs (b), (ea) and (eb) of the definition of **transactional and operational costs**.

Note: Transitional provisions apply in relation to the notional definition of **investment fee** until 30 September 2020: See paragraph 11.

Explanatory Statement to ASIC Instrument 2017/664

Paragraph 11 in Schedule 1 to the Amendment Instrument modifies sub-sub-paragraph 6(f)(ib). This sub-sub-paragraph inserts two notes at the end of the notional definition of investment fees. The first note clarifies that the costs referred to in

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**Division 4A** Defined fees for superannuation products

Clause 209A

paragraph (b) of the definition do not include transactional and operational costs referred to in paragraphs (b), (ea) and (eb) of the definition of transactional and operational costs. The second note explains that transitional provisions apply in relation to the notional definition of investment fee until 30 September 2018. These provisions are outlined in paragraph 11 of the [CO 14/1252].

Explanatory Statement to ASIC Instrument 2017/1138

Items 1,2,3 and 9 of Schedule 1 to the Amendment Instrument extend the time period for compliance with Schedule 10 of the Regulations as modified by [CO14/1252] and modifies [CO 14/1252] itself in relation to requiring property operating costs to be disclosed as part of the investment fee or indirect costs in a Product Disclosure Statement for superannuation products.

Explanatory Statement to Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019

Items 3 to 5, 8, 14 to 19, 23 and 28 amend the Corporations Regulations to update or remove references to exit fees in product disclosure statements for superannuation products to reflect that these fees can no longer be charged. These amendments apply to product disclosure statements given on or after 1 July 2019.

Explanatory Statement to ASIC Instrument 2019/599

Items 1 to 3 and 7 amend the class order to ensure that the result of the modifications made by the class order align with the amendments made by the PYSP Regulations to support the prohibition on regulated superannuation funds and approved deposit funds charging exit fees.

*Switching fees*

*[In the case of a MySuper product:]*

A **switching fee** for a MySuper product is a fee to recover the costs of switching all or part of a member's interest in a superannuation entity from one class of beneficial interest in the entity to another.

*[In the case of a superannuation product that is not a MySuper product:]*

A **switching fee** for a superannuation products other than a MySuper product, is a fee to recover the costs of switching all or part of a member's interest in the superannuation entity from one investment option or product in the entity to another.

Note: If a Product Disclosure Statement covers both a MySuper product and another superannuation product, both definitions of **switching fee** must be included.

Explanatory Statement to Class Order 14/1252

Subparagraph 6(f)(i) of the class order modifies paragraph 209A of Schedule 10 by substituting "fees" with ""fees", or incorporated by reference;". This modification is to allow trustees of superannuation entities to incorporate by reference the fee definitions set out in clause 209A of Schedule 10 in rather than set them out in the Product

Disclosure Statement.

Subparagraph 6(f)(ii) of the class order modifies clause 209A of Schedule 10 by omitting the current switching fee definition and replacing it with the switching fee definition in relation to superannuation products inserted by subparagraph 6(a)(iii) of the class order.

Explanatory Statement to ASIC Instrument 2016/1224

Paragraph 11 in Schedule 1 to the Instrument modifies the definition of 'investment fee' in sub-subparagraph 6(f)(ib) of the [CO 14/1252]. The modification omits 'borrowing costs' from the definition.

Paragraph 12 in Schedule 1 to the Instrument modifies the definition of 'switching fee' in sub-subparagraph 6(f)(ii) of [CO 14/1252] to clarify that only relevant aspects of the definition must be included and provide for reference to the wording in subsection 29V(5) of the Superannuation Industry (Supervision) Act 1993 rather than cross reference to the provision to facilitate retail clients understanding of terms used in the PDS.

## Division 5—Example of annual fees and costs

### 210 Example of annual fees and costs

The example of annual fees and costs:

- (a) must contain fees and costs in accordance with the table in clause 211 or 212; and
- (b) must be set out using the headings and the form in clause 211 or 212; and
- (c) must be included in the 'Fees' section of a Product Disclosure Statement, following the fees and costs template.

### 211 Superannuation products—Example of annual fees and costs

This table gives an example of how the fees and costs for the *[insert name of generic MySuper product or other investment option as required by subclause 220(1)]* for this superannuation product can affect your superannuation investment over a 1 year period. You should use this table to compare this superannuation product with other superannuation products.

**EXAMPLE** *[insert name of generic MySuper product or other investment option as required by subclause 220(1)]* **BALANCE OF \$50 000**

Investment fees	1.6%	For every \$50 000 you have in the superannuation product you will be charged \$800 each year
<b>PLUS</b> Administration fees	\$52 (\$1 per week)	<b>And</b> , you will be charged \$52 in administration fees regardless of your balance
<b>PLUS</b> Indirect costs	1.2%	<b>And</b> , indirect costs of \$600 each year

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**Division 5** Example of annual fees and costs

Clause 212

for the superannuation product	will be deducted from your investment
<b>EQUALS</b> Cost of product	If your balance was \$50 000, then for that year you will be charged fees of <b>\$1 452</b> for the superannuation product.

Note: \* **Additional fees may apply.**

Explanatory Statement to Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019

Items 3 to 5, 8, 14 to 19, 23 and 28 amend the Corporations Regulations to update or remove references to exit fees in product disclosure statements for superannuation products to reflect that these fees can no longer be charged. These amendments apply to product disclosure statements given on or after 1 July 2019.

Explanatory Statement to ASIC Instrument 2019/599

Items 1 to 3 and 7 amend the class order to ensure that the result of the modifications made by the class order align with the amendments made by the PYSP Regulations to support the prohibition on regulated superannuation funds and approved deposit funds charging exit fees.

**212 Managed investment products—Example of annual fees and costs for a balanced investment option or other investment option**

**Example of annual fees and costs for a balanced investment option or other investment option**

This table gives an example of how the fees and costs in the [*insert name of balanced investment option or other investment option required by subclause 220(2)*] for this managed investment product can affect your investment over a 1 year period. You should use this table to compare this product with other managed investment products.

<b>EXAMPLE</b> — <i>[insert name of balanced investment option or other investment option required by subclause 220(2)].</i>		<b>BALANCE OF \$50 000 WITH A CONTRIBUTION OF \$5 000 DURING YEAR</b>
Contribution Fees	0-4%	For every additional \$5 000 you put in, you will be charged between \$0 and \$200.
<b>PLUS</b> Management Costs	1.3%	<b>And</b> , for every \$50 000 you have in the <i>[insert name of balanced investment option or other investment option required by subclause 220(2)]</i> you will be charged \$650 each year.
<b>EQUALS</b> Cost of <i>[insert name of balanced investment option or other investment option required by subclause 220(2)].</i>		<p>If you had an investment of \$50 000 at the beginning of the year and you put in an additional \$5 000 during that year, you would be charged fees of from:</p> <p style="text-align: center;"><b>\$650 to \$850*</b></p> <p style="text-align: center;"><b>What it costs you will depend on the investment option you choose and the fees you negotiate.</b></p>

\* Additional fees may apply:

**Establishment fee**—\$50

**And**, if you leave the managed investment scheme early, you may also be charged **exit fees** of between 0 and 5% of your total account balance (between \$0 and \$2 500 for every \$50 000 you withdraw)

## 213 Defined benefit funds

An example of fees and costs is not required in a Product Disclosure Statement for a defined benefit fund.

Note: **Defined benefit fund** is defined in subregulation 1.03(1) of the SIS Regulations.

**Schedule 10** Disclosure of fees and other costs

**Part 2** Fees and Costs Template, example of annual fees and costs and Consumer Advisory Warning for Product Disclosure Statements

**Division 6** How to fill in the example of annual fees and costs

Clause 214

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**Division 6—How to fill in the example of annual fees and costs**

**214 Fees and costs must be ongoing amounts**

The fees and costs stated in the example must be typical ongoing fees that apply to the MySuper product or investment option.

Note: The example should not be based on “honeymoon rates”. It must be consistent with the statement for an existing member or product holder having the stated balance and level of contributions each year.

**214A Example of annual fees and costs for a MySuper product—lifecycle MySuper product**

If the example of fees and costs for a MySuper product uses a lifecycle MySuper product, the investment fee quoted in the example must be the highest investment fee for a lifecycle stage of the lifecycle MySuper product.

**215 Minimum entry balance rule**

If the minimum balance required to enter a superannuation entity or a managed investment scheme is greater than \$50 000, the example of annual fees and costs must be based on an amount that is the lowest multiple of \$50 000 that exceeds the minimum entry balance.

Example: If a superannuation entity or a managed investment scheme has a minimum entry balance of \$65 000, the relevant amount for the example of annual fees and costs is \$100 000.

**216 Exit fees**

If an exit fee may be charged in relation to a collective investment product, the fee must be described in footnote to the table, based on:

- (a) a balance of \$50 000; or
- (b) if clause 215 applies—an amount that is a multiple of \$50 000.

Explanatory Statement to Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019

Items 3 to 5, 8, 14 to 19, 23 and 28 amend the Corporations Regulations to update or remove references to exit fees in product disclosure statements for superannuation products to reflect that these fees can no longer be charged. These amendments apply to product disclosure statements given on or after 1 July 2019.



## **217 Contribution fees**

- (1) The amounts of contribution fees to be inserted in the example of annual fees and costs for a managed investment product, are applied against a \$5 000 investment.
- (2) If a Product Disclosure Statement relates to a product:
  - (a) that is paid for by a single lump sum amount; and
  - (b) for which no additional contributions can be made;the example of annual fees and costs should be modified by removing references to contributions or contribution fees.
- (3) The example must be based on a balance:
  - (a) of \$50 000; or
  - (b) worked out in accordance with clause 215.

Note: If there is a fee paid for the initial contribution, it should be described as the establishment fee.

## **218 Administration fees and investment fees for a superannuation product**

### *Administration fees*

- (1) The example of administration fees for a MySuper product or an investment option offered by a superannuation entity is applied to an amount of \$50 000 or an amount that is a multiple of \$50 000 if clause 215 applies.

Note: In calculating the amount, do not include contributions that may be made during the year.

- (2) If there is a range in the amount of administration fees that may be charged for a MySuper product or an investment option offered by a superannuation entity, the example must use the highest administration fees in the range.

### *Investment fees*

- (3) The example of investment fees for a MySuper product or an investment option offered by a superannuation entity is applied to an amount of \$50 000 or an amount that is a multiple of \$50 000 if clause 215 applies.

Note: In calculating the amount, do not include contributions that may be made during the year.

- (4) If there is a range in the amount of investment fees that may be charged for a MySuper product or an investment option offered by a superannuation entity, the example must use the highest investment fees in the range.

**Schedule 10** Disclosure of fees and other costs

**Part 2** Fees and Costs Template, example of annual fees and costs and Consumer Advisory Warning for Product Disclosure Statements

**Division 6** How to fill in the example of annual fees and costs

Clause 218A

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*Indirect costs for a MySuper product or investment option*

- (5) The example of indirect costs for a MySuper product or an investment option offered by a superannuation entity must be worked out by applying the indirect cost ratio for the MySuper product or the investment option to an amount of \$50,000 or an amount that is a multiple of \$50,000 if clause 215 applies.

**218A Management costs for a managed investment product**

- (1) The example of management costs for an investment option offered by a managed investment scheme is applied to an amount of \$50 000 or an amount that is a multiple of \$50 000 if clause 215 applies.

Note: In calculating the amount, do not include contributions that may be made during the year.

- (2) If there is a range in the amount of management costs that may be charged for an investment option offered by a managed investment scheme, the example must use the highest management costs in the range.
- (3) Management costs that are not deducted directly from a product holder's account must be calculated using the indirect cost ratio for the relevant investment option offered by the managed investment scheme.
- (4) Any percentage based management costs that are deducted directly from a product holder's account should be added to the percentage amount calculated under subclause (3).
- (5) Any dollar based management costs that are deducted directly from a product holder's account must be shown separately in the management costs cell.

Example 1: Management costs: 2 % deducted directly from your account + 1.6% deducted indirectly.

Example 2: Management costs: \$52 per year (\$1 per week) deducted directly from your account + 1.6% deducted indirectly.

Example 3: Management costs: \$52 per year (\$1 per week) + 1% deducted directly from your account + 1.6% deducted indirectly.

**219 Withdrawal fees and exit fees**

- (1) The example of a withdrawal fee or an exit fee for a managed investment product is applied against an amount of \$50 000 or an amount that is a multiple of \$50 000 if clause 215 applies.
- (2) In calculating the amount, do not include contributions that may be made during the year.

Clause 221 Consumer advisory warning

Explanatory Statement to Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019

Items 3 to 5, 8, 14 to 19, 23 and 28 amend the Corporations Regulations to update or remove references to exit fees in product disclosure statements for superannuation products to reflect that these fees can no longer be charged. These amendments apply to product disclosure statements given on or after 1 July 2019.

**220 If there is no generic MySuper product or balanced investment option**

*Superannuation entities*

- (1) If a superannuation entity does not offer a generic MySuper product, the example should be based on:
  - (a) where the superannuation entity offers a balanced investment option—the balanced investment option under which most assets of the superannuation entity are invested; and
  - (b) where the superannuation entity does not offer a balanced investment option—the investment option under which most assets of the superannuation entity are invested.

*Managed investment schemes*

- (2) If a managed investment scheme does not offer a balanced investment option, the example should be based on:
  - (a) where the scheme offers a default investment option—that option; and
  - (b) where the scheme does not offer a default investment option—the investment option under which most assets of the scheme are invested.

**Division 7—Consumer Advisory Warning**

**221 Consumer advisory warning**

- (1) *Superannuation products*

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**DID YOU KNOW?**

**Small differences in both investment performance and fees and costs can have a substantial impact on your long term returns.**

**For example, total annual fees and costs of 2% of your account balance rather than 1% could reduce your final return by up to 20% over a 30 year period (for example reduce it from \$100 000 to \$80 000).**

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**Schedule 10** Disclosure of fees and other costs

**Part 2** Fees and Costs Template, example of annual fees and costs and Consumer Advisory Warning for Product Disclosure Statements

**Division 7** Consumer Advisory Warning

Clause 221 Consumer advisory warning

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**You should consider whether features such as superior investment performance or the provision of better member services justify higher fees and costs.**

**You or your employer, as applicable, may be able to negotiate to pay lower fees. Ask the fund or your financial adviser.**

**TO FIND OUT MORE**

If you would like to find out more, or see the impact of the fees based on your own circumstances, the **Australian Securities and Investments Commission (ASIC)** website ([www.moneysmart.gov.au](http://www.moneysmart.gov.au)) has a superannuation calculator to help you check out different fee options.

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*(2) Managed investment products*

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**DID YOU KNOW?**

**Small differences in both investment performance and fees and costs can have a substantial impact on your long term returns.**

**For example, total annual fees and costs of 2% of your account balance rather than 1% could reduce your final return by up to 20% over a 30 year period (for example reduce it from \$100 000 to \$80 000).**

**You should consider whether features such as superior investment performance or the provision of better member services justify higher fees and costs.**

**You may be able to negotiate to pay lower contribution fees and management costs where applicable. Ask the fund or your financial adviser.**

**TO FIND OUT MORE**

If you would like to find out more, or see the impact of the fees based on your own circumstances, the **Australian Securities and Investments Commission (ASIC)** website ([www.moneysmart.gov.au](http://www.moneysmart.gov.au)) has a managed funds fee calculator to help you check out different fee options.

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- (3) In the Consumer Advisory Warning in subclause (2) ‘account’ may be replaced with ‘investment’.

**222 Where to place the Consumer Advisory Warning**

The Consumer Advisory Warning referred to in subclause 221(1) must be located at the beginning of the fees section of the Product Disclosure Statement for superannuation products and the Consumer Advisory Warning referred to in subclause 221(2) must be located at the beginning of the fees section of the Product Disclosure Statement for managed investment products where fees or costs may be deducted from amounts to be held for members of the managed investment scheme.

Clause 221 Consumer advisory warning

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Explanatory Statement to Class Order 14/1252

Subparagraph 6(h) of the class order omits paragraph 222 of Schedule 10 of the Regulations and replaces with a new paragraph that requires that the Consumer Advisory Warning referred to in paragraph 221(1) of Schedule 10 of the Regulations must be located at the beginning of the fees section of the Product Disclosure Statement for superannuation products and the Consumer Advisor Warning referred to in subclause 221(2) of Schedule 10 of the Regulations must be located at the beginning of the fees section of the Product Disclosure Statement for managed investment products where fees or costs may be deducted from amounts to be held for members of the managed investment scheme.

## Part 3—Fees and costs in periodic statements

### Division 1—Other Management Costs

#### 301 Indirect costs related to investment and administration of accounts

- (1) For a MySuper product or an investment option offered by a superannuation entity, the following text and the appropriate amounts, in dollars, must be inserted after the part of the periodic statement that itemises transactions during the period.

##### **Indirect costs of your investment**

This approximate amount has been deducted from your investment and covers amounts that have reduced the return on your investment but are not charged as a fee.

##### **Other fees of your investment**

This approximate amount or amounts have been deducted from your investment and covers fees that are not reflected as transactions on this statement.

Note: Other fees may be reported by the type of fees charged.

- (1A) For an offer of a managed investment product, the following text and the appropriate amount, in dollars, must be inserted after the part of the periodic statement that itemises transactions during the period.

##### **Indirect costs of your investment**

This approximate amount has been deducted from your investment and covers amounts that have reduced the return on your investment but are not charged to you directly as a fee.

- (1B) For a periodic statement for a MySuper product or an investment option offered by a superannuation entity, for a period ending on or before 29 June 2020, the amount disclosed for other fees under subclause (1) may be calculated excluding the buy-sell spread if it is stated in accordance with subclause (1E) that, “The total fees you paid do not include the buy-sell spread fee, because it is not reasonably practicable for us to include the buy-sell spread fee that you incurred during the period.
- (1C) For a periodic statement for a MySuper product or an investment option offered by a superannuation entity, for a period ending on or before 29 June 2020, the amount disclosed for other fees under subclause (1) may be calculated excluding property operating costs if it is stated in accordance with subclause (1E) that, “The total fees you paid do not include the property operating costs that you incurred during the period.

- (1D) For a periodic statement for a MySuper product or an investment option offered by a superannuation entity, for a period ending after 29 June 2020, and on or before 29 September 2020, the amount disclosed for other fees under subclause (1) may be calculated excluding property operating costs if it is stated in accordance with subclause (1E) that, “The total fees you paid do not include the property operating costs that you incurred during the period. An estimate of the amount of property operating costs incurred by the holder during the period is provided in the periodic statement.
- (1E) For the purposes of subclauses (1B) to (1D), a statement is stated in accordance with this subclause if the statement and each other statement made for the purposes of subclauses (1B) to (1D) is included:
- (a) immediately under the amount of total fees you paid in the periodic statement; or
  - (b) if it is not reasonably practicable to include the statements in that position in the periodic statement—a separate document that accompanies the periodic statement and that includes those statements as consecutive statements.
- (2) The amount inserted must include:
- (a) for a MySuper product or an investment option offered by a superannuation entity—the indirect costs for the MySuper product or investment option; and
  - (b) for an investment option offered by a managed investment scheme—all management costs not deducted directly from a product holder’s account during the reporting period.
- (3) The amount must be shown as a single total amount in dollars.
- (4) The amount for a managed investment product must be calculated by multiplying the indirect cost ratio for the relevant investment option by the product holder’s average account balance for the option over the reporting period.
- (5) For a superannuation product that is subject to tax, for any reporting period ending after 29 June 2020, if a reduced fee or cost is disclosed in the statement because of the benefit of any income tax deduction, the indirect costs, or other fees as appropriate, for the product must include the part of the cost that reduced the disclosed fee or costs.
- (6) For a managed investment product that is subject to tax, for any reporting period ending after 29 June 2020, if a reduced fee or cost is disclosed in the statement because of the benefit of any income tax deduction, the indirect costs for the product must include the part of the cost that reduced the disclosed fee or cost.
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**Schedule 10** Disclosure of fees and other costs

**Part 3** Fees and costs in periodic statements

**Division 1** Other Management Costs

Clause 301

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Explanatory Statement to ASIC Instrument 2015/876

**Indirect costs and other fees reported on periodic statements**

Paragraphs 18 and 19 of Schedule 1 to the Instrument amend subparagraph 6(h) of [CO 14/1252] and insert, after this subparagraph, subparagraph 6(i). This subparagraph omits and substitutes subclause 301(1) of Schedule 10 to the Regulations. This subclause prescribes the text and the appropriate amount, in dollars, for a superannuation product that must be inserted after the part of the periodic statement that itemises transactions during the period. This amendment to subclause 301(1) is to remove the word 'direct' from before 'fee' to clarify that the indirect costs reported under clause 301 for a superannuation product are to be reported on the same basis that they are disclosed in the product's Product Disclosure Statement. Further, this amendment also prescribes the text and the appropriate amount, in dollars, to report other fees for a superannuation product that must be inserted after the part of the periodic statement that itemises transactions during the period. 'Other fees' are fees that are not reflected as transactions on the periodic statement.

Subparagraph 6(i) also inserts a new subclause 301(1A) of Schedule 10 to the Regulations. This subclause prescribes the text and the appropriate amount, in dollars, for a managed investment product that must be inserted after the part of the periodic statement that itemises transactions during the period.

Paragraph 20 of Schedule 1 to the Instrument inserts, after paragraph 6 of [CO 14/1252], paragraph 6A. Paragraph 6A omits in subclause 8(6A) of Schedule 10D to the Regulations "section 29V of the SIS Act." and substitutes "clause 209A of Schedule 10, and for an insurance fee as mentioned in subsection 29V(9) of the SIS Act.

Explanatory Statement to ASIC Instrument 2017/664

Paragraph 13 in Schedule 1 to the Amendment Instrument amends sub-paragraph 6(i) (notional subclause 301(1A)) by inserting subclauses 301(1B), 301(1C), 301(1D) and 301(1E).

Subclauses 301(1B) and 301(1C) modify for a periodic statement for a MySuper product or an investment option offered by a superannuation entity, for a period ending on or before 29 June 2018, the amount disclosed for other fees under subclause 301(1) relating to disclosure of the buy-sell spread fee and property operating costs.

subclause 301(1D) modifies for a periodic statement given for a MySuper product or an investment option offered by a superannuation entity, for a period ending on or before 29 June 2018 and on or before 29 September 2018, the amount disclosed for other fees under subclause 301(1) in relation to property operating costs.

Subclause 301(1E) states where a statement for the purposes of subclauses (1B) to (1D) that is stated in accordance with this subclause if the statement and each other statement made for the purposes of subclauses (1B) to (1D) is included.

Paragraph 14 in Schedule 1 to the Amendment Instrument inserts at the end of subparagraph 6(i) subparagraph 6(j), 6(k) and 6(l). Under the amendment in subparagraph (j) inserts in clause 301, after subclause 301(4) in Schedule 10 to the Regulations subclause 301(5) and subclause 301(6). Subclause 301(5) provides that for a superannuation product that is subject to tax, for any reporting period ending after 29 June 2018, if a reduced fee or cost is disclosed in the statement because of the benefit of any income tax deduction, the indirect costs, or other fees as appropriate, for the



product must include the part of the cost that reduced the disclosed fee or costs. Subclause 301(6) provides that for a managed investment product that is subject to tax, for any reporting period ending after 29 June 2018, if a reduced fee or cost is disclosed in the statement because of the benefit of any income tax deduction, the indirect costs for the product must include the part of the cost that reduced the disclosed fee or cost. In each case the disclosure required under the heading, “total fees you paid”, must include the amount of the fees and costs without any reduction because of the benefit of a tax deduction.

Sub-paragraph 6(k) inserts in paragraph 303(1)(b) of Schedule 10 to the Regulations paragraphs 303(1)(c) and 303(1)(d). Paragraph 303(1)(c) provides that for any reporting period ending on or before 29 June 2018 for a periodic statement for a superannuation product needs to include the approximate total amount of borrowing costs that affected the investment of the member during the period or that amount combined with the amount required to be disclosed in accordance with paragraph 302(1)(b) or details, including the relevant website address, about how to obtain information about borrowing costs for each MySuper product and investment option on the fund's website. Paragraph 303(1)(d) provides that for any reporting period ending after 29 June 2018 for a periodic statement for a superannuation product, the approximate total amount of borrowing costs that affected the investment of the member during the period or that amount combined with the amount required to be disclosed in accordance with paragraph 302(1).

Sub-paragraph 6(l) inserts, after paragraph 303(2)(c) to Schedule 10 to the Regulations, paragraph 303(2)(d). This paragraph provides that a periodic statement for any reporting period ending after 29 June 2018, must include the approximate total amount of transactional and operational costs for the managed investment product (other than costs referred to at subclause (b), (ea) or (eb) of the definition of transactional or operational costs that are a necessary part of the acquisition price of an asset that are recovered by a buy-sell spread for the managed investment product, where the estimate amount of buy-sell spread that the holder has paid in the period in dollars is disclosed in the periodic statement) that affected the investment of the holder during the period or that amount combined with the amount required to be disclosed in accordance with paragraph 302(1)(b). This requirement replaces the requirement that has applied under paragraph 7.9.75(1)(b) of the Corporations Regulations which is to be omitted for superannuation products and managed investment products by paragraph 2 of Schedule 1.

Paragraph 15 in Schedule 1 to the Amendment Instrument inserts after paragraph 9 in [CO 14/1252] paragraphs 10 and 11. Paragraph 10 provides that despite paragraph 9, paragraph 5CB applies from the commencement of ASIC Corporations (Amendment) Instrument 2017/664. Paragraph 11 amends the investment fee definition before 30 September 2018 if a Product Disclosure Statement for a MySuper product or investment option includes separate details of the property operating costs (within the meaning of the notional definition of property operating costs inserted by sub-subparagraph 6(a)(iib)) under Additional Explanation of Fees and Costs for the MySuper product or investment option.

Explanatory Statement to ASIC Instrument 2017/1138

Items 4, 5 and 7 of Schedule 1 to the Amendment Instrument extend the time period for compliance with Schedule 10 of the Regulations as modified by [CO 14/1252] which set out ongoing requirements in relation to the disclosure of certain costs in periodic statements for superannuation products.

**Schedule 10** Disclosure of fees and other costs

**Part 3** Fees and costs in periodic statements

**Division 2** Total fees

Clause 302

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Item 6 of Schedule 1 to the Amendment Instrument extends the time period for compliance with Schedule 10 of the Regulations as modified by [CO 14/1252] which set out ongoing requirements in relation to the disclosure of certain costs in periodic statements for both superannuation products and managed investment products.

Item 8 of Schedule 1 to the Amendment Instrument extends the time period for compliance with Schedule 10 of the Regulations as modified by [CO 14/1252] which sets out ongoing requirements in relation to the disclosure of certain costs in periodic statements for managed investment products.

## **Division 2—Total fees**

### **302 Total of fees in the periodic statement**

- (1) The following text and the appropriate amount, in dollars, must be displayed:
  - (a) at the end of the part of the periodic statement that itemises transactions during the period; or
  - (b) in a summary part of the periodic statement.

**TOTAL FEES YOU PAID**

This approximate amount includes all the fees and costs which affected your investment during the period.

- (2) The total fees you paid are the total of all fees and costs disclosed in the periodic statement.

## **Division 3—Additional Explanation of Fees and Costs**

### **303 Matters to be included as additional explanation of fees and costs**

*Superannuation products*

- (1) The following information must be included in the periodic statement for a superannuation product under the heading “Additional Explanation of Fees and Costs”, if it has not been included in another part of the periodic statement:
  - (a) details of any activity fees, advice fees and insurance fees that were incurred by the member during the period;
  - (b) for a superannuation product that is subject to tax—whether the benefit of any tax deduction has been passed on to the investor in the form of a reduced fee or cost; and
  - (c) a statement that if the account balance for a MySuper product or a choice product offered by the superannuation entity is less than \$6,000 at the end of the entity’s income year:
    - (i) the total combined amount of administration fees, investment fees and indirect costs charged in relation to

- the MySuper product or a choice product is capped at 3% of the account balance; and
- (ii) any amount charged in excess of that cap must be refunded.
- (d) for any reporting period ending on or before 29 June 2020:
- (i) the approximate total amount of borrowing costs that affected the investment of the member during the period or that amount combined with the amount required to be disclosed in accordance with subclause 302(1); or
  - (ii) details, including the relevant website address, about how to obtain information about borrowing costs for each MySuper product and investment option on the fund's website; and
- (e) for any reporting period ending after 29 June 2020, the approximate total amount of borrowing costs that affected the investment of the member during the period or that amount combined with the amount required to be disclosed in accordance with subclause 302(1).

*Managed investment products*

- (2) The following information must be included in the periodic statement under the heading “Additional Explanation of Fees and Costs”, if it has not been included in another part of the periodic statement:
- (a) details of incidental fees, such as cheque dishonour fees, that were incurred by the product holder during the period;
  - (b) details of any service fees that may have been incurred by the product holder;
  - (c) for a managed investment product that is subject to tax—whether the benefit of any tax deduction has been passed on to the investor in the form of a reduced fee or cost; and
  - (d) for any reporting period ending after 29 June 2020, the approximate total amount of transactional and operational costs for the managed investment product that affected the investment of the holder during the period or that amount combined with the amount required to be disclosed in accordance with paragraph 302(1)(b) excluding costs that are both:
    - (i) referred to at paragraph (b), (ea) or (eb) of the definition of **transactional or operational costs** that are a necessary part of the acquisition price of an asset;
    - (ii) recovered by a buy-sell spread for the managed investment product where the estimated amount of buy-sell spread that the holder has paid in the period in dollars is disclosed in the periodic statement.

**Schedule 10** Disclosure of fees and other costs  
**Part 3** Fees and costs in periodic statements  
**Division 3** Additional Explanation of Fees and Costs

Clause 303

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Explanatory Statement to Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019

Item 20 amends the Corporations Regulation to provide that a periodic statement for a MySuper or choice product must include a statement about the fees and costs being capped and the refund of any excess amounts.

Explanatory Statement to ASIC Instrument 2019/599

Item 4 to 6 amends the class order by 'renumbering' notional paragraphs inserted into Schedule 10 by the class order to reflect the insertion of a new paragraph into Schedule 10 by the PYSP regulations. This will ensure that the visibility and continued intention of the notional paragraphs that had been inserted into Schedule 10 by the class order remain clear

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## Transitional Rules

### Class Order 14/1252

8. Subject to paragraph 8A, 8C and 8D, paragraphs 4 to 7 (except paragraphs 5, 5CA and 5D) apply in relation to a Product Disclosure Statement (regardless of when it was first given) from the earliest of the following:
- (a) from 1 February 2017 if the responsible person for the Statement has not given ASIC a notice in writing before 1 February 2017:
    - (i) identifying themselves and the Statement; and
    - (ii) stating that the person intends to provide to ASIC written information relating any relevant superannuation products or relevant investment products to which the Statement relates before 1 March 2017; and
    - (iii) if all financial products to which the Statement relates will not be offered for issue after 30 September 2017, identifying those products;
  - (b) from 1 March 2017 if ASIC is notified in accordance with sub-subparagraph (a)(i) and (ii) but not sub-subparagraph 8(a)(iii) and the following statements have not been provided to ASIC in writing before 1 March 2017:
    - (i) a statement which contains or purports to contain the information specified in paragraph 8AB in the form and in accordance with the instructions available on ASIC's website on 19 December 2016; and
    - (ii) a statement of the person authorising the provision of the information that the person is authorised to provide it on behalf of the responsible person for the Statement and that they believe that the:

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- (A) amount stated for the purposes of sub-subparagraph 8AB(a)(i) or sub-subparagraph 8AB(b)(i) as applicable is a reasonable estimate; and
    - (B) amount stated for the purposes of sub-subparagraph 8AB(a)(ii) or sub-subparagraph 8AB(b)(ii) as applicable is correct;
  - (c) from the date that is 6 business days after ASIC has requested in writing the responsible person to provide the statements referred to in paragraph 8AC in relation to a superannuation product, investment option or managed investment product to which the Statement relates, unless by that date the statements have been provided in writing to ASIC;
  - (d) when the responsible person for the Statement has included in the Statement or a Statement that relates to a MySuper product, investment option or managed investment product to which the Statement relates or published on a website of the responsible person from which the Statement can be accessed, a notice to the effect that this instrument (as amended by the *ASIC Corporations (Amendment) Instrument 2016/1224* and the *ASIC Corporations (Amendment and Repeal) Instrument 2015/876*) applies to the Statement;
  - (e) from commencement of the *ASIC Corporations (Amendment) Instrument 2016/1224* if the responsible person for the Statement has before that commencement included in the Statement or a Statement that relates to a MySuper product, investment option or managed investment product to which the Statement relates or published on a website of the responsible person from which the Statement can be accessed, a notice to the effect that this instrument (as amended by the *ASIC Corporations (Amendment and Repeal) Instrument 2015/876*) applies to the Statement;
  - (f) if the Statement is first given after the commencement of this provision and relates to a MySuper product, investment option or managed investment product that was not covered by a Product Disclosure Statement that was first given before the
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commencement of this provision, from the time the Statement is first given;

(g) 30 September 2017.

Note: Paragraphs 5 and 5D commenced on the commencement of *ASIC Corporations (Amendment and Repeal) Instrument 2015/876*. Paragraph 5CA commenced on the commencement of *ASIC Corporations (Amendment) Instrument 2016/1224*.

8AA. Paragraphs 8(a) to (c) do not apply in relation to a Product Disclosure Statement for an interest in a time-sharing scheme.

8AB. The information for the purposes of paragraph 8(a) is:

- (a) for each relevant superannuation product or relevant investment option within a superannuation product of the responsible person for the Product Disclosure Statement, the amounts that would be required under clause 201 of Schedule 10 to the Regulations or subclause 8(3) of Schedule 10D to the Regulations, the total cost of the product required under clause 211 of Schedule 10 or paragraph 8(2)(b) of Schedule 10D and the amount required under paragraph 209(j) of Schedule 10:
  - (i) in a Product Disclosure Statement prepared in accordance with Schedule 10 on the date the information is provided to ASIC as if paragraphs 4 to 7 applied to the Statement; and
  - (ii) as stated or incorporated by reference in the Statement or if applicable any updating information provided in accordance with an exemption given by ASIC from section 1012J of the Act; and
- (b) for each relevant managed investment product of the responsible person for the Product Disclosure Statement, the amounts that would be required under clause 202 or clause 202A of Schedule 10 to the Regulations or subclause 8(3) of Schedule 10E to the Regulations as applicable, the total cost of the product required under clause 211 of Schedule 10 or paragraph 8(2)(b) of Schedule 10E and the amount required under clause 209(j) of Schedule 10:

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- (i) in a Product Disclosure Statement prepared in accordance with Schedule 10 on the date the information is provided to ASIC as if Clause 4 to 7 applied to the Product Disclosure Statement; and
  - (ii) as stated or incorporated by reference in the Statement or if applicable any updating information provided in accordance with an exemption given by ASIC from section 1012J of the Act.

For the purposes of this paragraph apply the following disregarding any superannuation product, investment option or managed investment product in respect of which there is no Product Disclosure Statement in use during February 2017, notified under sub-subparagraph 8(a)(iii) or in relation to which paragraphs 4 to 7 (except paragraphs 5, 5CA and 5D) apply:

- (c) a superannuation product is a ***relevant superannuation product*** of a responsible person if the product is a generic MySuper product issued by the person;
- (d) an investment option is a ***relevant investment option*** of a responsible person if:
  - (i) the investment option is not a generic MySuper product and relates to assets that are no less than all other investment options of the responsible person other than a generic MySuper product (at the end of the last financial year); or
  - (ii) the investment option relates to assets of more than \$100 million (at the end of the last financial year);
- (e) a managed investment product is a ***relevant managed investment product*** if:
  - (i) the value of the scheme property relating to managed investment products of the same class is no less than the value of the scheme property of each other class of managed investment products of the responsible person (at the end of the last financial year); or



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- (ii) the scheme property to which the product relates has a value of more than \$100 million (at the end of the last financial year).

8AC. The statements required by subparagraph 8(c) are the statements that would be required by paragraph 8(b) if:

- (a) the reference to a relevant investment option in subparagraph 8AB(d) were a reference to a superannuation product or investment option of the person specified in the request under subparagraph 8(c);
- (b) the reference to a relevant managed investment product in subparagraph 8AB(e) were a reference to a managed investment product specified in the request under subparagraph 8(c);
- (c) the time as of which the information in the statements had to be current was a time determined by the responsible person in writing that is no earlier than 1 February 2017 and no later than 28 February 2017.

8A. Subparagraphs 6(bb), (c), (d), (f)(i), (fa), (fb), (g) and (h) and paragraph 7 apply in relation to a Product Disclosure Statement from the time the Statement first complies with those subparagraphs if this is before the time the provision would apply because of paragraph 8.

8B. Despite paragraph 1 of Schedule 2 to *ASIC Corporations (Amendment and Repeal) Instrument 2015/876*, ASIC Class Order [CO 14/1252] as in force immediately before the commencement of *ASIC Corporations (Amendment and Repeal) Instrument 2015/876* applies in relation to a Product Disclosure Statement that relates only to financial products to which a Statement relates that included a statement that ASIC Class Order [CO 14/1252] applies to the Statement until the earlier of:

- (a) the date that paragraphs 4 to 7 (except paragraphs 5, 5CA and 5D) applies in relation to the Statement under paragraph 8; and
- (b) the date from which the Statement complies with paragraphs 4 to 7 as in force immediately after the commencement of this instrument.

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8C. If paragraphs 6(e), (ea) and (f) other than (f)(i) as in force immediately before the commencement of the *ASIC Corporations (Amendment) Instrument 2016/1224* applied in relation to a Product Disclosure Statement at that time, those provisions continue to apply in relation to the Statement and any other Product Disclosure Statement (first given after that commencement) that relates only to financial products to which the first mentioned Statement relates until the earlier of:

- (a) 30 September 2017; and
- (b) when the Statement first complies with those paragraphs as in force immediately after that commencement.

8D. If a Product Disclosure Statement:

- (a) is first given after the commencement of this provision; and
- (b) relates to a MySuper product, investment option or managed investment product that was covered by a notice given to ASIC for the purposes of subparagraph 8(a) and each statement referred to in paragraph 8(b) in relation to the responsible person for the Statement has been given to ASIC for the purposes of paragraph 8(b); and
- (c) does not relate to any other MySuper product, investment option or managed investment scheme;

paragraphs 4 to 7 (except 5, 5CA and 5D) apply to the Statement from 30 September 2017 other than to the extent those provisions apply earlier because of subparagraphs 8(c) or (d) or paragraphs 8A or 8C.

9. Paragraphs 4 to 7 apply in relation to a periodic statement that is required to be given in accordance with section 1017D of the Act:

- (a) if the outer limit for giving the statement is on or after 1 January 2018; or
- (b) if the periodic statement states that this instrument applies to it.

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Note: The timing for giving of certain periodic statements for superannuation products is affected by Subdivision 5.12 of Part 7.9 of, and Part 12 of Schedule 10A to the Regulations.

10. Despite paragraph 9, paragraph 5CB applies from the commencement of *ASIC Corporations (Amendment) Instrument 2017/664*.
11. Before 30 September 2020, if a Product Disclosure Statement for a MySuper product or investment option includes separate details of the property operating costs (within the meaning of the notional definition of ***property operating costs*** inserted by sub-subparagraph 6(a)(iib)) under Additional Explanation of Fees and Costs for the MySuper product or investment option, sub-subparagraph 6(f)(ib) applies as if the notional definition of ***investment fee*** were amended by, at the end of subparagraph (iii) of the definition, omitting “fee.” and substituting:

“fee;

but does not include property operating costs.”.

#### **ASIC Instrument 2015/876**

##### **1 Product Disclosure Statements**

Despite the amendments made by Schedule 1, ASIC Class Order [CO 14/1252] as in force immediately before the commencement of this instrument continues to apply in relation to a Product Disclosure Statement that included a statement made before the commencement of this instrument that ASIC Class Order [CO 14/1252] applies to the Statement until the earlier of:

- (a) the date from which the Statement is required to apply the equivalent provision of ASIC Class Order [CO 14/1252] as in force immediately after the commencement of this instrument; and
- (b) the date from which the Statement applies the equivalent provision of ASIC Class Order [CO 14/1252] as in force immediately after the commencement of this instrument.

##### **2 Periodic statements**

Despite the amendments made by Schedule 1, ASIC Class Order [CO 14/1252] as in force immediately before the commencement of this instrument continues to apply in relation to a periodic statement that is

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required to be given in accordance with section 1017D of the Act until the earlier of:

- (a) the date from which the periodic statement is required to apply the equivalent provision of ASIC Class Order [CO 14/1252] as in force immediately after the commencement of this instrument; and
- (b) the date from which the periodic statement applies the equivalent provision of ASIC Class Order [CO 14/1252] as in force immediately after the commencement of this instrument.

Explanatory Statement to Class Order 14/1252

**Transitional**

Paragraphs 8 provides that paragraphs 4 to 7 of the Class Order apply from 1 January 2016 in relation to a PDS unless the PDS states that the Class Order applies.

Section 1017D of the Act prescribes the period in which a periodic statement must be given to investors. The timing for the giving of periodic statements for superannuation products that are exit statements is affected by Subdivision 5.12 of Part 7.9 of, and Part 11 of Schedule 10A. Paragraph 9 provides that paragraphs 4 to 7 applies in relation to a periodic statement that is required to be given in accordance with section 1017D of the Act if the outer limit for giving the statement is on or after 1 January 2017, unless the periodic statement states that this instrument applies to it.

Explanatory Statement to ASIC Instrument 2015/876

**Transition Period**

Paragraph 21 of Schedule 1 to the Instrument omits and substitutes paragraph 8 of [CO 14/1252], other than its heading. Paragraph 8 of [CO/14/1252] outlines the transition period for [CO 14/1252].

The substitute paragraph 8 states that, subject to paragraphs 8A and 8B, paragraphs 4 to 7 (except paragraphs 5 and 5D) of [CO 14/1252] apply in relation to a Product Disclosure Statement from 1 February 2017 (regardless of when it was given) or if the responsible person for the Statement has included in the Statement itself or published on a website of the responsible person from which the Statement can be accessed, a notice stating that [CO 14/1252] applies to the Statement.

The newly inserted Paragraph 8A of [CO 14/1252] states that the provisions in the mentioned subparagraphs and paragraph 7 apply in relation to a Product Disclosure

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Statement from 1 February 2017 (regardless of when it was given) or if the Statement applies the provision.

The newly inserted paragraph 8B of [CO 14/1252] states that paragraphs 5 and 5D apply from the day of commencement of the Instrument.

Paragraph 22 of Schedule 1 to the Instrument amends the commencement date of [CO 14/1252] in subparagraph 9(a) in relation to periodic statements to 1 January 2018.

Explanatory Statement to ASIC Instrument 2016/1224

Paragraph 14 in Schedule 1 to the Instrument omits and substitutes paragraphs 8 and 8A in [CO 14/1252] other than its heading. Paragraph 8 of [CO/14/1252] outlines the transition period for [CO 14/1252].

The substitute paragraph 8 states that, subject to paragraphs 8A, 8C and 8D, paragraphs 4 to 7 (except paragraphs 5, 5CA and 5D) of [CO 14/1252] apply in relation to a PDS from 30 September 2017 (regardless of when it was given) unless one of a number of circumstances occur. These circumstances include where:

- the responsible person for the Statement has included in the Statement itself or published on a website of the responsible person from which the Statement can be accessed, a notice to the effect that [CO 14/1252] as amended by Corporations (Amendment and Repeal) Instrument 2015/876 applies to the Statement;
- except for a time-sharing scheme, if the responsible person has not notified ASIC in writing before 1 February 2017 that the responsible person intends to provide to ASIC the written information specified in subparagraph 8(b) in relation to the PDS before 1 March 2017 except for superannuation products or investment options or managed investment products that will not be offered from 30 September 2017;
- except for a time-sharing scheme, if the responsible person has not provided to ASIC in writing before 1 March 2017 the information specified in subparagraphs 8(b)(i) and the statement specified in 8(b)(ii); and
- except for a time-sharing scheme, ASIC has asked in writing the responsible person for a PDS to provide information on a superannuation product, investment option or managed investment product for which information was not previously required, if the information is not provided within 6 business days.

Paragraph 8AB sets out for which superannuation products, investment options and

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managed investment products, information must be provided to ASIC for the purposes of subparagraph 8(a), in order to rely on the extension of relief provided until 30 September 2017.

Paragraph 8A permits a PDS to apply one or more of the modified provisions under subparagraphs 6(bb), (c), (d), (f)(i), (fa), (fb), (g) and (h) and paragraph 7 of [CO 14/1252] during the transitional period for the Statement.

Paragraph 8B provides that where [CO 14/1252] before commencement of ASIC Corporations (Amendment and Repeal) Instrument 2015/876 applied to a PDS before commencement of ASIC Corporations (Amendment) Instrument 2016/1224, it continues to apply during the transitional period until the Statement complies with the modified provisions after that commencement.

Paragraph 8C provides that paragraphs 6(e), (ea) and (f) other than (f)(i) of [CO 14/1252] as in force immediately before the commencement of the ASIC Corporations (Amendment) Instrument 2016/1224 continue to apply to a PDS given before that commencement until 30 September 2017 or, if earlier, when those provisions of [CO 14/1252] as modified by ASIC Corporations (Amendment) Instrument 2016/1224 are complied with. Those provisions also apply to another PDS given after than commencement that relates only to those financial products.

Paragraph 8D provides that where the transitional period in respect of a PDS does not end on or before 1 March 2017 because of the provision of the information and statements specified under paragraph 8(a) and (b), the same transitional period also applies to another Statement given after commencement of ASIC Corporations (Amendment) Instrument 2016/1224 that relates only to the same financial products as would apply to the Statement first given before that commencement.

#### Explanatory Statement to ASIC Instrument 2017/65

Item 7 modifies *ASIC Class Order [14/1252]* at sub-subparagraph 8(b)(ii) by inserting the word “and”. This helps readability and does not change the operation of the instrument.

Item 8 inserts a note into *ASIC Class Order [CO 14/1252]* after paragraph 8 which explains when certain provisions of the instrument commenced in operation.

Item 9 modifies *ASIC Class Order [CO 14/1252]* at subparagraph 8D(b) omits “statements” and substitutes “each statement referred to in paragraph 8D(b) in relation to the responsible person for the Statement has been”. This clarifies the statements to which the subparagraph relates. It does not change the operation of the instrument.

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Item 10 modifies *ASIC Class Order [14/1252]* at subparagraph 8D(c) by correcting the word “manage” to “managed”.

Item 11 repeals paragraph 8B inserted by item 21 of Schedule 1 to *ASIC Corporations (Amendment and Repeal) Instrument 2015/876* because that paragraph is no longer necessary. The note inserted by Item 8 contains the information previously provided by this paragraph.

Explanatory Statement to ASIC Instrument 2017/1138

Items 1, 2, 3 and 9 of Schedule 1 to the Amendment Instrument extend the time period for compliance with Schedule 10 of the Regulations as modified by [CO 14/1252] and modifies [CO 14/1252] itself in relation to requiring property operating costs to be disclosed as part of the investment fee or indirect costs in a Product Disclosure Statement for superannuation products.