



Corporations Amendment Regulations 2009 (No.)¹

Select Legislative Instrument 2009 No.

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Corporations Act 2001*.

Dated 2009

Governor-General

By Her Excellency's Command

[DRAFT ONLY – NOT FOR SIGNATURE]

Minister for Financial Services, Superannuation and Corporate
Law

CONSULTATION DRAFT ONLY

1 Name of Regulations

These Regulations are the *Corporations Amendment Regulations 2009* (No.).

2 Commencement

These Regulations commence on **[TBA]**.

3 Amendment of *Corporations Regulations 2001*

Schedule 1 amends the *Corporations Regulations 2001*.

Schedule 1 Amendments

(regulation 3)

[1] Subregulation 1.0.02 (1), definition of *minor fee*

substitute

minor fee:

- (a) for a margin loan — means a fee or cost in relation to the margin loan that:
 - (i) does not relate to the ordinary acquisition of the margin loan; and
 - (ii) does not relate to the operation or closure of the margin loan; and
 - (iii) is less than \$10; and
- (b) for a superannuation product — means a fee or cost in relation to the superannuation product that:
 - (i) does not relate to the ordinary acquisition of the superannuation product; and
 - (ii) does not relate to the operation or closure of the superannuation entity; and
 - (iii) is less than \$10.

[2] After subregulation 7.7.08A (1A)

insert

- (1B) This regulation does not apply if the Product Disclosure Statement is for a superannuation product to which Subdivision 4.2C of Division 4 of Part 7.9 relates.

[3] Paragraph 7.9.09 (1) (e)

substitute

- (e) a margin loan; and
- (f) a superannuation product to which Subdivision 4.2C of Division 4 of Part 7.9 relates.

[4] Part 7.9, Division 4, after Subdivision 4.2B

insert

Subdivision 4.2C Content of Product Disclosure Statement for superannuation products

7.9.11K Application of Subdivision

This Subdivision applies to:

- (a) a superannuation entity that is required to prepare a Product Disclosure Statement for a superannuation product; and
- (b) a Product Disclosure Statement for a superannuation product.

7.9.11L Provisions of Part 7.7 of Act that do not apply in relation to superannuation products

For paragraph 951C (1) (b) of the Act, section 942DA of the Act does not apply in relation to a superannuation product.

7.9.11M Provisions of Part 7.9 of Act that do not apply in relation to superannuation products

For paragraph 1020G (1) (b) of the Act, Subdivision D of Division 2 of Part 7.9 the Act does not apply in relation to a superannuation product.

7.9.11N Modification of Act — superannuation products

For paragraph 1020G (1) (c) of the Act, Part 7.9 of the Act is modified in its application to a superannuation product to which this Subdivision relates as set out in Part 5B of Schedule 10A.

7.9.11O Form and Content of Product Disclosure Statement for superannuation products

- (1) For modified paragraph 1013C (1) (a) of the Act, a Product Disclosure Statement for a superannuation product to which this Subdivision relates must include the information and statements mentioned in Schedule 10D.
- (2) For modified paragraph 1013C (1) (b) of the Act, a Product Disclosure Statement for a superannuation product to which this Subdivision relates must be in the form mentioned in Schedule 10D.

7.9.11P Requirements for references to incorporated information for superannuation products

- (1) For modified 1013C (2B) of the Act, this regulation prescribes requirements for applying, adopting or incorporating a matter contained in writing in a Product Disclosure Statement for a superannuation product to which this Subdivision relates.
- (2) A Statement may apply, adopt or incorporate a matter only if a provision of Schedule 10D permits the matter to be applied, adopted or incorporated by the Statement.
- (3) If a Statement applies, adopts or incorporates a matter:
 - (a) the matter must be:
 - (i) in writing; and
 - (ii) clearly distinguishable from other matters that are not applied, adopted or incorporated; and
 - (iii) publicly available in a document other than the Statement; and

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- (b) the responsible person for the Statement must identify the matter by:
 - (i) including in the Statement a concise description of the matter; and
 - (ii) ensuring that the reference to the matter is clearly distinguishable from the other contents of the Statement; and
 - (c) the responsible person for the Statement must:
 - (i) identify each version (by including the date on which the version was prepared) so that a person who, at a particular time, is considering a superannuation product can identify the version that is relevant to the superannuation product at that time; and
 - (ii) state the date on which the version was prepared in a prominent position at or near the front of the version; and
 - (d) the responsible person for the Statement must ensure that a person who is relying on the Statement is able to have access to:
 - (i) the matter; or
 - (ii) if there is more than 1 version of the matter — each version;
reasonably easily and reasonably quickly.
- (4) For the avoidance of doubt, the giving of a Product Disclosure Statement to which this Subdivision applies is taken to be the giving of every matter that is applied, adopted or incorporated in accordance with (1) to (3).

7.9.11Q Retention of copies of Product Disclosure Statement for superannuation product

- (1) This regulation applies if section 1015B of the Act does not apply to require a Product Disclosure Statement to be lodged with ASIC and the Statement is for a superannuation product to which this Subdivision relates.

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- (2) The responsible person for the Statement must retain a copy of:
 - (a) each version of the Statement that the responsible person issues; and
 - (b) each version of a matter contained in writing that is adopted, applied or incorporated by the Statement.
 - (3) The responsible person for the Statement must retain a copy of each version of a matter mentioned in paragraph 7.9.11P (3) (c), and each matter that is applied, adopted or incorporated by the Statement, for a period of 7 years commencing on:
 - (a) for each version of the Statement — the day it is issued; and
 - (b) for a matter that is applied, adopted or incorporated by the Statement — the day the Statement is issued; and
 - (c) for each change to the applied, adopted or incorporated matter — the day the matter is changed.

7.9.11R Requirement to provide copy of Product Disclosure Statement for superannuation product free of charge

- (1) For paragraph 1015C (5) (a) of the Act, this regulation specifies requirements as to the manner in which a Product Disclosure Statement for a superannuation product to which this Subdivision relates must be given to a person if the person requests a copy of the Statement.
- (2) The responsible person for the Statement must give the person, free of charge and within 5 business days:
 - (a) a copy of the Statement; and
 - (b) a copy of a matter in writing that is applied, adopted or incorporated by the Statement.

[5] Subregulation 7.9.15DA (1)

omit

and subject to subregulation (4),

insert

and subject to subregulations (1A), (1B) and (4),

[6] After subregulation 7.9.15DA (1A)

insert

- (1B) This regulation does not apply if the Product Disclosure Statement is for a superannuation product to which Subdivision 4.2C of Division 4 of Part 7.9 relates.

[7] After subregulation 7.9.15DB (2)

insert

- (3) This regulation does not apply if the Product Disclosure Statement is for a superannuation product to which Subdivision 4.2C of Division 4 of Part 7.9 relates.

[8] After subregulation 7.9.15DC (2)

insert

- (2) This regulation does not apply if the Product Disclosure Statement is for a superannuation product to which Subdivision 4.2C of Division 4 of Part 7.9 relates.

[9] **Schedule 10A, after Part 5A**

insert

Part 5B **Modifications for
superannuation products to
which Subdivision 4.2C of
Division 4 of Part 7.9 relates**

5B.1 **Section 1011B, after definition of *regulated person***

insert

Regulations means the *Corporations Regulations 2001*.

5B.2 **Subsections 1013C (1) and (2)**

substitute

- (1) A Product Disclosure Statement must:
 - (a) include the statements and information required by regulations made for this paragraph; and
 - (b) be in the form required by regulations made for this paragraph.
- (2) A Product Disclosure Statement may make provision for a matter contained in writing by applying, adopting or incorporating the matter as in force at a particular time or as in force from time to time.
 - (2A) If a Product Disclosure Statement applies, adopts or incorporates a matter contained in writing, the applied, adopted or incorporated matter forms part of the Statement.
 - (2B) The regulations may prescribe requirements for applying, adopting, or incorporating a matter contained in writing in a Product Disclosure Statement.
 - (2C) A Product Disclosure Statement may refer to other information that is set out in another document.

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- (2D) If a Product Disclosure Statement refers to other information that is set out in another document, that information does not form part of the Statement.

Note Although the information would not form part of the Product Disclosure Statement, it would be subject to requirements imposed by the Act or these Regulations such as the prohibition on making misleading or deceptive statements.

5B.3 Section 1013D

omit

5B.4 Section 1013E

omit

5B.5 Section 1013L

substitute

1013L When Product Disclosure Statement may consist of 2 or more documents

A Product Disclosure Statement may consist of 2 or more documents only if:

- (a) one of the documents is a document that complies with the requirements for a Product Disclosure Statement under this Act and the Regulations; and
- (b) the other document or documents contain a matter in writing that is applied, adopted or incorporated by the document mentioned in subparagraph (a).

5B.6 Subsection 1015D (3)

omit

[10] After Schedule 10C

insert

Schedule 10D Form and content of Product Disclosure Statement — superannuation product to which Subdivision 4.2C of Division 4 of Part 7.9 relates

(regulation 7.9.11O)

1 Length and font size for Product Disclosure Statement for superannuation product

- (1) The length of a Product Disclosure Statement for a superannuation product (not including any title page, table of contents or matter contained in writing that is applied, adopted or incorporated by the Statement) must not exceed:
 - (a) if it is printed on A4 pages — 6 pages; or
 - (b) if it is printed on A5 pages — 12 pages; or
 - (c) if it is printed on DL pages — 18 pages; or
 - (d) otherwise — if the Statement were formatted to be printed on A4 pages, 6 A4 pages.
- (2) The minimum font size for text in the Statement is:
 - (a) for the name, address, ABN (if applicable), ACN (if applicable) and AFSL of the person giving the Statement — 8 points; and
 - (b) for all other text — 9 points.

Note 1 The Product Disclosure Statement must be worded and presented in a clear, concise and effective manner — see subsection 1013C (3) of the Act.

Note 2 A person required to give a Product Disclosure Statement to a vision-impaired person must comply with its obligations under the *Disability Discrimination Act 1992*.

2 Minimum content of Product Disclosure Statement for superannuation product

- (1) Subject to subclause 10 (1), the Product Disclosure Statement for a superannuation product must include sections which must be numbered and titled as follows:
 1. About [name of superannuation entity]
 2. How super works
 3. Benefits of super
 4. Risks of investing in super
 5. How we invest your money
 6. Fees and costs
 7. How super is taxed
 8. Insurance in your super
 9. How to open an account.
- (2) However, if the superannuation provider does not offer insurance cover:
 - (a) section 9 may be presented as section 8; and
 - (b) a reference in clause 11 to section 9 is taken to be a reference to section 8.
- (3) The Statement must include:
 - (a) a table of contents that sets out the titles mentioned in subregulation (1); and
 - (b) the telephone number of the provider for the superannuation product to enable a person who acquires the superannuation product to request a copy of the following under regulation 7.9.11M:
 - (i) a copy of the Statement; and
 - (ii) a copy of a matter in writing that is applied, adopted or incorporated by the Statement.

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- (4) The Statement must:
- (a) advise a person reading the Statement that:
 - (i) it is a summary of key information and contains a number of references to important information (each of which forms part of the Statement); and
 - (ii) the person should consider that information before making a decision whether to invest in the product; and
 - (iii) the information provided in the Statement is general information only and does not take account of the person's personal financial situation or needs; and
 - (iv) the person should obtain financial advice tailored to the person's personal circumstances; and
 - (b) display the advice:
 - (i) at or near the beginning of the document; and
 - (ii) in a prominent position and style.
- (5) The Statement:
- (a) may include additional sections (for example, a glossary or index); and
 - (b) may include other information;
to an extent that does not have the effect of contravening subclause 1 (1).

3 Contents of section 1 (About [name of superannuation entity])

Section 1 of the Product Disclosure Statement for a superannuation product must describe, in the form of a summary:

- (a) what superannuation is (emphasising, as a primary objective, that superannuation is a means of saving for retirement); and
- (b) the limitations on withdrawals from superannuation; and
- (c) the tax benefits, and other benefits, provided by government in relation to superannuation; and
- (d) the superannuation entity and its products.

4 Contents of section 2 (How super works)

- (1) Section 2 of the Product Disclosure Statement for a superannuation product must describe, in the form of a summary, how superannuation works.
- (2) If the superannuation product to which the Statement applies allows contributions to be made by or in respect of the person, section 2 must describe, in the form of a summary:
 - (a) how contributions are made; and
 - (b) the different types of contributions available to a person (for example, employer contributions, voluntary contributions, government co-contributions); and
 - (c) any right to choose a superannuation fund, explained in terms of how the person can choose into which fund the employer should direct superannuation guarantee contributions; and
 - (d) if the Statement relates solely to a superannuation interest that is not a defined benefit superannuation interest (within the meaning given by subsection 10(1) of the *Superannuation Industry (Supervision) Act 1993*) — what happens if the person does not make an investment choice, explained in terms of which investment option within the fund contributions will be directed in that circumstance; and
 - (e) if the Statement relates solely to a superannuation interest that is a defined benefit superannuation interest — the nature of the defined benefit superannuation interest; and
 - (f) if the Statement relates to both a superannuation interest that is not a defined benefit superannuation interest and a superannuation interest that is a defined benefit superannuation interest:
 - (i) the matters in paragraph (d) for the superannuation interest that is not a defined benefit superannuation interest; and
 - (ii) the matters in paragraph (e) for the superannuation interest that is a defined benefit superannuation interest; and
 - (g) what the superannuation entity does with the funds contributed by persons; and

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- (h) if the superannuation product relates solely to a superannuation interest that is in the growth phase (within the meaning given by subregulation 1.03 (1) of the *Superannuation Industry (Supervision) Regulations 1994*) — when persons can withdraw funds.
- (3) If the superannuation product relates solely to a superannuation interest that is a pension interest, section 2 of the Statement must describe, in the form of a summary:
 - (a) how to commence the pension; and
 - (b) whether there are any limitations on the pension that would be applicable; and
 - (c) how and when withdrawals may be made from the pension; and
 - (d) how and when the pension may be commuted; and
 - (e) how and when the pension may be changed or ceased.
 - (4) If the superannuation product relates to both a superannuation interest that is in the growth phase and to a superannuation interest that is a pension interest, section 2 of the Statement must describe:
 - (a) the matters set out in subclause (2) in relation to the growth phase interest; and
 - (b) the matters set out in subclause (3) in relation to the pension interest.
 - (5) The issuer may provide more detailed information on the matters set out in subclauses (2) to (4) by applying, adopting or incorporating a matter in writing.

5 Contents of section 3 (Benefits of super)

- (1) Section 3 of the Product Disclosure Statement for a superannuation product must, before setting out any other information, describe, in the form of a summary:
 - (a) the key benefits of superannuation, including the benefits of long-term savings; and
 - (b) how superannuation assists in meeting retirement objectives; and
 - (c) the effect of compound earnings; and

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- (d) tax savings provided by the government; and
 - (e) if contributions to the superannuation entity are permitted — the co-contribution scheme offered by the Commonwealth Government, and
 - (f) if applicable — the option for a person to take out insurance as part of the superannuation product.
- (2) Section 3 must describe the fund covered by the Statement, including a summary of its significant features and the benefits it provides.
 - (3) The issuer:
 - (a) must describe, in the form of a summary, the extent to which labour standards or environmental, social or ethical considerations are taken into account in the selection, retention or realisation of investments relating to the superannuation product; and
 - (b) may provide additional information about significant benefits of superannuation or other significant features of the superannuation fund;by applying, adopting or incorporating a matter in writing.

6 Contents of section 4 (Risks of investing in super)

- (1) Section 4 of the Product Disclosure Statement for a superannuation product must include statements to the following effect:
 - (a) all investments carry risk;
 - (b) different strategies may carry different levels of risk, depending on the assets that make up the strategy;
 - (c) assets with the highest long-term returns may also carry the highest level of short-term risk.
- (2) Section 4 must describe the key risks of investing in superannuation, including the following risks:
 - (a) the value of investments will vary;
 - (b) the level of returns will vary, and future returns may differ from past returns;
 - (c) returns are not guaranteed, and persons may lose some of their money;

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- (d) superannuation laws may change in the future;
 - (e) if the superannuation product is, or includes, a pension product — the key risks associated with pension products.
- (3) Section 4 must state that the appropriate level of risk for each person will vary depending on a range of factors, including:
- (a) age; and
 - (b) investment time frames; and
 - (c) where other parts of the person’s wealth are invested; and
 - (d) the person’s risk tolerance.
- (4) If the Statement relates to a superannuation interest that is a defined benefit superannuation interest:
- (a) subclauses (1) to (3) do not apply; and
 - (b) section 4 must describe, in the form of a summary, the risks associated with the defined benefit superannuation interest.
- (5) Section 4 must, if applicable, include a statement to the effect that either or both of:
- (a) a superannuation trustee; and
 - (b) a financial adviser;
- can help a person to understand risk and can design an appropriate investment strategy.
- (6) The issuer may provide additional information about significant risks of superannuation by applying, adopting or incorporating a matter in writing.

7 Contents of section 5 (How we invest your money)

- (1) Section 5 of the Product Disclosure Statement for a superannuation product must describe, in the form of a summary:
- (a) the investment options offered by the superannuation entity; and
 - (b) what happens if the person does not make a choice of where to invest.

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- (2) Section 5 must state, in the form of a warning, that the person must consider:
 - (a) the likely investment return; and
 - (b) the risk; and
 - (c) the person's investment timeframe; when choosing an option in which to invest.
 - (3) For at least 1 investment option, section 5 must:
 - (a) state the name of the option and give a short description of it, including the type of investors for whom it is intended to be suitable; and
 - (b) list the asset classes in which the option invests, and set out the strategic asset allocation of the asset classes; and
 - (c) describe the investment return objective of the option in terms of a spread above the rate of inflation; and
 - (d) describe concisely what a spread above the rate of inflation means; and
 - (e) state the minimum suggested time frame for holding the investment; and
 - (f) describe, in the form of a summary, the risk level of the option.
 - (4) If the superannuation entity has a default option, section 5 must give the information mentioned in subclause (3) for the default option, whether or not section 5 gives that information for any other investment option.
 - (5) If the superannuation entity offers more than 1 default investment option, section 5 must give the information mentioned in subclause (3) for the default investment option under which the entity has the most funds invested, whether or not section 5 gives that information for any other investment option
 - (6) If the superannuation entity does not have a default option, and has a balanced option (within the meaning given by item 101 of Schedule 10 to the Act), section 5 must give the information mentioned in subclause (3) for the balanced option, whether or not section 5 gives that information for any other investment option.

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- (7) If the superannuation entity does not have a default option, and does not have a balanced option, section 5 must give the information mentioned in subclause (3) for the investment option under which the entity has the most funds invested, whether or not section 5 gives that information for any other investment option.
- (8) If the Statement relates solely to a superannuation interest that is a defined benefit superannuation interest:
- (a) subclauses (1) to (7) do not apply; and
 - (b) section 5 must describe, in the form of a summary:
 - (i) the manner in which the superannuation entity conducts investments; and
 - (ii) the effect this would have on the person's interests.
- (9) If the Statement relates to both a superannuation interest that is not a defined benefit superannuation interest and a superannuation interest that is a defined benefit superannuation interest, section 5 must describe:
- (a) the matters in subclauses (1) to (7) for the superannuation interest that is not a defined benefit superannuation interest; and
 - (b) the matters in subclause (8) for the superannuation interest that is a defined benefit superannuation interest.
- (10) Section 5:
- (a) must include a link or reference to a document that:
 - (i) sets out the information in subclause (3) for each investment option which is not dealt with under subclause (3); and
 - (ii) presents the information in the same way as it is presented in the Statement under subclause (3); and
 - (b) must do so by applying, adopting or incorporating the document in writing.

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- (11) The issuer:
- (a) must provide information about how a person may switch the person's investments; and
 - (b) must provide information about:
 - (i) whether the superannuation entity's investment options may be changed; and
 - (ii) and, if so, how the options may be changed; and
 - (c) may provide additional information about investment options;
- by applying, adopting or incorporating a matter in writing.

8 Contents of section 6 (Fees and costs)

- (1) Section 6 of the Product Disclosure Statement for a superannuation product must state:
 - (a) the cost of acquiring the default option of the superannuation entity; and
 - (b) the main fees and costs associated with the option, unless a fee is a minor fee.
- (2) If the superannuation entity offers more than 1 default investment option, section 6 must give the information mentioned in subclause (1) for the default investment option under which the entity has the most funds invested.
- (3) If the superannuation entity does not have a default option, and has a balanced investment option (within the meaning given by item 101 of Schedule 10), section 6 must:
 - (a) give the information mentioned in subclause (1) for the balanced investment option
 - (b) state the main fees and costs associated with the option, unless the fee is a minor fee.
- (4) If the superannuation entity does not have a default option, and does not have a balanced option, section 6 must:
 - (a) give the information mentioned in subclause (1) for the investment option under which the entity has the most funds invested; and

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- (b) state the main fees and costs associated with the option, unless the fee is a minor fee.
- (5) Section 6 must, before setting out any other substantive material:
- (a) describe, in the form of a warning, the potential effect of fees and costs on a person's long term returns; and
 - (b) give a concise example; and
 - (c) either:
 - (i) if the Statement relates solely to a superannuation interest that is not a defined benefit superannuation interest — set out the main fees and costs for the investment option mentioned in subclause (2), (3) or (4); or
 - (ii) if the Statement relates solely to a superannuation interest that is a defined benefit superannuation interest — set out the main fees and costs for the superannuation interest; or
 - (iii) if the Statement relates to both a superannuation interest that is not a defined benefit superannuation interest and a superannuation interest that is a defined benefit superannuation interest — set out:
 - (A) the matters in subparagraph (i) for the superannuation interest that is not a defined benefit superannuation interest; and
 - (B) the matters in subparagraph (ii) for the superannuation interest that is a defined benefit superannuation interest;
- in the form of a table of the design set out in subclause (6).
- (6) For paragraph (5) (c), the table must be designed as follows:
- (a) the table must be accompanied by a warning that it does not include:
 - (i) all of the fees and costs of the relevant investment option; or
 - (ii) the fees and costs of the product generally;
- if not all of those fees and costs are being disclosed;

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- (b) the table must have items divided into:
 - (i) a first column setting out the kind of fee or cost; and
 - (ii) a second column setting out the fee or cost;
 - (c) the first item in the table must be the fees and costs payable when money is contributed to the superannuation fund;
 - (d) the second item in the table:
 - (i) must be the fees and costs payable while the person's money stays in the superannuation fund, including any fees and costs payable for switching investment options; and
 - (ii) must state in the second column whether any performance fees are payable; and
 - (iii) is not required to provide details of how performance fees are calculated;
 - (e) the third item in the table must be the fees and costs payable when money moves out of the superannuation fund.
- (7) The fees and costs shown in the table must be the maximum costs payable by a person.
- (8) Section 6 may state that:
- (a) the fees and costs shown in the table are the maximum costs payable by a person; and
 - (b) persons may, in reality, be paying less than the maximum fees and costs.
- (9) Section 6 must:
- (a) state that the information in the table can be used to compare costs between different superannuation funds; and
 - (b) state concisely, and in general terms, that fees and costs can be paid directly from the person's account or deducted from investment earnings.

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- (10) To the extent that the Statement relates to a superannuation interest that is not a defined benefit superannuation interest, section 6 must give a worked example for the investment option mentioned in subclause (2), based on the following assumptions:
- (a) the example is an example of the fees and costs that may be charged on the product over the life of the product (the product's *overall cost*);
 - (b) the product's overall cost is the sum of the following fees and costs applicable to the product, worked out over the life of the product:
 - (i) an establishment fee (within the meaning of Part 1 of Schedule 10);
 - (ii) contribution fees (within the meaning of that Part);
 - (iii) management costs that are deducted directly from the account holder's account (within the meaning of that Part);
 - (iv) a termination fee (within the meaning of that Part);
 - (v) a buy/sell spread (within the meaning of that Part);
 - (vi) service fees (within the meaning of that Part);
 - (vii) indirect costs;
 - (c) the indirect costs for the product are the sum of the annual indirect costs for each year that the product exists under the assumptions;
 - (d) the annual indirect costs for a year are worked out using the formula:

$$\text{ICR} \times \text{average balance}$$

where:

average balance means the average balance, of the product during the year in which the assumptions are applied.

ICR, for a superannuation entity, means the ratio of:

- (i) the sum of:
 - (A) the superannuation entity's management costs that are not deducted directly from an account holder's account; and
 - (B) any other costs listed in subparagraphs (b) (i) to (vi) that are not deducted directly from the account holder's account; to
 - (ii) the superannuation entity's total average net assets;
- (e) the worked example must assume that:
- (i) the product commences on the first day of a financial year, with a balance of \$100 000; and
 - (ii) the holder of the product makes equal quarterly contributions to the product, amounting to \$5 000 each financial year; and
 - (iii) no money is withdrawn from the product (otherwise than for payment of fees and taxes) until the balance is withdrawn; and
 - (iv) the product earns a rate of return of 5% per year after taxes, but before fees and costs; and
 - (v) the balance is withdrawn electronically by the holder, at the end of the last day of the financial year that is 9 financial years after the product commenced;
- (f) the worked example must be presented in the following format, with dollar amounts rounded to the nearest multiple of \$500:

Based on the fees and costs outlined above, if you transfer an existing super balance of \$100 000 into the *[name of investment option]* option and a further \$5 000 goes in each year for the next 10 years, you could have paid up to *[insert overall cost as a dollar amount]* if you withdraw at the end of 10 years. This is an overall cost of *[insert the equivalent percentage of the holder's average annual balance that would generate that dollar amount, rounded to one decimal place ("overall cost ratio")]* of your account balance per year.

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- (11) If subclause (10) applies section 6 must state that:
- (a) the worked example can be used to compare the superannuation entity with other superannuation entities; and
 - (b) the actual fees and costs paid by a person will be different from those provided in the example.
- (12) Section 6:
- (a) must refer to the calculator provided by ASIC on its FIDO website; and
 - (b) may also refer to the calculator (if any) provided by the fund trustee on its website; and
 - (c) must state that each calculator referred to can be used to calculate the effect of fees and costs on account balances.
- (13) Section 6 must:
- (a) state, in the form of a warning, that additional fees may be paid to a financial advisor if a financial advisor is consulted; and
 - (b) refer to the Statement of Advice in which details of the fees are set out; and
 - (c) if applicable:
 - (i) state that fees may be paid to the employer entity's financial adviser; and
 - (ii) explain how the fees are determined.
- (14) The issuer:
- (a) must provide the fees and costs of each of the superannuation entity's investment options in accordance with Schedule 10; and
 - (b) may provide additional information about fees and costs; by applying, adopting or incorporating a matter in writing.

9 Contents of section 7 (How super is taxed)

- (1) Section 7 of the Product Disclosure Statement for a superannuation product must describe, in the form of a summary, the key tax information relating to superannuation funds, including:
 - (a) how tax amounts due are paid; and
 - (b) the main taxes that are payable in relation to contributions (if contributions are permitted), fund earnings and withdrawals.
- (2) Section 7 must:
 - (a) state, in the form of a warning, that the person should provide the person's tax file number as part of acquiring the superannuation product; and
 - (b) explain, in the form of a summary, the consequences if the person does not provide the person's tax file number; and
 - (c) if contributions are permitted — set out a warning that there will be taxation consequences if the contribution caps applicable to superannuation are exceeded.
- (3) The issuer may provide additional information about taxation matters relating to superannuation products by applying, adopting or incorporating a matter in writing.

10 Contents of section 8 (Insurance in your super)

- (1) If the superannuation provider does not offer insurance cover for a superannuation product, the Product Disclosure Statement is not required to include any of the information in this clause.
- (2) If the superannuation provider offers insurance cover, section 8 must:
 - (a) describe, in the form of a summary, the main types of insurance cover that a person can acquire; and
 - (b) describe, in the form of a summary, how to apply for insurance cover; and
 - (c) include a statement to the effect that there are costs associated with insurance cover; and

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- (d) describe, in the form of a summary, who is responsible for paying the insurance costs and how they are calculated.
- (3) If the superannuation provider offers insurance cover by default, section 8 must:
- (a) state, in the form of a summary, the level and type of cover; and
 - (b) state:
 - (i) the actual cost of the cover in dollars; and
 - (ii) who is responsible for paying the costs; and
 - (c) state whether a person can:
 - (i) decline to acquire the cover; or
 - (ii) cancel the cover; and
 - (d) state how a person can decline to acquire the cover or cancel the cover; and
 - (e) state whether a person can change the person's insurance cover; and
 - (f) state how a person can change the person's insurance cover; and
 - (g) state, in the form of a warning, that, unless a person declines to acquire the default insurance cover or cancels it, the cost of the cover will be deducted from the person's account or from the person's contributions (as applicable).
- (4) If the Statement relates solely to a superannuation interest that is not a defined benefit superannuation interest, the responsible person for the Statement must include in section 8 further information about the following::
- (a) the types and amounts of insurance cover available;
 - (b) premiums;
 - (c) eligibility for insurance;
 - (d) how to change or cancel insurance cover;
 - (e) the conditions and exclusions applicable to insurance cover;
 - (f) any other significant matter in relation to insurance cover.
- (5) If the Statement relates solely to a superannuation interest that is a defined benefit superannuation interest, section 8:

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- (a) must state whether external insurance applies in respect of the defined benefit superannuation interest; and
 - (b) if external insurance applies — must describe, in the form of a summary:
 - (i) whether the insurance affects the person’s interests; and
 - (ii) if so, how the insurance affects the person’s interests.
- (6) If the Statement relates to both a superannuation interest that is not a defined benefit superannuation interest and a superannuation interest that is a defined benefit superannuation interest, section 8 must set out:
- (a) the matters in subclauses (2), (3) and (4) for the superannuation interest that is not a defined benefit superannuation interest; and
 - (b) the matters in subclause (4) for the superannuation interest that is a defined benefit superannuation interest.
- (7) The issuer:
- (a) must provide the information in subclause (4); and
 - (b) may provide additional information about insurance relating to superannuation products;
by applying, adopting or incorporating a matter in writing.
- (8) If the responsible person for the Statement includes information under subclause (4), section 8 must state, in the form of a warning, that persons should read that information before deciding whether the insurance is appropriate for them.

11 Contents of section 9 (How to open an account)

- (1) Section 9 of the Product Disclosure Statement for a superannuation product must, if applicable:
 - (a) describe, in the form of a summary, how to open an account with the superannuation provider; and
 - (b) explain the cooling-off period that applies to the superannuation entity; and
 - (c) explain how to make a complaint (by means that include the provision of relevant contact details).

Note The effect of subclause 10 (1) is that the Product Disclosure Statement is not required to include section 8 (as set out in clause 10) if the superannuation provider does not offer insurance cover. In that case, subclause 2 (1) allows the Statement to present the information in this clause as “section 8”.

- (2) The issuer must provide additional information about cooling-off periods, complaints and dispute resolution by applying, adopting or incorporating a matter in writing.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.