

Commentary: Product Disclosure Statement for Margin Loans

Introduction

1. The Government wants to ensure that the Product Disclosure Statement (PDS) for standard margin lending facilities is shorter and simpler than many current PDSs for other financial products, while providing consumers with a summary of the key information they need to know to make an informed decision. The proposed solution is to prescribe a margin loan PDS that is no longer than four A4 pages of content, with additional pages containing a title and table of contents.
2. The Government will amend the Corporations Regulations 2001 (the Corporations Regulations) to provide a specific disclosure regime for standard margin lending facilities. The new regime will achieve a short and simple PDS through a degree of prescription and industry cooperation.
3. Regulations (the Regulations) prescribing the new standard margin loan PDS and related matters have been drafted and are being released for public consultation. This commentary provides an explanation of the Regulations and highlights a number of issues on which specific comments are being sought.

Background

General

4. In 2008, the Council of Australian Governments (COAG) agreed that the Australian Government should adopt responsibility for the national regulation of consumer credit, including margin lending facilities. Amendments have been drafted to the *Corporations Act 2001* (the Act) and the Corporations Regulations in relation to margin loans. These amendments relate mostly to issues other than disclosure. The proposed amendments are set out in the Corporations Legislation Amendment (Financial Services Modernisation) Bill 2009 (the Bill), which was introduced into Parliament on 25 June 2009, and associated regulations.
5. Chapter 7 of the Act is being amended to include margin lending facilities as a financial product under the Act and the Corporations Regulations. Defining a margin lending facility as a financial product has a range of consequences, including that the Chapter 7 disclosure regime becomes applicable to margin lending facilities, making them subject to disclosure requirements such as the Statement of Advice (SOA) and PDS requirements.
6. While sub-section 1013C(3) of the Act states that ‘the information included in the PDS must be worded in a clear, concise and effective manner’, there is currently no general limit on the length of PDSs.

Simplified disclosure

7. Shortened and simplified financial product disclosure was an election commitment of the Government. Accordingly, the Financial Services Working Group (the Working Group), jointly established by the then Minister for Superannuation and Corporate Law and the Minister for Finance and Deregulation in February 2008, is developing a simplified disclosure regime for a range of financial products, including standard margin lending facilities. Following the shift of responsibility for financial services, including disclosure matters, within the Treasury portfolio, the partnership is now being progressed by the Minister for Financial Services, Superannuation and Corporate Law and the Minister for Finance and Deregulation.

8. The draft Regulations are intended to introduce the relevant provisions governing the new simplified standard margin loan PDS into the Corporations Regulations.
9. It is noted that a simplified short PDS was previously developed by the Working Group for the First Home Saver Account (FHSA) in 2008.

Tailoring of current PDS rules for margin lending facility PDSs

10. It is intended to tailor the current rules governing the content of PDSs for standard margin lending facility PDSs.
11. In general, unless otherwise specified in these instructions, other aspects of the current PDS rules will apply to these PDSs, including:
 - rules establishing the person responsible for preparing a PDS;
 - rules on the timing and manner of giving a PDS, as well as who is responsible for giving the document; and
 - rules establishing liability for defective PDSs, as well as misleading and deceptive conduct in relation to PDSs.

Provisions clarifying which rules in the Act do not apply to standard margin loan PDSs are explained in more detail below.

PDSs for margin loans based on securities lending arrangements (which the Bill labels 'non-standard margin loan facilities' – see section 761EA of the Bill) will need to comply with the general content requirements for PDSs under Part 7.9 of the Act.

Approach to PDS is prescriptive

12. The standard margin lending facility PDS must contain a summary of all of the key information that a client needs to know before deciding to purchase a standard margin lending facility product. To ensure that the PDS is a summary of key information, and to help ensure comparability among products offered by different providers, it is considered necessary to prescribe the headings and content to be covered under each heading.
13. Current PDSs are generally criticised for being too long. To ensure that this problem does not affect standard margin loan PDSs, the maximum length of the PDS will be prescribed.
14. It is noted that the Explanatory Statement to the Regulations will include an example PDS that has been developed in consultation with industry and that is intended to demonstrate to stakeholders how the requirements set out in these Regulations could be satisfied. Experience with the FHSA PDS shows that some licensees may prefer to use the text provided in the example PDS, even though this is not prescribed.

Incorporation of information by reference

15. The standard margin lending facility PDS may refer to other material. This information may either be:
 - incorporated by reference using the new incorporation by reference (IBR) regime for standard margin lending facility PDSs where this is allowed or prescribed. In this case the incorporated material is deemed to be part of the PDS and the full range of PDS liability and enforcement provisions in the Act apply; or

- otherwise referred to, in which case the referred material does not form part of the PDS. It is therefore not subject to the PDS enforcement regime, but is subject to other provisions such as those relating to misleading and deceptive conduct in the Act and the *Australian Securities and Investments Commission Act 2001* (the ASIC Act).
16. Information that is made subject to IBR includes information that is subject to constant change, as for example a market-linked interest rate. In order to avoid the need to constantly update the PDS, such information may be incorporated by reference.
 17. Other incorporated information may be lengthy and detailed in nature, as for example the approved product list for a margin loan. While it is considered necessary to include this information legally as part of the PDS, it needs to be located outside the actual document if the PDS is to be kept to key summary information only. IBR is the solution to achieve this outcome.
 18. It is noted that the Corporations Regulations contain a number of provisions allowing incorporation by reference (in particular regulations 7.9.15DA, 7.9.15DB and 7.9.15DC). These provisions will not apply to standard margin loan PDSs, which will have their own IBR regime as prescribed in these Regulations.

Application and transitional arrangements

19. The new margin loan regulatory regime introduced in the Bill will apply to persons issuing and advising on margin loans 12 months after commencement of the Bill. The majority of the amendments contained in these Regulations will be made to apply at the same time as the margin loan amendments in the Bill.

Draft Regulations

Regulation 1 – Name of Regulations

20. This amendment provides the exact name of the regulations.

Regulation 2 – Commencement

21. This provision states that most of the Regulations will come into force at the same time as the margin lending provisions in the Bill, which will occur 12 months after commencement of the Bill. Passage and commencement of the Bill is expected to occur during the 2009 Spring Sittings of Parliament.
22. The amendment incorporating the new Australian Standard in relation to dispute and complaints resolution in the Corporations Regulations will commence immediately, as it is not directly related to the margin lending provisions.

Regulation 3 – Amendment of Corporations Regulations 2001

23. This provision says that Schedule 1 of these Regulations amend the *Corporations Regulations 2001* (the Corporations Regulations).

Schedule 1 – Amendments

Amendment [1] – Subregulation 1.0.02(1)

24. This amendment inserts a definition of *margin loan or margin lending* as a standard margin lending facility as defined in section 761EA of the Bill. This means that the amendments in these Regulations do not apply to non-standard margin lending facilities, which will remain subject to the existing PDS requirements in the Act.

Amendment [2] – Subregulation 1.0.02(1)

25. This amendment inserts a definition of *minor fee*, a concept which is used in prescribing certain contents of the margin loan PDS (see Amendment [18], item 8). The definition says that these are fees which are not applied in the ordinary course of operating a margin loan account and are less than \$10.

Amendment [3] – Subparagraph 7.6.02(1)(a)(iii)

26. Regulation 7.6.02(1)(a) prescribes a dispute resolution standard which ASIC should take into account in considering whether to approve standards or requirements relating to internal dispute resolution. The current reference is out of date and needs to be updated. This amendment inserts a reference to the new Australian Standard on complaints handling which has been issued by Standards Australia.

Amendment [4] – Subregulation 7.7.08(1A)

27. Regulation 7.7.08 prescribes the conditions under which a PDS may be combined with a Financial Services Guide. This amendment clarifies that the regulation does not apply to a margin loan PDS. The reason is that the Government wants to ensure that the consumer is provided with a short and simple PDS, and combining the PDS with other documents would not be consistent with this objective.

Amendment [5] – Paragraph 7.9.09(1)(d)

28. This provision states that existing Division 4 – ‘Content of Product Disclosure Statements’ of Part 7.9 of the Corporations Regulations applies to margin loans. A number of provisions relating to the margin loan PDS will be inserted into this Division.

Amendment [6] – Part 7.9, Division 4, after Subdivision 4.2

29. This provision inserts a new subdivision 4.2A into Division 4 of Part 7.9 of the Corporations Regulations with the title ‘Form and content of Product Disclosure Statement for margin loan’.

Regulation 7.9.11 - Application of Subdivision

30. This regulation clarifies that the new subdivision applies to a person who is required to give a margin loan PDS to a client, and to the margin loan PDS itself.

Regulation 7.9.11A - Definitions

31. This regulation provides a number of definitions for the purposes of Subdivision 4.2A of Part 7.9 as well as Schedule 10C of the Corporations Regulations. Details on the contents of Schedule 10C are provided further below. The definitions provided are those of ***Approved Product List*** and the term ***modified*** as applied to a provision of the Act which is varied in these Regulations. It is noted that the Approved Product List must contain a list of the approved products, and also the amount of credit the margin loan provider will lend against each product, that is the loan-to-value ratio for each product.

Regulation 7.9.11B - Modification of Act

32. This regulation states that Part 7.9 of the Act, which mainly contains the PDS requirements, is modified with respect to a margin loan as prescribed in the new Part 5A of Schedule 10A of the Corporations Regulations. New Part 5A of Schedule 10A is prescribed later on in these Regulations.

Regulation 7.9.11C - Form and content of Product Disclosure Statement for margin loan

33. Paragraphs 1013C(1)(a) and (b) as modified in item 5A.2(1) of these Regulations allow the form and content requirements for a standard margin loan PDS to be prescribed by regulation. This regulation states that the content and form requirements for the margin loan PDS are contained in the regulations in new Schedule 10C of the Corporations Regulations. Schedule 10C is prescribed later on in these Regulations.

Regulation 7.9.11D Requirements for references to incorporated information for margin loan

34. This regulation sets out a number of high-level requirements applying to information in a margin loan PDS that is incorporated by reference, as permitted under the new section 1013C(2B) contained in subitem 5A.2 of Part 5A in Schedule 10A of these Regulations.
35. The regulation states that incorporation by reference may only be used when expressly allowed under these Regulations.
36. This regulation also requires each version of the incorporated information to be marked in some way that allows it to be identified. How this is achieved is not prescribed in detail, but it is considered that methods such as using a date stamp or a version number would be acceptable, as long as there is no room for doubt in distinguishing different versions of the information. It is noted that the PDS document itself will have to be dated as required by existing section 1013G of the Act.

37. It is intended that a reference to incorporated material will provide a reasonably short description of what is contained in the material and a description of the location of the material, for example by including a URL or a telephone number for obtaining a hardcopy version. For example, where a provider incorporates the approved products list by reference, a short paragraph would have to be provided describing what the approved products list contains, and a reference such as: 'for the current approved investments list, see [location details]'. It is noted that a telephone number for requesting hard copies can be provided once in the PDS, as stated in Amendment [18], Subitem 2(2)(b).
38. This regulation therefore states that a reference in the main body of a margin loan PDS to material incorporated by reference must be sufficiently clear in order to allow a reasonable person to easily identify the incorporated matter.
39. This requirement also means that information that is incorporated by reference must be clearly distinguishable within the PDS document from other information that is not formally incorporated. The example PDS achieves this by setting an icon against each such reference. Other references to material that is, for instance, educational in nature are not marked in this manner.
40. The reason for this requirement is that incorporated information is legally part of the PDS and is as such subject to a more stringent liability and enforcement regime. This information may also be considered to be somewhat more important than other reference material. It is therefore considered to be of some informational value to borrowers and other stakeholders to clearly indicate which information is incorporated by reference.
41. It is noted that existing regulation 7.9.02B requires that information provided electronically such as incorporated information located outside the PDS document on a website should be clearly distinguishable from all other information. This could, for example, be achieved by grouping all incorporated information for a particular PDS together under an appropriate heading.
42. The reason for this requirement is to clearly separate incorporated and non-incorporated information, as the two are subject to different liability and enforcement regimes. It is considered that mixing up the two types of information could lead to confusion and disputes, especially where some of the information was defective.

Request for comments

Is it necessary that references for incorporated information within the PDS document are clearly marked or distinguishable? Is this distinction of use to stakeholders such as borrowers or other users, for example financial planners?

Similarly, do you think that clearly distinguishing incorporated information located outside the PDS document is a useful requirement? Does the potential for confusion and disputes exist? Is the requirement difficult or costly to comply with?

It is noted that providing incorporated information through a link to a website may trigger the provisions in the Act relating to how PDSs may be given, such that it may be necessary to obtain the consent of persons accessing the information. Is this a problem, given the possibility of using electronic methods of obtaining consent such as pop-up boxes?

43. The regulation also requires the reference to be sufficiently clear to allow a reasonable person to make an informed choice about whether he or she needs to read it. This means that the reference must be sufficiently informative to allow a reasonable person to make a judgment of this nature.

44. Furthermore, if material is incorporated by reference, it must be reasonably accessible to a person relying on the PDS. This means that a person must be able to locate the material without great difficulty.
45. If a URL is provided, this should link to the material with as few steps as possible. For example, linking directly to the material, or to the material via a prominent link on a splash page would be considered to be reasonably accessible. If a URL links only to the home page of a provider's website, and a person needs to navigate a number of links on the site to locate the material, this would not be considered to be reasonably accessible.

7.9.11E Retention of copies of Product Disclosure Statement – margin loan

46. This regulation requires that each PDS version must be retained by the lender for a period of 7 years. This is consistent with existing record-keeping requirements for PDSs. The regulation also applies this requirement to incorporated information located outside the PDS document and provides guidance on how to determine the start of the 7 year period in various situations.

Regulation 7.9.11F Requirement to provide copy of Product Disclosure Statement for margin loan free of charge

47. Not all persons may have access to a computer or the internet. This regulation therefore requires that lenders must provide a free hard copy of the PDS, including incorporated information, upon request.

Regulation 7.9.11G - Notification about change to Approved Product List or current interest rate

48. Section 1017B of the Act requires certain important changes and events to be notified to clients. This requirement will apply to margin loans. This regulation prescribes that changes to the Approved Product List and the current interest rate may be notified by placing a notice on an appropriate webpage for the margin loan facility which is likely to come to the attention of clients as they monitor their loans. For example, the notice could be placed so that it shows up when the consumer logs in to their online account.
49. Changes to the Approved Product List may occur up to several times a day and it is not practicable to require borrowers to be notified individually each time. While changes to the interest rate will occur less frequently, borrowers have been warned in the PDS to regularly monitor their loan. Interest rate changes are also required to be notified in the periodic statements required to be sent to borrowers through regulations made for purposes of implementing the Bill. It is therefore considered that notification through a webpage is sufficient to inform borrowers of these changes.

Amendments [7] and [8] – Regulation 7.9.15DA (1)

50. Regulation 7.9.15DA contains the existing incorporation by reference provisions that apply to a PDS. Since these Regulations introduce a separate incorporation by reference regime for margin loan PDSs, there is no need for the existing requirements to apply. This amendment therefore ensures that the existing requirements in regulation 7.9.15DA do not apply to margin loan PDSs.

Amendments [9] and [10] Regulation 7.9.15DB

51. Regulation 7.9.15DB contains the existing record-keeping requirements for the incorporation by reference provisions in regulation 7.9.15DA. Given that there are specific record-keeping requirements that apply to information incorporated by reference into margin loan PDSs, there is no need for this requirement for margin loans. These amendments therefore ensure that regulation 7.9.15DB does not apply to margin loan PDSs.

Amendments [11] and [12] Regulation 7.9.15DC

52. Regulation 7.9.15DC clarifies how the lodgement requirements in section 1015B of the Act apply to PDSs containing information incorporated by reference. The amendments clarify that this regulation does not apply to margin loan PDSs, as section 1015B only applies to managed investment products.

Amendments [13] and [14] Regulation 7.9.16L

53. Regulation 7.9.16L states that a PDS must disclose fees and costs in a manner prescribed in detail in Part 2 of Schedule 10 of the Corporations Regulations (these provisions are generally known as the ‘enhanced fee disclosure’ requirements). The enhanced fee disclosure requirements were designed for investment products such as managed investment schemes or superannuation funds, and therefore do not make sense when applied to a credit product such as a margin loan. These amendments ensure that the enhanced fee disclosure requirements do not apply to a margin loan PDS.

Amendment [15] Paragraph 7.9.77(1)(a)

54. This amendment makes the same change as under amendment [3] to regulation 7.9.77(1)(a), which also prescribes a dispute resolution standard which ASIC should take into account in considering whether to approve standards or requirements relating to internal dispute resolution. The current reference is out of date and needs to be updated. The amendment inserts a reference to the new Australian Standard on complaints handling which has been issued by Standards Australia.

Amendment [16] Schedule 10A, the heading

55. This amendment makes some minor adjustments to the heading of Schedule 10A of the Corporations Regulations to facilitate the insertion of a new Part 5A dealing with margin loan PDSs.

Amendment [17] Schedule 10A, after Part 5

56. This item introduces a new Part 5A into Schedule 10A of the Corporations Regulations. The new Part contains a number of amendments to the Act relating to margin loan PDSs.

Item 5A.1 Section 1011B

57. This amendment inserts a definition of ***Regulations*** as referring to the Corporations Regulations 2001.

Item 5A.2 Subsections 1013C (1) and (2)

58. This item modifies subsections 1013C (1) and (2) of the Act by replacing the current content of these two subsections with a number of new subsections.
59. New subsection (1) states that the contents and form of a margin loan PDS are prescribed in regulations. The detailed regulations are provided in Schedule 10C of the Corporations Regulations (see below), as provided in regulation 7.9.11C (see above).
60. New subsections (2), (2A) and (2B) prescribe certain matters in relation to the new margin loan IBR regime. They state that a margin loan PDS may incorporate information by reference, that all information incorporated by reference is considered to be part of the PDS, and that the regulations may prescribe further requirements applying to incorporating information by reference into a margin loan PDS.
61. Information incorporated by reference into a margin loan PDS is therefore subject to the legal regime that applies to PDSs. This is an important provision as it decides the

extent and nature of the legal liability attaching to the incorporated information. For instance, the PDS enforcement provisions will apply to this information, allowing among other things consumers to claim for losses or damages where the information proves to be defective.

62. New subsections (2C) and (2D) allow other information to be referred to without being formally incorporated. Therefore, the PDS liability regime will not attach to referenced information which is not formally part of the PDS. Such information will be subject to requirements such as those against misleading and deceptive conduct in the Act and the ASIC Act.

Items 5A.3 and 5A.4 Sections 1013D and 1013E

63. These items ensure that sections 1013D and 1013E do not apply to a margin loan PDS. They are superfluous because the regulations in Schedule 10C (see below) prescribe the form and contents of a margin loan PDS.

Item 5A.5 Subsection 1013L

64. Section 1013L allows a PDS to consist of one or more documents. This item amends this section to state that a margin loan PDS may consist of more than one document, but only if the documents consist of the prescribed PDS document and copies of incorporated information that form part of the PDS.

Item 5A.6 Part 7.9, Division 2, Subdivision D

65. The margin loan PDS has been designed in a manner that allows all information that changes frequently or regularly to be incorporated by reference. It is therefore considered that margin loan PDSs will only have to be amended rarely, and only if there are major changes to the product. Given that the PDS is a very short document, in such cases it is considered appropriate that a new PDS should be issued, instead of a Supplementary PDS. This item therefore amends the Supplementary PDS provisions of the Act, which are contained in Subdivision D of Division 2 of Part 7.9 of the Act, so that they do not apply to margin loans.

Item 5A.7 Subsection 1015D(3)

66. This subsection states that a PDS must be kept for 7 years. It is superfluous because these Regulations contain detailed record-keeping provisions (see draft regulation 7.9.11E). This provision therefore disapplies subsection 1015D(3) in relation to a standard margin loan PDS.

Amendment [18] After Schedule 10BA

67. This amendment inserts a new Schedule 10C into the Corporations Regulations containing the detailed regulations prescribing the form and content of a margin loan PDS.

Item 1 - Length and font size for Product Disclosure Statement – margin loan

68. This provision ensures that the PDS does not exceed a maximum page limit, while providing for alternative formats which deliver the equivalent content. Requirements relating to font sizes are also included to ensure that the PDS is readable.
69. The total length of the PDS (not including a title page, table of contents and any information incorporated by reference) must not exceed
 - (a) 4 A4 pages of content; or
 - (b) 8 A5 pages of content; or
 - (c) 12 DL pages of content; or

- (d) if in any other format, as long as would fit into 4 A4 pages.
70. The font size must not be less than:
- (a) for body text—9 points;
- (b) for the company's name, address, ABN, ACN and AFSL—8 points.

Item 2 - Content of Product Disclosure Statement – margin loan

71. This item states that the margin loan PDS must be made up of a number of sections which must be numbered, ordered and titled as prescribed.
72. It is further prescribed that the PDS must include a table of contents using the headings provided. The main reason for prescribing headings is to ensure comparability. Allowing issuers to vary the headings may unnecessarily confuse consumers.
73. Depending on the product's target market and distribution channels, not all potential customers may have access to the internet. In such cases, simply providing a URL would mean that the incorporated material would not be considered to be reasonably accessible. A requirement is therefore included to provide a telephone number in the PDS which can be used to request a hard copy of the PDS, including incorporated information.
74. The PDS may also include other sections at the discretion of the lender, but these must fit within the prescribed page length.

Item 3- Contents of section 1 (What is margin lending?)

75. This section is intended to provide a short summary of what margin lending is and an initial overview of some key threshold factors that potential borrowers should consider and be comfortable with before taking out a margin loan.
76. This item accordingly prescribes that section 1 must contain the following content:
- A short summary of what margin lending is;
 - A statement setting out the possible consequences of borrowing to invest, including the effect of magnifying both gains and losses;
 - A statement that borrowers need to regularly monitor their portfolios in order to be able to take timely action to prevent potential losses and become aware of changes to the terms of their loan;
 - A statement that borrowers may need at short notice to pay an additional amount into the margin loan or sell some of the investments. The warning should also state that the lender has the right to sell part or all of the portfolio in certain circumstances;
 - A statement that borrowers may need to access other funds to repay the margin loan if the value of the portfolio does not cover repayment of the loan, and that other assets provided as security for the loan, in particular residential property, may have to be sold to repay the loan in such circumstances; and
 - A statement that the law requires lenders to assess whether a margin loan is unsuitable for a borrower, and that borrowers may request a copy of the assessment from the lender. The same note is included as in the Bill, stating that the assessment does not have to be provided if no margin loan is provided, and it is expected that this information would form part of the statement.
77. In relation to the last dot point, it is noted that the lender's obligation to assess whether the facility is unsuitable for the client is a new legal obligation included in the

Bill (sections 985E and following). Section 985J specifically says that the borrower has the right to request a copy of the assessment under certain conditions, noting however that this does not apply if no margin loan is provided or an existing loan limit increased.

Item 4 - Content of section 2 (How you could benefit from margin lending)

78. This section must set out the key benefits available from a margin loan. There are no specific prescribed contents for this section. Information relating to other benefits may be incorporated by reference.

Item 5 - Content of section 3 (How margin lending works)

79. Section 3 provides a basic overview of how a margin loan operates. This section must provide a summary explanation of the following matters:

- How margin lending works, including explanations of the maximum loan amount and the loan-to-value (LVR) ratios. These explanations must be illustrated with one or more examples;
- What financial products (or types of financial product) that the client can purchase with the borrowed funds;
- Who owns the investments; and
- A reference to the margin loan calculator available on FIDO, ASIC's consumer website, using the address www.fido.gov.au/marginloan. If the lender itself provides a calculator to the public, they may include a reference to and information about the calculator in this section.

80. The issuer must complement the explanation of what investments the consumer can buy with the borrowed funds by including an Approved Product List setting out all the investments that are acceptable to the lender as security for the margin loan, and the LVR that applies to each investment. The Approved Product List may be incorporated by reference.
81. Section 3 must also contain additional information explaining any special features of the margin lending product that are not covered by the matters listed above and that are sufficiently important to be material to a reasonable person's decision on whether to take out the loan or not.

Request for comments

Do you think that the requirement to include additional significant features is reasonable and is sufficiently clearly limited to information that is of importance to borrowers? The materiality clauses are intended to avoid the inclusion of less significant information – do you think this has been achieved? If not, how could it be achieved?

Item 6 - Content of section 4 (What is a margin call?)

82. A margin call occurs whenever the current LVR ratio exceeds a level determined in the terms and conditions of the facility (the 'current LVR' is defined and explained in paragraph 761EA(2)(e) and subsection 761EA(3) of the Bill. A 'margin call' is defined in subsection 761EA(4)).
83. Margin calls are the main risk that may affect margin loan borrowers, as they trigger calls for additional cash or other contributions to adjust the LVR ratio, failing which investments held by the borrower may be sold off. In cases of rapidly falling markets or other extreme circumstances borrowers may even fall into negative equity, where the value of the investments is insufficient to pay off the loan. In such cases investors may have to find additional funds to pay off the loan, and in a worst case scenario may lose any security they have provided for the loan. In some recent cases

borrowers are at risk of losing their homes because of such events. It is therefore considered appropriate to apply specific disclosure requirements in relation to margin calls and how they operate, including disclosure of the specific level beyond which a margin call is triggered. This section must accordingly explain how margin calls work, and must provide one or more examples to illustrate the explanation.

84. The explanation must state under what circumstances a margin call is triggered, including:
- In response to changes in the market (e.g. if the value of the investments fall by a certain amount, or an index falls by a given amount); or
 - Otherwise at the lender's discretion (e.g. if the lender decides to remove a product from the Approved Product List or reduces the LVR).
85. The explanation must also set out how borrowers can deal with a margin call.
86. The example(s) must illustrate how a margin call works and address key matters such as the impact of breaching the LVR, how to adjust the LVR back to the required level and how the buffer operates, if one is provided.
87. It must be stated that the lender will notify the margin call to the borrower or their financial adviser. Notification requirements are prescribed in section 985M of the Bill. A statement must also be included that the borrower should remain contactable at all times in case of a margin call.

Item 7 - Content of section 5 (The risk of losing money)

88. Section 5 must contain a description of the following risks (except if they are not relevant for the particular product):
- The risk that the value of the client's investments might fall, and the possible consequences, in particular of a margin call if the gearing level rises above the LVR;
 - The risk that lenders may change the LVR of any given investment and the possible consequences, in particular of a margin call occurring if the gearing level rises above the LVR;
 - The risk that the lender may remove any given investment from the Approved Product List and the possible consequences, in particular of a margin call occurring if the LVR rises above the LVR;
 - Where applicable, the risk that the interest rate may rise and the consequences, in particular the possibility that interest payments may exceed the returns available from the investment portfolio; and
 - The risk that tax laws can change, and possibly have a negative impact on the borrower's tax position.
89. The section must also include a warning about the possibility of losses extending so far as to reduce the level of security below the loan amount and the consequences, including the possible loss of a home if it has been mortgaged as security for or in connection with the loan.
90. If there are any other significant risks that a reasonable person would consider relevant to the particular margin loan product, they must also be included in this section.
91. The issuer may use the incorporation by reference mechanism to include other risk-related information.
92. A link must also be included to the webpage on ASIC's consumer website discussing ways to manage margin loan risks.

Item 8 - Content of section 6 (The costs)

93. Section 6 must contain a brief description of:
- The interest rate, including how interest is calculated and any default interest rate that may apply. This section need not specify the actual interest rate paid by the borrower, but may instead provide an explanation and use the IBR mechanism to refer the borrower to a location where they can find the current interest rate;
 - Fees, but excluding minor fees and costs such as small transaction fees. A list of minor fees must be included, but the description and amounts of these fees may be incorporated by reference; and
 - Whether any commission is, or may be, payable to a financial adviser or third party, under what circumstances the payments are made, and where more detailed information on the payments can be found.

Item 9 – Content of section 7 (How to apply)

94. This section must provide information about how to apply for a loan.
95. A warning to seek financial advice if the reader is unsure about the suitability of a margin loan must be inserted here. Other than that there are no specific content requirements for Section 7.