

EXPLANATORY STATEMENT

ASIC CORPORATIONS (AMENDMENT AND REPEAL) INSTRUMENT 2015/876

Prepared by the Australian Securities and Investments Commission

Corporations Act 2001

The Australian Securities and Investments Commission (**ASIC**) makes *ASIC Corporations (Amendment and Repeal) Instrument 2015/876* (the **Instrument**) under paragraph 1020F(1)(c) of the *Corporations Act 2001* (the **Act**).

Paragraph 1020F(1)(c) of the Act provides that ASIC may declare that Part 7.9 of the Act applies in relation to a person or a financial product, or a class of persons or financial products, as if specified provisions were omitted, modified or varied as specified in the declaration.

1. Background

Schedule 10 to the *Corporations Regulations 2001* (the **Regulations**) was introduced in 2005 and sets out requirements for the disclosure of fees and costs of superannuation and managed investment products in Product Disclosure Statements and in periodic statements that must be given to members.

Stronger Super reforms introduced from 1 July 2013 included a number of amendments to the Regulations. Some of the amendments caused unintended inconsistencies in terminology between Schedule 10 and Schedules 10D and 10E to the Regulations that apply to short form superannuation Product Disclosure Statements and managed investment Product Disclosure Statements, respectively. The Stronger Super reforms also included some minor drafting anomalies that could be interpreted in a way that did not reflect the intention with which they were made.

In 2013/14, ASIC undertook a review of industry fee and cost disclosure practices. A key finding of this review was that some industry participants were adopting various interpretations of Schedule 10 to the Regulations, in particular the interpretation of indirect costs for superannuation products and of management costs for managed investment products. For example, some products issuers had formed the view that the Regulations do not require costs associated with investing through interposed vehicles to be included in their products' indirect costs or management costs. This was despite the stated intention of the Regulations, as set out in the relevant Explanatory Statement, requiring these costs to be disclosed.

In response, after consultation with industry and relevant stakeholders, on 8 December 2004 ASIC made ASIC Class Order [CO 14/1252] which sought to revise some of the definitions, including the indirect cost and management cost definitions, and to clarify the costs that must be disclosed with the intended effect of Schedule 10 to the Regulations. [CO 14/1252] also addressed some provisions that could be interpreted in an anomalous way that were included in the Regulations as part of the Stronger Super reforms.

Following the release of [CO 14/1252], ASIC consulted on revisions to Regulatory Guide 97 *Disclosing fees and costs in PDSs and periodic statements*. In response to this consultation we received feedback from industry indicating that amendments to [CO 14/1252] are required. Many of the submissions expressed concern with the complexity of some of the drafting in [CO 14/1252], in particular for the ‘interposed vehicle’ definition. There was also concern about the difficulty in applying the provisions for inclusion of cost amounts in respect of derivative financial products. In response, we varied and simplified the operation of the requirements to make it easier for an issuer to determine what must be included.

2. Purpose of the Instrument

The purpose of the Instrument is to amend [CO 14/1252] which modifies Schedule 10 to the Regulations to provide industry with greater clarity in disclosing fees and costs for superannuation and managed investment products to promote accurate and consistent disclosure in accordance with the policy of the Regulations. In particular, the Instrument clarifies the definitions of the interposed vehicle and indirect cost concepts, and how derivative fees and costs need to be disclosed as part of indirect costs. The Instrument also addresses a number of drafting concerns in relation to Schedule 10 to the Regulation such as clarifying provisions that, on one interpretation of the Regulations prior to them being amended by the Instrument, required trustees to double count certain fees and costs in some circumstances.

The Instrument also provides in Schedule 2 transitional arrangements in relation to Product Disclosure Statements and periodic statements that were prepared in accordance with Schedule 10 to the Regulations, as amended by [CO 14/1252], as if it were in force before the commencement of the Instrument.

The Instrument repeals ASIC Class Order [CO 07/337] - which was due to sunset shortly - and provides equivalent relief in [CO 14/1252] to certain defined benefit superannuation funds from the requirements for disclosure in accordance with Schedule 10 to the Regulations.

3. Operation of the Instrument

Schedule 1 to the Instrument modifies [CO 14/1252] which modifies or varies Part 7.9 of the Act as it applies in relation to managed investment and superannuation products as if provisions of that Part are modified or varied by the class order.

Paragraph 1 in Schedule 1 to the Instrument modifies section 1011B of the Act to clarify that an investment option, in relation to a managed investment scheme or superannuation entity, includes the managed investment scheme or superannuation entity where there is no choice of investment options within the managed investment scheme or superannuation entity.

Further this paragraph also modifies section 1013C of the Act so that issuers must include information in their Product Disclosure Statement that is known to them unless otherwise provided in the Regulations. This modification ensures that Schedule 10 is able to include requirements for issuers to disclose information that they can reasonably estimate or determine.

This paragraph also modifies subsection 1017B(5) of the Act so that issuers of superannuation products can give a notice to members of changes in fees that result from an increase in costs relating to a superannuation product, subject to subsection (6), before the change or event occurs or as soon as practicable after, but not more than 3 months after, the change or event occurs.

Finally this paragraph modifies subsection 1017B(6) of the Act so that issuers of superannuation products can give a notice to members more than 3 months, but no later than 12 months after, changes in fees that result from an increase in costs relating to a superannuation product that the issuer reasonably believes is not adverse to the member's interests, and the holder would not be expected to be concerned about the delay in receiving the information.

Paragraph 2 in Schedule 1 to the Instrument modifies regulation 7.9.16J to remove the application of Division 4 to pensions provided under the rules of a superannuation fund that meet the standards of sub-regulations 1.06(2), 1.06(6) or 1.06(7) of the *Superannuation Industry (Supervision) Regulations 1994*. This is the same modification to this regulation that was previously made under the now revoked [CO 07/337]. The modification ensures pensions which are not investment linked, or involve an investment account, are exempted from the enhanced fee disclosure requirements. These superannuation products are generally known as 'defined benefit superannuation pensions'.

The modification gives effect to the policy intent which was to exempt those superannuation products where a consumer obtains a pension, the future value of which is determined actuarially at the time the pension product is issued and does not vary with the investment returns or fees and costs. Incorporating the modification into the Instrument was considered appropriate to contain amendments to the enhanced fee disclosure provisions in [CO 14/1252].

Paragraph 3 in Schedule 1 to the Instrument replaces "the Corporations Regulations 2001 (the Regulations):" with "the Regulations:".

Paragraph 4 in Schedule 1 to the Instrument inserts a new definition for 'administration fee' by substituting the existing definition in clause 101 of Schedule 10 to the Regulations with "**administration fee** has the meaning given by clause 209A." This paragraph also inserts into clause 101 of Schedule 10 to the Regulations a definition of 'financial year' in relation to a managed investment product and a superannuation product.

Paragraph 5 in Schedule 1 to the Instrument inserts a revised definition of 'interposed vehicle' to that in [CO 14/1252] in notional subclause 101B.

Paragraph 6 in Schedule 1 to the Instrument inserts a new definition for 'investment fee' by substituting the existing definition in clause 101 of Schedule 10 to the Regulations with "**investment fee** has the meaning given by clause 209A. ".

Paragraph 7 in Schedule 1 to the Instrument replaces in notional paragraph 101A(1)(a) in [CO 14/1252] "a trustee of the entity or responsible entity knows, or reasonably ought to know or, where this is not the case, may reasonably estimate, will directly or indirectly reduce", with "a responsible person knows, or reasonably ought to know or, where this is not

the case, may reasonably estimate has reduced or will reduce (as applicable) whether directly or indirectly”.

Paragraph 8 in Schedule 1 to the Instrument replaces in notional paragraph 101A(1)(c) in [CO 14/1252] “under section 29V of the SIS Act” with “as defined in clause 209A or an insurance fee.”

Costs of derivative financial products

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

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

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

In the case where the responsible person does not know, does not believe they reasonably ought to know, and is not able to reasonably estimate, without taking steps that the responsible person considers unreasonable, the amount in subparagraph 101A(3)(a)(i) or (ii) (as applicable) in relation to a derivative financial product, then the responsible person must determine that amount based on paragraph 101A(3)(b). Subparagraph 101A(3)(b)(i) requires that the amount for a derivative financial product that is not an option is the greater of the amount calculated using the formula outlined under this subparagraph to be used for determining the cost amount of a derivative financial product and the minimum amount that the responsible person believes, or has reasonable grounds to believe, would be required to be disclosed under paragraph 101A(3)(a). The formula under sub-subparagraph 101A(3)(b)(i)(A) is the relevant percentage, which is 0.1%, multiplied by the value of the derivative financial product multiplied by the number of days the derivative financial product was held by the responsible person or interposed vehicle during the relevant financial year divided by 365.

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

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

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

Interposed vehicle

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

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

Notional subclause 101B(2), for the purposes of notional subclause (1) and subject to subclause (3), specifies securities and financial products that can be disregarded for the purposes of determining whether an entity (**the first entity**) has more than 70% of its assets by value invested in securities or other financial products. In particular notional paragraph 101B(2)(a) provides that securities or financial products can be disregarded if they are traded

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

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

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

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

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

New products or investment options

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

Further, paragraph 13 of Schedule 1 to the Instrument inserts subparagraphs 6(bc) and 6(bd) into [CO 14/1252]. Subparagraph 6(bc) inserts after subclause 104(2) of Schedule 10 to the Regulations subclause 104(2A). Subclause 104(2A) requires, despite clause 214, that the part of a fee for a MySuper product or an investment option offered by a superannuation entity disclosed in a Product Disclosure Statement that is available during a particular financial year that relates to the costs incurred by the trustee of the superannuation entity or in an interposed vehicle or derivative financial product, is to be determined for the previous financial year except that if the product or investment option was not offered from at least 11 months before the end of the previous financial year, the costs are to be determined based on the responsible person's reasonable estimate at the time the Statement is prepared of those costs that will apply for the current financial year, and if the product or investment option was first offered in the current financial year, since the time the product or investment option was first offered, adjusted to reflect a 12 month period.

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

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

and operational costs are to be determined based on the responsible person's reasonable estimate at the time the Statement is prepared of those costs that will apply for the current financial year, and if the product or investment option was first offered in the current financial year, since the time the product or investment option was first offered, adjusted to reflect a 12 month period.

Definition of administration fee and investment fee

Paragraph 15 of Schedule 1 to the Instrument inserts after sub-subparagraph 6(f)(i) in [CO 14/1252] sub-subparagraphs (ia) and (ib). Sub-subparagraph (ia) omits the definition of administration fee in clause 209A of Schedule 10 to the Regulations and substitutes a new definition. Sub-subparagraph (ib) omits the definition of investment fee in clause 209A of Schedule 10 to the Regulations and substitutes a new definition.

Example of annual fees and costs for a MySuper product, a balanced investment option, or other investment option

Paragraph 16 of Schedule 1 to the Instrument inserts after subparagraph 6(f) in [CO 14/1252] subparagraphs 6(fa) and (fb). Subparagraph 6(fa) makes a number of amendments to subclause 211 of Schedule 10 to the Regulations, which sets out the requirements for the example of annual fees and costs for a MySuper product or other investment option.

Subparagraph 6(fb) makes a number of amendments to subclause 212 of Schedule 10 to the Regulations, which sets out the requirements for the example of annual fees and costs for a balanced investment option or other investment option.

Consumer Advice Warning – Superannuation products

Paragraph 17 of Schedule 1 to the Instrument omits and substitutes subparagraph 6(g) in [CO 14/1252]. This subparagraph adds a new Consumer Advice Warning for superannuation products.

Indirect costs and other fees reported on periodic statements

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

Subparagraph 6(i) also inserts a new subclause 301(1A) of Schedule 10 to the Regulations. This subclause prescribes the text and the appropriate amount, in dollars, for a managed

investment product that must be inserted after the part of the periodic statement that itemises transactions during the period.

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

Transition Period

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

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

The newly inserted Paragraph 8A of [CO 14/1252] states that the provisions in the mentioned subparagraphs and paragraph 7 apply in relation to a Product Disclosure Statement from 1 February 2017 (regardless of when it was given) or if the Statement applies the provision.

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

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

Miscellaneous amendment

Paragraph 23 of Schedule 1 to the Instrument amends the note to paragraph 9 of [CO 14/1252].

Schedule 2 – Transitional

Schedule 2 to the Instrument sets out the transitional application of amendments made by Schedule 1 to the Instrument.

Paragraph 1 of Schedule 2 to the Instrument ensures that [CO 14/1252], as it was in force prior to the commencement of the Instrument, continues to apply to a Product Disclosure Statement that was prepared prior to the Instrument commencing where the Statement included a statement that [CO 14/1252] applies to the Statement. [CO 14/1252] will continue to apply to the Statement under these circumstances until the responsible person prepares the Product Disclosure Statement after the Instrument commenced in accordance with paragraph 21 of Schedule 1 to the Instrument.

Paragraph 2 of Schedule 2 to the Instrument ensures that [CO 14/1252], as it was in force prior to the commencement of the Instrument, continues to apply to a periodic statement that was required to be given prior to the Instrument commencing where the Statement included a statement that [CO 14/1252] applies to the Statement. [CO 14/1252] will continue to apply to the Statement under these circumstances until the responsible person prepares the Product Disclosure Statement after the Instrument commenced in accordance with paragraph 21 of Schedule 1 to the Instrument.

Schedule 3 – Repeal

Schedule 3 of the Instrument repeals ASIC Class Order [CO 07/337].

4. Consultation

ASIC consulted with various industry associations, compliance consultants, lawyers, a number of superannuation trustees and responsible entities about the first draft of the Instrument in May 2015. Seven submissions were received in response to the initial consultation. The feedback received was used to revise the proposed modifications and a further consultation was held in August 2015. Sixteen submissions were received in response to this consultation. In addition to the consultation on the draft Instruments we also held a number of meetings with interested parties, including superannuation trustees and responsible entities as well as industry associations.

The final modifications in the Instrument to [CO 14/1252] were revised in consideration of the submissions received and meetings held.

The Office of Best Practice Regulation has agreed with ASIC's assessment that the Instrument will have a minor and machinery impact and therefore no Regulation Impact Statement is required.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

ASIC Corporations (Amendment and Repeal) Instrument 2015/876

The Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview

ASIC Corporations (Amendment and Repeal) Instrument 2015/876 (the **Instrument**) amends ASIC Class Order [14/1252].

Class Order [CO 14/1252] relates to Schedule 10 to the *Corporations Regulations 2001* (the Regulations). Schedule 10 sets out requirements for the disclosure of fees and costs of superannuation and managed investment products in Product Disclosure Statements and in periodic statements that must be given to members.

The Instrument amends Class Order [CO 14/1252] to provide industry with greater clarity in disclosing fees and costs for superannuation and managed investment products. In particular, this Instrument clarifies the definitions of the interposed vehicle and indirect cost concepts, and how over-the-counter derivative fees and costs are captured within indirect costs. The Instrument also rectifies a number of anomalies remaining from the Stronger Super reforms.

Human rights implications

This legislative instrument does not engage any of the applicable rights or freedoms.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.