

## CORPORATIONS AMENDMENT REGULATIONS COMMENTARIES

### Schedule 1

#### **Item 1 Specific things that are not financial products – Credit Facility: proposed amendment to subparagraph 7.1.06(1)(a)**

The proposed amendment is directed at credit products which include a deposit taking feature.

Section 765A(1)(h) of the Act provides that specific things are not financial products. This includes any credit facility as defined by the regulations. Regulation 7.1.06 defines “credit facility” and in doing so, specifically excludes any deposit-taking facility made available by an Australian Deposit-Taking Institution (7.1.06(1)(a)(iv)) .

The aim of regulation 7.1.06(1)(a)(iv) was to ensure that the “*credit facility*” exception could not be used to exclude a facility on the basis of an argument that it is in essence a credit facility where the relevant bank is the borrower. For example, a deposit with a bank might be viewed as a credit facility because the bank incurs a deferred debt to the borrower.

This presents a problem for products that provide both credit and deposit facilities under a single arrangement. Such products may be regarded as a “*financial product mentioned in paragraph 764A(1)(i) of the Act*” and hence would be excluded in total from the benefit of the “credit facility” exemption.

The proposed amendment seeks to address this problem by introducing a “whole or predominant purpose” test. That is, where a product provides both credit and deposit facilities under a single arrangement, the “whole or predominant purpose” will determine whether the product falls within the credit facility exemption.

#### **Item 2 Specific things that are not financial products – Credit Facility: proposed amendment to subparagraph 7.1.06(1)(f)**

The proposed amendment puts secured credit in the same position as unsecured credit (see Item 1) under FSR. That is, the amended regulation will include the same limitations as those that apply to unsecured credit under 7.1.06(1)(a). The proposed amendment also removes the words “provision of” as they limit the application of the exemption to the provider of a mortgage. The provider of a mortgage is the borrower rather than the credit provider.

#### **Item 3 Arrangements for certain financial products that are not credit facilities – proposed amendment to subregulation 7.1.06A(1)**

The proposed amendments to subregulation 7.1.06A(1) are consequential to the amendments to regulation 7.1.06.

This regulation provides that for any financial product which is excluded from the credit facility exemption under subparagraphs 7.1.06(1)(a)(iv)(v) and (vi) and the new 7.1.06(1)(f)(ii), (iii) and (iv) (and is therefore still a financial product):

- a. The debtor rather than the credit provider is taken to be the issuer;
- b. dealing (eg. issuing) by the credit provider is not the provision of a financial service; and
- c. advising the borrower is also not the provision of a financial service.

**Item 4 Specific things that are not financial products – rights of the holder of a debenture; money orders; and certain non-cash payment products – proposed new regulations 7.1.07E-G**

*Rights of the holder of a debenture*

Proposed new regulation 7.1.07E specifies that a facility which consists of the rights of the holder of a debenture against a trustee under a trust deed entered into under the debenture provisions of the current legislation, or under equivalent provisions of the former Corporations Law, is not a financial product.

*Money orders*

Proposed new regulation 7.1.07F provides a specific exemption from the FSR regime for Australia Post money orders. This is on the basis that money orders are simple, low-fee and well-understood products provided by the national postal authority, that is, Australia Post which is a substantial and wholly government owned entity.

*Low value non-cash payment facilities*

Proposed new regulation 7.1.07G exempts low-value non-cash payment facilities from the FSR regime. Specifically, the proposed regulation exempts facilities with a limit of \$50 in terms of the payments which can be made by using the facility and the value which can be stored on the facility. For example, a student identification card which can be loaded with up to \$50 of credit for use in photocopying machines or other on-campus facilities.

The proposed regulation includes an anti-avoidance provision to preclude avoidance by providing one client with numerous non-cash payment products with face values of \$50 or less. If the issuer or distributor has reason to believe the client holds more than one facility from that issuer, they should be considered together for the purposes of the \$50 test.

The general consumer protection provisions of the ASIC Act would continue to apply to Australia Post money orders and low value non-cash payment facilities.

**Item 5 Advice about the existence of a custodial or depository service and school banking – proposed new regulations 7.1.33E&F**

*Advice about a custodial or depository service*

Draft regulation 7.1.33E provides that a person is taken not to provide a financial service where advice is provided that relates to the existence of a custodial or depository service, but does not relate to financial products that may be held as part of that service.

It is arguable that statements given by the provider of a custodial or depository service, for example, to attract clients to use these services, may constitute the provision of financial product advice. The reasoning behind this is as follows – the mere holding of financial products by a custodian may give rise to the issue of a financial product to the client, being an equitable interest in the financial products held on the client's behalf – in particular, equitable interests in a share, debenture or interest in a registered scheme. Thus, advice concerning the services offered by the custodian may come within the definition of financial product advice, as far as it concerns those equitable interests.

Thus the proposed regulation makes clear that advice of this nature does not constitute the provision of a financial service (ie. it does not constitute financial product advice). However, the regulation

does not exempt advice that relates to financial products held as part of the custodial or depository service, as opposed to advice about the service itself.

A note to the proposed new regulation explains that paragraph (c) of the regulation is intended to apply only to equitable rights or interests in shares or debentures of a body that are defined as financial products under paragraph (c) of the definition of “security” in section 761A, or equitable rights or interests in an interest in a registered scheme that are defined to be financial products under subparagraph 764A(1)(b)(ii) of the Act.

### *School banking*

Proposed new regulation 7.1.33F provides that a person is taken not to provide a financial service where that person is either employed by a school or acting on behalf of a school (for example a parent who works on a voluntary basis) and provides general advice about a school banking product, and who does not receive any financial benefit for providing the service.

The circumstances relevant to school banking are those in which an ADI distributes information and application forms for its school banking deposit accounts through a school. Specifically, the role that teachers and parents or volunteers may play in the distribution of this information. That role might include arranging for the issue or acquisition of, or giving of general advice intended to influence a decision in relation to a school banking product by any person engaged or employed by a school and any other person that does not receive any financial benefit from providing the services. In the absence of a specific exemption, such persons could be considered to be providing a financial service as a representative of a bank.

- For these purposes school banking product means a product that does not charge any regular account keeping fee and is offered for issue to pupils of a school.

School banking products are simple and low risk with no entry or exit fees. While banks distribute these products often with assistance from school staff and school volunteers, the role of such people is generally limited to distribution of printed information and application forms and some general advice about the benefits of banking money and saving. Therefore, the proposed amendment seeks to exempt such persons from the FSR regime, provided they receive no financial benefit for the service.

Furthermore, banks that provide school banking products through schools generally offer commissions and/or other benefits to the school. The commission is calculated on the basis of the number of accounts issued through the school. Therefore, under the proposed new regulations, the PDS for the school banking product should disclose any commissions or other benefits that schools or their associates may receive in connection with the issue of a school banking product.

### **Item 6      Conduct that does not constitute dealing in a financial product – proposed substituted regulation 7.1.34**

This item proposes to substitute existing regulation 7.1.34 with a new regulation to provide an exemption from *dealing* in a financial product for certain conduct relating to financial products that are subject to a mortgage. The proposed new regulation combines the existing paragraphs (a) and (b) of regulation 7.1.34 into a new paragraph (a) and adds a new paragraph (b) applying to situations where financial products are disposed of, or transferred to the mortgagor, whether at the direction of the mortgagor, or by the mortgagee fulfilling its obligations under the mortgage (eg. where the mortgage is discharged and the financial products are ‘redeemed’).

A mortgagee exercising powers of sale under a mortgage is provided as an example of a situation in which paragraph (a) applies.

**Item 7      Need for an Australian financial services license: General – exemptions for certain non-cash payment facilities – proposed new paragraphs 7.6.01(lb), (lc) and (ld)**

Proposed new paragraph 7.6.01(lb) provides an exemption from licensing for the provision of a non-cash payment facility which may only be used to make payments to the issuer of the product or a related body corporate. This would cover, for example, the issue of a store voucher by a department store which may be used in that store or other stores within the same corporate group.

Proposed new paragraph 7.6.01(lc) provides an exemption from licensing for the provision of a service involving the electronic transfer of funds on behalf of and on the instruction of a person (the payer) to a financial institution or the issuer. The exemption only covers facilities which are of a “one-off” nature. It does not cover standing arrangements to make multiple transfers of funds. Furthermore, the exemption will only apply where the issuer of the product is an ADI (within the meaning of the *Banking Act 1959*) or an “approved cash carrier” under section 8 of the *Financial Transaction Reports Act 1988* (the FTR Act). Under the FTR Act, an approved cash carrier is required to maintain records containing reportable details of significant cash transactions to which the person is a party.

Proposed new regulation 7.6.01(ld) provides an exemption from licensing for the bill presentment and payment processing facilities of Australia Post known as POSTbillpay and billmanager. Australia Post, which is a substantial and wholly government owned entity, provides the bill presentment and payment processing facilities pursuant to Agency Agreements entered into between Australia Post and each billing entity. Australia Post does not charge any fee to customers for their use of these services.

While these amendments provide exemptions from licensing in regard to the services outlined in the proposed new paragraphs, the disclosure obligations under part 7.9 would continue to apply as would the general consumer protection provisions of the ASIC Act

**Item 8 Licensing exemption – Overseas service providers – proposed new paragraph 7.6.01(1)(na)**

Sub-section 911B(3) provides relief from licensing, for overseas service providers (OSP), but only in the specific case where a licensee provides the financial service acting ‘on behalf of’ the OSP.

Regulation 7.6.01(1)(n) provides relief from licensing for OSP’s in respect of dealing, which is arranged by a licensee.

Currently, regulation 7.6.01(1)(n) does not provide a licensing exemption for OSP’s in relation to the provision of advice. It has been determined that if an unlicensed OSP was the sole provider of advice, even if the provision of advice was arranged by a licensee, a regulatory gap would be created through such an exemption.

The unlicensed overseas provider would not be regulated by Part 7.7 of the Act, as the disclosure obligations in Part 7.7 apply only to licensees and their authorised representatives. Neither would the representative Australian licensee be subject to the Part 7.7 obligations, as it would not itself be the provider of the financial advice. Consequently, it would be unclear whether, or to what extent, the licensee would be responsible or liable for the advice provided by the offshore service provider, thus potentially leaving Australian consumers without avenues for redress.

The proposed new paragraph 7.6.01(1)(na) would provide a licensing exemption for OSP’s provided a number of consumer protection related conditions are met, those being:

- that the OSP provides advice, market making and/or custodial or depository services to wholesale clients only;
- the OSP is a related body corporate of a licensee in this jurisdiction. The licence of the related body corporate must cover the provision of the services that the OSP wishes to provide in this jurisdiction;
- the licensed related body corporate arranges for the OSP to provide the services in this jurisdiction; and
- the licence of the related body corporate is subject to a condition that requires it to assume responsibility for the conduct of the OSP in the provision of the financial services.

It is envisaged that the above mentioned condition would be imposed by ASIC upon the licence of the related body corporate. This requirement is essential to ensuring that Australian consumers have a point of redress, should the service provided by the OSP be unsatisfactory.

**Item 9 Proposed amendment of paragraph 7.6.01(1)(v)**

A minor grammatical correction.

**Item 10      Need for an Australian financial services licence: General exemption – proposed new paragraphs 7.6.01(1)(w)**

This proposed paragraph exempts wholesale financial services provided by the Export Finance and Insurance Corporation (EFIC), established by the *EFIC Act 1991*, from the requirement to hold an Australian financial services licence.

The proposed exemption acknowledges the unique nature of EFIC with respect to its own legislative regulatory framework under the *EFIC Act 1991*, and its resulting exemption from the authorisation, reporting and prudential regulation requirements of the *Insurance Act 1973*. It should be noted that the exemption proposed only relates to services provided to wholesale clients.

**Item 11      Australian financial services licence – requirements for a foreign entity to appoint a local agent – proposed new regulations 7.6.03A and 7.6.03B**

Part 5B.2 Division 2 of the Act provides a registration regime for foreign bodies corporate carrying on business in Australia. It provides for, amongst other things, appointment of a local agent who is able to accept effective service of court documents and is liable for any penalty imposed under the Act on the foreign body corporate.

Most (if not all) Australian financial services licensees who are foreign bodies corporate, will need to register with ASIC under Part 5B.2 Division 2 of the Act. Other foreign entities (eg natural persons, trusts and partnerships) do not have a similar obligation.

The local agent requirement of Part 5B.2 Division 2, provides consumers and ASIC with important practical assistance in enforcing the Act and contractual rights in relation to foreign bodies corporate.

The draft regulation will require any foreign entities, that is not required to register with ASIC under Part 5B.2 Division 2, to have a local agent when applying for an AFSL. Evidence (as well as additional details) of the local agent appointment is to be included with the foreign entities AFSL application to ASIC.

**Items 12 & 14      Make available – proposed subregulations 7.7.01(1) and 7.9.02A(1)**

The obligation for a person to provide disclosure documents, such as the PDS, is a positive obligation that was not intended to be reduced or removed through the operation of the ‘make available’ provisions. The make available provisions are to allow for alternate means of distribution of disclosure documents and are not to place the onus on the client to obtain the information. As stated in the explanatory memorandum to the Financial Services Reform Bill 2001 (with reference to section 940C of the Act):

“...to be effective disclosure, the client must actually receive the prescribed disclosure documents, information or statements”.

The proposed amendment will ensure that the operation of the ‘make available’ provisions are not circumvented, in particular for situations related to the time critical issue provision of disclosure documents under the Act.

**Item 13      Dealings involving employees of licensees – proposed new subregulation 7.8.21(4)**

The effect of subsection 991F(3) of the Act is that any employee of a licensee must have their employer act as agent where they wish to acquire, on their own behalf, financial products traded on

a licensed market in which the licensee/employer is a participant. This applies whether or not the employee's duties relate to the employer's involvement in the trading of financial products on that licensed market.

Thus, for example, a bank teller employed in a suburban branch of a licensee bank that participates on the futures exchange is only be able to acquire a futures contract on his/her own behalf if the bank acts as agent in the acquisition.

Proposed new subregulation 7.8.21(4) clarifies that subsection 991F(3) does not apply to a person who is not employed in direct connection with the licensee's business of dealing in financial products traded on the licensed market on which the financial products sought to be acquired by the employee are traded.

Taking the above example, subsection 991F(3) would apply only to a person who was employed in direct connection with the futures trading activities – this would include the employee futures traders, employees working in the 'back office' (ie. settling and recording trades) and employees with management responsibility for the futures trading activities of the licensee bank.

**Items 15 & 16      Product Disclosure Statements - self-managed superannuation funds – proposed subparagraph 7.9.04(1)(a)(iii)**

The proposed amendment to regulation 7.9.04 will require the provision of a PDS to a prospective member/trustee of an existing self-managed superannuation fund to enable them to make an informed investment decision. Currently a new person seeking to join an existing self-managed superannuation may not receive a PDS until up to 3 months after they acquire an interest in the fund. The current delayed provision is not consistent with the intent of the PDS requirements, which is to provide consumers with the information they require at or before the time that they make an investment decision.

This proposed regulation should be considered in conjunction with an exemption from PDS requirements for self-managed superannuation funds contained within the Financial Services Reform Amendment Bill (proposed amendment to section 1012D of the Act). The proposed amendment removes the obligation for a responsible person to provide a PDS to a prospective member of a self-managed superannuation fund where the regulated person believes on reasonable grounds that the prospective member has received or has access (and knows that they have access) to all the information required in a PDS.

**Items 17 & 18      Product Disclosure Statements – declined offers for general insurance products – proposed regulations 7.9.07D & 7.9.07F**

The proposed amendments address a practical issue of a product issuer's obligation to satisfy disclosure obligations in the event an offer of a general insurance product is declined in the course of the contact in which the offer was made. A typical example is a phone sale situation where a consumer is offered a general insurance product but immediately declines the offer and ceases the phone call. In such situations, it is self-evident that the consumer has no interest in acquiring the product, however the responsible person would, at present, still be obliged to provide them with a PDS.

**Item 18 Product Disclosure Statements – delayed provision and uncontactable product holders – proposed regulation 7.9.07G**

Consistent with other exemptions from ongoing disclosure obligations contained in Corporations Regulations (see Regulation 7.9.69 and Part 14 of Schedule 10A) the proposed amendment removes the obligation for a responsible person to provide a PDS (at a later time) where it could not reasonably be expected to be satisfied. Where a responsible person does not have an address for a product holder, or is reasonably satisfied that the address is incorrect, and has taken reasonable steps to locate the product holder they will not be required to provide a PDS.

**Item 19 Money held in trust for a superannuation product or RSA product – proposed regulation 7.9.08C**

Subsection 1017E(2A) of the Act provides that money received by a product provider for a financial product before the product is issued is taken to be held in trust by the product provider for the benefit of the person who paid the money. However, subsection 1017E(2C) states that the regulations may provide that subsection (2A) does not apply in specified circumstances, or provide for matters relating to the taking of money to be held in trust.

In situations involving superannuation or RSA products the person paying money to a product provider may not necessarily be the person who is entitled to the money. For example, an employer may make contributions to a superannuation fund for the benefit of employees. In these cases, it is appropriate that the product provider should hold the money in trust for the person who is entitled to the money, rather than the person who paid it.

Proposed regulation 7.9.08C therefore provides that in the case of a superannuation product or RSA product, the money to which section 1017E relates is taken to be held in trust by the product provider for the benefit of the person who is entitled to the money.

**Item 20 & Schedule 2, Item 8 Periodic statements – disclosure of amounts paid – proposed regulation 7.9.75**

It is proposed that the current subregulation 7.9.75(1), relating to the disclosure of transactions not previously confirmed has been omitted due to the ambiguity of its operation. The ambiguity relates to what transactions were required to be disclosed and whether the provision required the itemisation of transactions within a periodic statement. The periodic statement disclosure requirements in relation to transactions will be considered in any forthcoming consultations on regulations under the amended paragraph 1017D(5)(c) proposed in the Financial Services Reform Amendment Bill currently before Parliament.

The proposed subregulations 7.9.75(1) and (2) replace requirements currently referred to in subregulation 7.9.75(2).

The requirement to disclose amounts paid by a product holder during a period is retained (see 7.9.75(1)(a)) but is clarified by the inclusion of subregulation 7.9.75(2) to be consistent with definitions of amounts payable contained in section 1013D of the Act.

The requirement to disclose amounts paid in respect of a financial product from a common fund is retained but has been amended to address practical concerns with the operation of the provision that industry has raised.

The requirement to disclose amounts paid from a common fund under the existing paragraph 7.9.75(2)(b) has been interpreted as requiring disclosure of the total amount applicable to a common

fund rather than an amount related to a product holder's interest. The proposed amendments contained in paragraph 7.9.75(1)(b) require the disclosure of common fund amounts in a form that can be related to the product holder. The requirement to disclose a proportion rather than an actual amount considers the nature of pooled investment products. In particular, in some circumstances the costs associated with determining actual amounts for individuals may be disproportionate to the potential consumer benefit.

Further, the proposed amendments recognise that the ability for product providers to disclose an estimate at the individual level may require significant administrative and system changes, particularly for older existing financial products. In circumstances where it is not reasonably practicable to provide an estimate and where amounts are paid from a common fund, an issuer must still disclose where those fees are applicable, and indicate the possible impact on a product holder's investment. For new products, it is not anticipated that such concerns regarding the ability to disclose an estimate would arise.

The proposed amendments in subsections 7.9.75(4), (5) and (6) also require the disclosure of the amounts paid in terms of the hierarchy for disclosure of amounts similar to that referred to for – proposed regulations 7.7.11, 7.7.12, 7.7.13 & 7.9.15A.

The hierarchy for the disclosure of amounts for periodic statements is modified from that of up-front disclosure documents to account for the nature of periodic statements. Periodic statements provide investors with regular information to enable them to understand their investment and its performance. However, it is not considered appropriate that this requirement should impose an obligation to reiterate detailed background information (at a potential cost to the financial investment product providers and the product holders) where the information is provided up-front or through more efficient and directed means. Product holders will in all cases be made aware that certain items are applicable to their holding of the product. However, where an item is unable to be described in dollar terms or as a percentage, product holders will be directed to other channels for obtaining background information on request in order to avoid unduly complicating the periodic statement.

To allow sufficient time for transition it is proposed that the requirements in relation to the disclosure of amounts will only apply in relation to documents prepared on or after 1 July 2004.

The requirements under Regulation 7.9.75 refer to 'amounts paid' rather than 'amounts payable'. Accordingly, these provisions require a periodic statement to detail actual amounts paid during a period rather than liabilities incurred. This will allow for circumstances where the fee structure for a financial product operates on a different cycle to the periodic statement by requiring the disclosure of the finally determined amount rather than potential disclosure of running total involving a series of adjustments, which may otherwise serve to complicate the statement.

It is also proposed that the existing requirement to provide a statement about the relevant dispute resolution mechanisms be amended. The amended disclosure will inform the product holder that such a mechanism exists and how to access further information, rather than provide fully detailed information about its operation in the statement.

In addition, it is proposed that there be a requirement to advise a product holder that they may access further information and indicate the nature of the material that is available on request.

**Item 21      Disclosure of information about complaints and inquiries in the transition period  
– proposed regulation 7.9.78A**

This proposed regulation ensures that the trustee of a superannuation entity must provide the holder of a superannuation product (being an interest in the entity) with information regarding arrangements for dealing with complaints and inquiries in relation to the product, during the transition period.

**Item 22 Short selling of certain warrants – proposed new regulation 7.9.80B**

Prior to the *Financial Services Reform Act 2001*, short selling of all warrants was prohibited as they were classified under section 92 as ‘securities’. The new definition of ‘security’ means that some warrants no longer fall under the definition of ‘security’ but, instead, fall under the definition of ‘derivative’ in section 761D.

Section 1020B currently prohibits short selling of warrants that are securities and warrants over registered managed investment schemes (which come within the definition of ‘managed investment product’ in section 761A). Proposed regulation 7.9.80B will prescribe warrants that are derivatives, and warrants over unregistered managed investment schemes, as financial products that cannot be short sold. This will ensure that short selling of all warrants continues to be prohibited.

**Item 23 Transitional relief for warrants that are securities – proposed new paragraph 10.2.51(c)**

To prevent avoidance of the obligation to provide a Product Disclosure Statement (PDS), section 1012C of the Act contains resale restrictions for financial products (including warrants) that were not issued pursuant to a PDS. That is, if the issuer or purchaser has the intent that the product be resold within 12 months, a PDS must be issued.

Transitional regulation 10.2.51(c) carves-out financial products (except for securities and managed investments) from the application of section 1012C, where those products were issued before the end of the transitional period. That is, the issue of a PDS is not required prior to these products being resold/transferred, where the products were issued before 11 March 2004.

Warrants, by definition, can be a derivative or a security. Therefore, warrants that are derivatives receive the transitional relief provided by regulation 10.2.51(c), however warrants that are securities do not.

Section 1012C(6) will prevent the reselling of instalment warrants (a warrant that is a security) under an offering circular, after 11 March 2004. Alternatively, section 1012C(6) would force issuers of instalment warrant to issue a PDS, before they have opted into the FSRA regime, if the warrant is to be resold after 11 March 2004.

Instalment warrants are currently exempted from the on-selling provisions of Chapter 6D (which section 1012C serves to replicate) due to ASIC class order 00/1068.

As re-sale restrictions are essentially a new regime for instalment warrants and derivative warrants receive the benefit of the transition period, it is appropriate that instalment warrants, issued before 11 March 2004, also receive transitional relief from the need to issue a PDS.

Section 1012C(6) will apply to all warrants issued after 11 March 2004.

## Schedule 2

### **Items 1, 2, 3 & 4 Disclosure of dollar amounts – proposed regulations 7.7.11, 7.7.12, 7.7.13 & 7.9.15A**

The proposed regulations represent a revision of proposed regulations included in the release of draft Corporations Amendment Regulations in March 2003. They are intended to clarify disclosure obligations under the FSRA where parties are required to provide ‘information about’ particular items.

The proposed regulations subject the disclosure of amounts within up-front disclosure documents to a presentational hierarchy. The proposed regulations explicitly require items that can be disclosed as amounts under the FSRA to be displayed in dollar terms in the first instance. If it is not reasonably practicable to provide the amount in dollar terms the hierarchy requires the disclosure of the items as a percentage (and against what the percentage is based). If presentation as a percentage is not reasonably practicable, then a description (as appropriate) of how the item is determined must be provided. Such a description may include a worked example.

The concept of ‘reasonably practicable’ is intended to provide some flexibility in the application of these disclosure obligations. This flexibility includes consideration of a party’s ability to determine and disclose amounts due to administrative, systems or resource concerns. The extent of these concerns would be expected to vary depending on the nature and age of a financial product. However, it is anticipated that such restrictions will decline over time. Consequently, parties not initially disclosing amounts in dollar terms for particular products might be expected to do so in the longer term.

The proposed regulations do not impede financial services and product providers from disclosing items in terms of one or more forms, if relevant. Again the clear, concise and effective requirement should be considered.

To allow sufficient time for transition to these amended requirements it is proposed that these requirements will only apply in relation to documents prepared on or after 1 July 2004.

### **Items 5, 6 & 7 Periodic statements – superannuation products – proposed amendments to regulations 7.9.19 & 7.9.20**

The proposed amendments to regulations 7.9.19 and 7.9.20 are intended to enhance the existing requirement to disclose information about the amount of a ‘withdrawal benefit’ or other significant benefits. (A withdrawal benefit being the amount a fund would provide to a member for the voluntary cessation of their interest in the superannuation fund at the end of a period)

The proposed amendments would require further disclosure of the nature of any withdrawal or significant benefits, including informing the superannuation fund member:

- that the withdrawal benefit is an indicative estimate that may vary from the actual benefit provided; and
- how to access further information.

It is also proposed that a hierarchy for the disclosure amounts apply, as outlined above in relation to Schedule 2, Item 4 (ie, Regulation 7.9.75).

To allow sufficient time for transition to these amended requirements it is proposed that these requirements will only apply in relation to documents prepared on or after 1 July 2004.