



ASIC
Australian Securities &
Investments Commission

ASIC Corporations (Disclosure of Fees and Costs) Instrument 2019/1070

I, Grant Moodie, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 27 November 2019

Grant Moodie

Contents

Part 1—Preliminary	3
1 Name of legislative instrument	3
2 Commencement	3
3 Authority	3
4 Definitions	3
Part 2—Declaration	4
5 Product Disclosure Statements and periodic statements	4
Part 3—Consequential amendments	53
6 Consequential amendments	53
Part 4—Transitional	57
7 Application to Product Disclosure Statements	57
8 Application to periodic statements	57

Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Corporations (Disclosure of Fees and Costs) Instrument 2019/1070*.

2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at www.legislation.gov.au.

3 Authority

This instrument is made under subsection 1020F(1) of the *Corporations Act 2001*.

4 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

collective investment product means a managed investment product or a foreign passport fund product.

foreign passport fund product means a financial product described in paragraph 764A(1)(bb) of the Act.

managed investment product means a financial product described in paragraph 764A(1)(b) of the Act.

Regulations means the *Corporations Regulations 2001*.

superannuation product means a financial product described in paragraph 764A(1)(g) of the Act.

Part 2—Declaration

5 Product Disclosure Statements and periodic statements

Part 7.9 of the Regulations applies in relation to collective investment products and superannuation products as if that Part were modified or varied by omitting Schedule 10 to the Regulations and substituting the following Schedule:

Schedule 10—Disclosure of Fees and Other Costs

(regulations 7.9.16J - 7.9.16O)

Part 1—Interpretation

101 Definitions

In this Schedule:

activity fee: a fee is an **activity fee** for a superannuation product if:

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

administration fees and costs, for a superannuation product, means the fees and costs that relate to the administration or operation of the superannuation entity to which the product relates and include:

- (a) costs that relate to that administration or operation debited from reserves that, in a period, exceed amounts credited to reserves in that period that are also administration fees and costs;
 - (aa) distribution costs;
- (b) indirect costs that relate to that administration or operation; and
- (c) intra-fund advice costs;

but do not include:

- (d) transaction costs and excluded transactional and operational costs; and
- (e) costs that are otherwise charged as investment fees and costs, a buy-sell spread, a switching fee, an activity fee, an advice fee or an insurance fee.

advice fee:

- (a) for a superannuation product—is a fee that relates directly to costs (other than intra-fund advice costs) incurred by the trustee, or the trustees, of a superannuation entity because of the provision of financial product advice to a member by:
 - (i) a trustee of the entity; or
 - (ii) another person acting as an employee of, or under an arrangement with, a trustee or trustees of the entity;where those costs are not otherwise charged as administration fees and costs, investment fees and costs, transaction costs, a switching fee, an activity fee or an insurance fee; and
- (b) for a collective investment product—means an amount that is:
 - (i) paid or payable to a financial adviser for financial product advice to a retail client or product holder about an investment; and
 - (ii) not included in a contribution fee, withdrawal fee, exit fee, establishment fee, management fees and costs or transaction costs.

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

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

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

buy-sell spread:

- (a) for a superannuation product—a fee to recover costs incurred by the trustee, or the trustees, of a superannuation entity in relation to the sale and purchase of assets of the entity; and
- (b) for a collective investment product—means an amount, deducted from the value of a financial product of a product holder, that represents an apportionment, among product holders, of the actual or estimated costs incurred in transactions by the managed investment scheme; and
- (c) despite paragraphs (a) and (b), in clause 103(1) and 209(j) (unless otherwise specified)—means an amount that is:
 - (i) deducted from the value of an investment that represents an apportionment, among investors, of the actual or estimated costs incurred in transactions by the investment; and
 - (ii) incurred by a superannuation trustee, responsible entity or operator of a notified foreign passport fund.

collective investment product means a managed investment product or a foreign passport fund product.

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

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

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

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

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

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

excluded transactional and operational costs has the meaning given by clause 103(2).

exit fee:

- (a) for a superannuation product—is a fee, other than a buy-sell spread, that relates to the disposal of all or part of a member's interests in a superannuation entity; and

- (b) for a collective investment product—means an amount paid or payable on the disposal of all interests held in the product.

financial year means:

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

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

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

Example: Cheque dishonour fees.

indirect cost has the meaning given by clause 101A.

insurance fee: a fee is an **insurance fee** for a superannuation product if:

- (a) the fee relates directly to either or both of the following:
 - (i) insurance premiums paid by the trustee, or the trustees, of a superannuation entity in relation to a member or members of the entity;
 - (ii) costs incurred by the trustee, or the trustees, of a superannuation entity in relation to the provision of insurance for a member or members of the entity; and
- (b) the fee does not relate to any part of a premium paid or cost incurred in relation to a life policy or a contract of insurance that relates to a benefit to the member that is based on the performance of an investment rather than the realisation of a risk; and
- (c) the premiums and costs to which the fee relates are not otherwise charged as administration fees and costs, investment fees and costs, transaction costs, a switching fee, an activity fee or an advice fee.

interposed vehicle has the meaning given by clause 101B.

intra-fund advice costs, for a superannuation product in relation to a superannuation entity, means costs incurred by the trustee, or the trustees, of the entity:

- (a) in making available to all members investing in a particular MySuper product or investment option; and
- (b) in providing to one or more of such members;

financial product advice in relation to the product by:

- (c) a trustee of the entity; or
- (d) another person acting as an employee of, or under an arrangement with, a trustee or trustees of the entity;

but does not include costs charged as advice fees.

Note: Certain advice costs may be collectively charged: see section 99F of the *Superannuation Industry (Supervision) Act 1993*.

investment fees and costs, for a superannuation product, means the fees and costs that relate to the investment of the assets of the superannuation entity to which the product relates and includes:

- (a) fees in payment for the exercise of care and expertise in the investment of those assets (including performance fees); and
- (b) costs that relate to the investment of assets of the entity that are debited from reserves that, in a period, exceed amounts credited to reserves in that period that are also investment fees and costs;
- (c) indirect costs that relate to the investment of assets of the entity;

but do not include:

- (d) transaction costs and excluded transactional and operational costs; and
- (e) costs that are otherwise charged as administration fees and costs, a buy-sell spread, a switching fee, an activity fee, an advice fee or an insurance fee.

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

lifecycle stage has the meaning given by regulation 7.9.07N.

management fees and costs has the meaning given by clause 102.

performance fee has the meaning given by clause 101C.

property operating costs means amounts that are paid or payable in relation to the holding of real property or an interest in real property.

responsible person means the person who, or on whose behalf, a Product Disclosure Statement for a financial product is required to be prepared.

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

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

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

switching fee:

- (a) for a MySuper product—means a fee to recover the costs of switching all or part of a member's interest in a superannuation entity from one class of beneficial interest in the entity to another; or
- (b) for a superannuation product other than a MySuper product—means a fee to recover the costs of switching all or part of a member's interest in the superannuation entity from one investment option or product in the entity to another; or
- (c) for a collective investment product—means an amount paid or payable when a product holder transfers all or part of the product holder's interest in the collective investment product from one investment option to another.

transaction costs has the meaning given by clause 103(1).

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

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

101A Indirect costs

- (1) Despite subsection 1013C(2) of the Act, the **indirect cost** of a MySuper product, an investment option offered within a superannuation product other than a MySuper product, a collective investment product or an investment option offered by a managed investment scheme, means any amount that:

- (a) either:
 - (i) a responsible person knows, or reasonably ought to know or, where this is not the case, may reasonably estimate has reduced or will reduce (as applicable) whether directly or indirectly the return on the product or option that is paid from or reduces the amount or value of:
 - (A) the income of or the property attributable to the product or option; or
 - (B) the income of or the property attributable to an interposed vehicle in or through which the property attributable to the product or option is invested; or
 - (ii) satisfies both the following:
 - (A) the amount is paid or payable by or on behalf of a person who may make payments that form part of the return on, or the value of, the product or option whether directly or through an interposed vehicle;
 - (B) payment of the amount is a benefit that increases the returns or value of the product or option or provides a benefit to the issuer in relation to the product or option that is retained by the issuer; and
- (b) for a MySuper product or an investment option offered within a superannuation product other than a MySuper product—is not charged to a member as a fee; and
- (c) for a MySuper product or an investment option offered within a superannuation product other than a MySuper product—is not any of the following:
 - (i) an activity fee, an advice fee, a buy-sell spread, an insurance fee or a switching fee; or
 - (ii) administration fees and costs, investment fees and costs or transaction costs, to the extent it has been paid as a cost out of the superannuation entity to which the product or option relates; and
- (d) subject to subclause (3), has been paid as a cost out of an interposed vehicle which:

- (i) if the amount had been paid as a cost out of the superannuation entity to which the product or option relates—would be:
 - (A) a cost within the definition of **administration fees and costs** disregarding paragraphs (a), (b) and (c) of that definition; or
 - (B) a cost within the definition of **investment fees and costs** disregarding paragraphs (b) and (c) of that definition; or
 - (C) a cost within the meaning of **transaction costs** disregarding paragraphs (g) and (ga) of that definition;
 - (ii) if the amount had been paid as a cost out of scheme property of the registered scheme or the assets of the notified foreign passport fund to which the product or option relates—would be a cost within the definition of **management fees and costs** disregarding paragraph (1)(h).
- (2) For the purposes of subclause (1):
- (a) property is invested in or through an interposed vehicle even if:
 - (i) the property is in turn invested in or through one or more other interposed vehicles; or
 - (ii) the property was invested in the first mentioned interposed vehicle through or by another interposed vehicle; and
 - (b) property is not invested in or through an interposed vehicle if the property is invested in the vehicle by a body, trust or partnership that:
 - (i) is not an interposed vehicle; and
 - (ii) is not the trustee or responsible entity.
- (3) Without limiting subclause (1), the indirect costs of a product or investment option referred to in subclause (1) include:
- (a) the following amounts where the responsible person knows, or reasonably ought to know or, where this is not the case, may reasonably estimate those amounts:

- (i) in relation to a derivative financial product that is not an option to acquire or dispose of a financial product—the amount that is the difference between the underlying return and the actual return for the derivative financial product, where the actual return on the product or option is less than the underlying return on the derivative financial product over the relevant financial year; or
 - (ii) in relation to a derivative financial product that is an option to acquire or dispose of a financial product—any amount by which the cost incurred to acquire the derivative financial product exceeds the amount that would be obtained on its disposal at that time; or
- (b) where the responsible person does not know, does not believe they reasonably ought to know, and is not able to reasonably estimate without taking steps that the responsible person considers unreasonable, the amount in paragraph (a) (as applicable) in relation to a derivative financial product—the following amounts in relation to the derivative financial product:
- (i) in relation to a derivative financial product that is not an option to acquire or dispose of a financial product—the greater of:

- (A) the amount calculated using the following formula:

$$\text{relevant percentage} \times \text{value} \times (n/365)$$

where:

n means the number of days that the derivative financial product was held by the responsible person or interposed vehicle during the relevant financial year;

relevant percentage means 0.1%; and

value, in relation to a derivative financial product, means the value of the ultimate reference assets, in each case taking into account any leverage, offsets or similar adjustments applied to or between the ultimate reference assets under the terms of the derivative financial product; and

- (B) the minimum amount that the responsible person believes or has reasonable grounds to believe would apply under paragraph (a);
- (ii) in relation to a derivative financial product that is an option to acquire or dispose of a financial product—the lesser of:
 - (A) the amount that would apply under subparagraph (i) if the exclusion from that subparagraph (i) of options did not apply; and
 - (B) the premium paid by the responsible person or interposed vehicle for the option,

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

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

(3A) In subclause (3) and (4):

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

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

derivative financial product means a financial product that:

- (a) is:

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

under which:

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

provided that the reference asset is not related to the value of:

- (V) a share in a body or debenture of a body to which the delivery products relate; or
- (VI) the assets of the managed investment scheme to which the delivery products relate; or
- (VII) the assets attributable to a class of interests in the managed investment

scheme to which the delivery products relate; and

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

reference asset:

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

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

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

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

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

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

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

- (4) Despite subclause (1) and (3), indirect costs of a collective investment product or an investment option of a managed investment scheme do not include amounts referred to in subclause (3):
 - (a) where the derivative financial product referred to in subclause (3) is acquired or disposed of for the primary purpose of avoiding or limiting the financial consequences of fluctuations in, or in the value of, receipts or costs of the managed investment scheme whether or not the receipts or costs arise in or through an interposed vehicle; and
 - (b) where the indirect costs were calculated under paragraph (3)(a), to the extent that the difference would result from the incurring of transaction costs and excluded transactional and operational costs in relation to the ultimate reference assets.

101B *Interposed vehicle*

Assets test

- (1) A body, partnership or trust (each an ***entity***) is an ***interposed vehicle*** in relation to a product or investment option if both of the following are satisfied:
 - (a) property attributable to the product or investment option to which the Product Disclosure Statement relates is invested in or through the entity;
 - (b) the responsible person for the Product Disclosure Statement believes or has reasonable grounds to believe that the entity has more than 70% of its assets by value invested in securities or other financial products.

- (2) For the purposes of subclause (1) and subject to subclause (3), in determining whether an entity (the **first entity**) has more than 70% of its assets by value invested in securities or other financial products, disregard for the numerator, securities or other financial products that:
- (a) are reasonably regarded as a means by which the first entity makes an investment in real property or an infrastructure entity; or
 - (b) confer on the first entity control of another entity (the **second entity**), unless the responsible person for the Product Disclosure Statement has reasonable grounds to believe that the second entity has more than 70% of its assets by value invested in securities or other financial products.
- (3) For the purposes of paragraph (2)(b), in determining whether the second entity has more than 70% of its assets by value invested in securities or other financial products, apply subclause (2) to the second entity as if the second entity was the first entity referred to in that subclause.

PDS test

- (4) An entity is also an **interposed vehicle** in relation to a product or investment option if, having regard to the Product Disclosure Statement for the product or investment option and any other information issued by the responsible person, a security or interest in the entity could be reasonably regarded, by retail clients who may be expected to be given the Product Disclosure Statement or other information, as the means by which the benefit of investments by or through the entity is obtained, rather than the investment of the superannuation entity, registered scheme or notified foreign passport fund to which the product or investment option relates.
- (4A) Subject to subclause (4B), an entity is also an **interposed vehicle** in relation to a product or investment option if:
- (a) the Product Disclosure Statement for the product or investment option or any other information issued by the responsible person relating to the product or investment option issued by the responsible person that has been given or may reasonably be expected to be given to retail clients refers to “property”, “real estate” or “land” or similar terms in the description of the product or investment option or as one of the assets (**relevant asset**) in which investment may be made under the product or investment option; and

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

- (ii) the issuer of the securities or financial products of the entity has applied, or stated in a regulated disclosure that they will apply, for such admission; and
- (b) the securities or financial products of the entity are, or are to be, held under an investment strategy for the product or investment option that:
 - (i) relates to, or is publicly measured by the responsible person by reference to, a widely used index (**reference index**) of securities or financial products of entities that satisfy subparagraph (a)(i); and
 - (ii) is a strategy of holding directly or indirectly securities or financial products:
 - (A) of entities that satisfy paragraph (a); and
 - (B) that represent at least 80% by value of the net assets attributable to the investment strategy; and
- (c) the value of all the securities or financial products of the entity that are in the same class as the securities or financial products held under the investment strategy does not exceed 30% of the value of the reference index.

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

Platform test

- (5) Despite anything in subclauses (1) to (4D), an entity will not be an **interposed vehicle** in relation to a product or investment option if all of the following apply:
 - (a) the Product Disclosure Statement for the product or an investment option states that a holder of the product may give instructions, directions or requests for financial products to be acquired;
 - (b) the responsible person for the Product Disclosure Statement has published a list of financial products in relation to which the instructions, directions or requests may be given that includes a security or interest in the entity;

- (c) the arrangement under which the instructions would be acted on is a custodial arrangement as defined in subsection 1012IA(1) of the Act.

Interpretation

- (6) In this clause:

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

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

101C Performance fees

- (1) ***Performance fee*** means an amount paid or payable, calculated by reference to the performance of:
 - (a) a collective investment product;
 - (b) a superannuation product;
 - (c) a MySuper product;
 - (d) an investment option;
 - (e) an interposed vehicle; or

- (f) part of such a product, option or vehicle.
- (2) In subclause (1) **performance** includes:
- (a) income in relation to the assets of, or attributed to, the product, option or interposed vehicle, or part; and
 - (b) capital appreciation (realised or unrealised) to the value of the product, option or interposed vehicle, or part.
- (3) For the purposes of calculating the performance fees for a Product Disclosure Statement:
- (a) include the performance fees that accrued in relation to:
 - (i) the product or option or part of such product or option; and
 - (ii) any interposed vehicles referable to that product or option or part of such product or option,each averaged over the previous 5 financial years;
 - (b) where a product, option or interposed vehicle or part was not in operation for the previous 5 financial years—calculate the average by reference to the number of financial years in which the product, option, interposed vehicle or part has operated;
 - (c) where a product, option or interposed vehicle or part did not have a performance fee charging mechanism in place in each of the previous 5 financial years—calculate the average by reference to the number of financial years in which the product, option, interposed vehicle or part had a performance fee charging mechanism in place;
 - (d) where a product, option or interposed vehicle or part was first offered in the current financial year—calculate the average by reference to the responsible person’s reasonable estimate of the performance fee for the current financial year adjusted to reflect a 12 month period.

Note: In the Fees and Costs Summary, the performance fees:

- (a) in relation to superannuation products—must be included in the “Investment fees and costs” line item; and
- (b) in relation to collective investment products—must be specified in the “Performance fees” line item.

- (4) For the purposes of calculating the performance fees for a periodic statement, include the performance fees that accrued in relation to:
- (a) the product or option or part of such product or option; and
 - (b) any interposed vehicles referable to that product or option or part of such product or option,
- for the reporting period to which the statement relates.

102 Management fees and costs

- (1) **Management fees and costs**, for a collective investment product, means any of the following:
- (a) an amount payable for administering the managed investment scheme;
 - (b) for a custodial arrangement—the cost involved, or amount paid or payable, for gaining access to, or participating in, the arrangement;
 - (c) distribution costs;
 - (d) other expenses and reimbursements in relation to the managed investment scheme;
 - (e) amounts paid or payable for investing in the assets of the managed investment scheme;
 - (f) amounts deducted from a common fund by way of fees, costs, charges or expenses, including:
 - (i) amounts retrieved by an external fund manager or a product issuer; and
 - (ii) amounts deducted from returns before allocation to the fund;
 - (g) any other investment-related expenses and reimbursements, including any associated with custodial arrangements; and
 - (h) indirect costs.
- (2) The following fees and costs are not **management fees and costs** for a collective investment product:
- (a) a contribution fee;

- (b) transaction costs other than those costs under subclause 101A(3);
- (ba) excluded transactional and operational costs;
- (c) an additional service fee;
- (d) an establishment fee;
- (e) a switching fee;
- (f) an exit fee;
- (g) a withdrawal fee;
- (ga) performance fees;
- (h) costs related to a specific asset or activity to produce income that an investor would incur if the investor invested directly in the asset (other than costs related to a security or interest in an interposed vehicle or derivative financial product within the meaning of subclause 101A(3A)); and
- (i) incidental fees.

103 Transaction costs

- (1) **Transaction costs** include any of the following:
 - (a) brokerage;
 - (b) buy-sell spread;
 - (c) settlement costs (including custody costs);
 - (d) clearing costs;
 - (e) stamp duty on an investment transaction;
 - (f) for a collective investment product—the costs in relation to the derivative financial products that satisfy paragraphs (a) or (b) of subclause 101A(4);
 - (g) costs incurred in or by an interposed vehicle that would be transaction costs if they had been incurred by the superannuation entity to which the superannuation product or investment option relates or for the registered scheme or

notified foreign passport fund to which the collective investment products relate;

- (ga) for a MySuper product or an investment option offered by a superannuation entity—transaction costs that are debited from reserves that, in a period, exceed amounts credited to reserves in that period that are also transaction costs;

but does not include:

- (h) excluded transactional and operational costs; and
 - (i) costs that are otherwise charged as administration fees and costs, investment fees and costs or management fees and costs.
- (2) ***Excluded transactional and operational costs*** means any of the following:
- (a) borrowing costs;
 - (b) property operating costs;
 - (c) implicit transaction costs or market impact costs.

103A Calculating *transaction costs*

Despite clause 214, ***transaction costs*** for a product, option, interposed vehicle or derivative financial product disclosed in a Product Disclosure Statement that is available during a particular financial year is to be determined:

- (a) based on the transaction costs for the previous financial year; or
- (b) if the product or option was offered from at least 11 months before the end of the previous financial year but for less than a full financial year—based on the transaction costs for that period and adjusted, to reflect a 12 month period; or
- (c) if the product or option was not offered from at least 11 months before the end of the previous financial year and not first offered in the current financial year—based on the responsible person’s reasonable estimate of the transaction costs for the current financial year at the time the Product Disclosure Statement is prepared; or
- (d) if the product or option was first offered in the current financial year—based on the responsible person’s reasonable estimate of the transaction costs for the current financial year

at the time the Product Disclosure Statement is prepared, adjusted to reflect a 12 month period.

104 Calculating costs in *administration fees and costs* and *investment fees and costs*

- (1) Despite clause 214, the part of *administration fees and costs* and *investment fees and costs* 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 (including indirect costs) incurred by the trustee of the superannuation entity or in an interposed vehicle or derivative financial product is to be determined:
 - (a) based on the costs for the previous financial year; or
 - (b) if the product or investment option was offered from at least 11 months before the end of the previous financial year but for less than a full financial year—based on the costs for that period and adjusted, to reflect a 12 month period; or
 - (c) if the product or investment option was not offered from at least 11 months before the end of the previous financial year and not first offered in the current financial year—based on the responsible person’s reasonable estimate of the costs for the current financial year at the time the Product Disclosure Statement is prepared; or
 - (d) if the product or investment option was first offered in the current financial year—based on the responsible person’s reasonable estimate of the costs for the current financial year at the time the Product Disclosure Statement is prepared, adjusted to reflect a 12 month period.
- (2) This clause does not apply in relation to the part of *investment fees and costs* that comprises performance fees which, instead, is to be determined in accordance with clause 101C.

104A Calculating costs in *management fees and costs*

Despite clause 214, the part of the *management fees and 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 relates to the costs (including indirect costs) incurred by the responsible entity or the operator of a notified foreign passport fund, or in an interposed vehicle or derivative financial product, is to be determined:

- (a) based on the costs for the previous financial year; or

- (b) if the investment option was offered from at least 11 months before the end of the previous financial year but for less than a full financial year—based on the costs for that period and adjusted, to reflect a 12 month period; or
- (c) if the investment option was not offered from at least 11 months before the end of the previous financial year and not first offered in the current financial year—based on the responsible person’s reasonable estimate of the costs for the current financial year at the time the Product Disclosure Statement is prepared; or
- (d) if the investment option was first offered in the current financial year—based on the responsible person’s reasonable estimate of the costs for the current financial year at the time the Product Disclosure Statement is prepared, adjusted to reflect a 12 month period.

104B Calculating fees and costs in periodic statements

In periodic statements, fees and costs (including indirect costs) are to be determined over the period to which the periodic statement relates.

Part 2—Product Disclosure Statements: Fees and Costs Summary, Example of Annual Fees and Costs and Consumer Advisory Warning

Division 1—The Fees and Costs Summary for superannuation products

201 Fees and Costs Summary for superannuation products

Fees and other costs

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

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

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

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

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

Fees and costs summary

<i>[Name of superannuation product]</i>		
Type of fee or cost	Amount	How and when paid
Ongoing annual fees and costs¹		
<i>Administration fees and costs</i>		
<i>Investment fees and costs²</i>		
<i>Transaction costs</i>		
Member activity related fees and costs		
<i>Buy-sell spread</i>		
<i>Switching fee</i>		
<i>Other fees and costs³</i>		

1. If your account balance for a product offered by the superannuation entity is less than \$6,000 at the end of the entity's income year, certain fees and costs charged to you in relation to administration and investment are capped at 3% of the account balance. Any amount charged in excess of that cap must be refunded.
2. [Where the amount for performance fees is zero or positive, insert a footnote *Investment fees and costs includes an amount of x.xx% for performance fees. The calculation basis for this amount is set out under "Additional explanation of fees and costs"*. Where the

amount for performance fees is negative, insert a footnote *Information about performance fees is set out under “Additional explanation of fees and costs”.*]

3. *[If there are other fees and costs, such as activity fees, advice fees for personal advice or insurance fees, include a cross-reference to the “Additional explanation of fees and costs”.]*

Division 2—The Fees and Costs Summary for collective investment products

202 Fees and Costs Summary for a multiple fee structure—collective investment products

Fees and other costs

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

Taxes are set out in another part of this document.

You have 2 different fee payment options:

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

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

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

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

Fees and costs summary

<i>[Name of collective investment product]</i>			
Type of fee or cost	Amount		How and when paid
	Option to pay contribution fees upfront	Option to pay contribution fees later	
Ongoing annual fees and costs			
<i>Management fees and costs</i> The fees and costs for managing your investment ²			

<i>[Name of collective investment product]</i>			
Type of fee or cost	Amount		How and when paid
	Option to pay contribution fees upfront	Option to pay contribution fees later	
<i>Performance fees</i> Amounts deducted from your investment in relation to the performance of the product			
<i>Transaction costs</i> The costs incurred by the scheme when buying or selling assets			
Member activity related fees and costs (fees for services or when your money moves in or out of the scheme)¹			
<i>Establishment fee</i> The fee to open your investment			
<i>Contribution fee²</i> The fee on each amount contributed to your investment			
<i>Buy-sell spread</i> An amount deducted from your investment representing costs incurred in transactions by the scheme			
<i>Withdrawal fee²</i> The fee on each amount you take out of your investment			
<i>Exit fee²</i> The fee to close your investment			
<i>Switching fee</i> The fee for changing investment options			

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

202A Fees and Costs Summary for single fee structure—collective investment products

Fees and other costs

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

Taxes are set out in another part of this document.

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

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

Fees and costs summary

<i>[Name of collective investment product]</i>		
Type of fee or cost	Amount	How and when paid
Ongoing annual fees and costs		
<i>Management fees and costs</i> The fees and costs for managing your investment ²		
<i>Performance fees</i> Amounts deducted from your investment in relation to the performance of the product		
<i>Transaction costs</i> The costs incurred by the scheme when buying or selling assets		
Member activity related fees and costs (fees for services or when your money moves in or out of the scheme)¹		
<i>Establishment fee</i> The fee to open your investment		
<i>Contribution fee²</i> The fee on each amount contributed to your investment		
<i>Buy-sell spread</i> An amount deducted from your investment representing costs incurred in transactions by the scheme		

<i>[Name of collective investment product]</i>		
Type of fee or cost	Amount	How and when paid
<i>Withdrawal fee</i> ² The fee on each amount you take out of your investment		
<i>Exit fee</i> ² The fee to close your investment		
<i>Switching fee</i> The fee for changing investment options		

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

Division 3—How to fill in the summary

203 The preamble

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

204 Column 2—presentation of amounts

- (1) This clause, clause 205 and clause 206 are subject to regulations 7.9.15A, 7.9.15B and 7.9.15C.
- (2) If a particular fee or cost is not charged, “nil”, “zero”, “0” or “not applicable” (if it would not be misleading) must be written in column 2 opposite the type of fee or cost.
- (3) If it is not possible to determine a single amount or percentage of a fee or cost, it may be written as a range of fees or costs.
- (4) If the exact amount of a fee or cost paid or payable is not known, an amount that is a reasonable estimate of the amount attributable to the retail client must be shown.
- (5) An amount set out in accordance with subclause (4) must be clearly designated as an estimate.
- (6) If an amount or cost has a number of components, the amount of each component must be listed separately.

Example: Management fees and costs: 1.8% of product holder’s balance + \$70 per year.

- (7) A cost or amount paid or payable must be shown (as applicable):

- (a) for each collective investment product or superannuation product—gross of:
 - (i) income tax and GST, after being reduced by any reduced inputs tax credits; and
 - (ii) stamp duty; and
- (b) for each collective investment product offered by an Australian passport fund or notified foreign passport fund—gross of:
 - (i) any indirect taxes equivalent to GST that are payable in another jurisdiction, after being reduced by any applicable tax credits that are available in that jurisdiction; and
 - (ii) any duties equivalent to stamp duty that are payable in another jurisdiction; and
- (c) without adjustment in relation to:
 - (i) any tax deduction available to the responsible entity, operator or trustee; or
 - (ii) the extent to which any tax deduction may be passed on to product holders.

204A Column 2—presentation of transaction costs

Transaction costs must be set out net of any amount recovered by the buy-sell spread charged by the trustee, responsible entity or operator of a notified foreign passport fund as defined in paragraphs (a) or (b) (as relevant) of the definitions of buy-sell spread in clause 101.

204B Column 2—presentation of performance fees

Where the amount for performance fees in relation to a collective investment product is negative, the “Amount” column must not specify the negative amount and must instead state “See Additional Explanation of Fees and Costs”.

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

- (1) The fees and costs information must be set out:
 - (a) for superannuation products—for each MySuper product and each investment option offered by the relevant superannuation entity; and

- (b) for collective investment products—for each investment option offered by the relevant managed investment scheme.
- (2) It may be:
- (a) set out in the table in the Summary; or
 - (b) cross-referenced in the table in the Summary to another section of the Product Disclosure Statement that contains the relevant fees and costs information.

206 Presentation of multiple fee payment options

If a superannuation entity has more than 1 option for the payment of fees or if a managed investment scheme has more than 2 options for the payment of fees:

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

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

Column 3 of the summary must set out:

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

208 Other material to be included in the summary

- (1) The summary must clearly indicate which fees and costs are negotiable (for example, by stating in column 3 “The amount of this fee can be negotiated.”).

- (2) An indication that a fee or cost is negotiable must be cross-referenced to an explanation outside the summary in the “Additional Explanation of Fees and Costs” part of the “Fees and other costs” section of the Product Disclosure Statement.

Division 4—Additional Explanation of Fees and Costs

209 Matters to be included as Additional Explanation of Fees and Costs

The following information, if relevant to the particular superannuation product or collective investment product, must be included under the heading “Additional explanation of fees and costs”:

- (a) the explanation of the fees mentioned in footnote 3 for superannuation products and footnote 1 for collective investment products;
- (b) information on performance fees including:
 - (i) for a superannuation product—a statement about how performance fees affect administration fees and costs and investment fees and costs; and
 - (ii) for a collective investment product—details, including the amount, for performance fees chargeable by the responsible entity or operator; and
 - (iii) an outline of the method adopted for calculating the performance fees included in the Fees and Costs Summary; and
 - (iv) where the amount for performance fees is negative—the negative amount and its effect on fees and costs; and
 - (v) the calculated average performance fees for each product or option or interposed vehicle or part under paragraph 101C(3)(a);
- (c) for tax—a cross reference to the “Tax” part of the Product Disclosure Statement;
- (ca) for insurance fees and other costs relating to insurance (if relevant)—a cross reference to the “Insurance” part of the Product Disclosure Statement;
- (d) if the product is subject to tax—whether the benefit of any tax deduction is passed on to the investor in the form of a reduced fee or cost;

- (e) an explanation of adviser remuneration that forms part of any fee or cost in the table, including (if known to the product issuer):
 - (i) the method of calculation; and
 - (ii) the amounts of commission or the range of amounts; and
 - (iii) whether the amounts are negotiable or rebatable; and
 - (iv) the way in which amounts may be negotiated or rebated;
- (f) an explanation of advice fees and, for a superannuation product, intra-fund advice costs;
- (g) for a negotiated fee or cost—contact details of the person or body with whom the fee or cost can be negotiated and the manner of negotiation;
- (h) worked examples (if appropriate);
- (i) additional details of incidental fees (if appropriate);
- (j) details of transaction costs such as brokerage and buy-sell spread, including:
 - (i) the amount of total gross transaction costs, or an estimate if the amount is not known; and
 - (ii) a statement that the transaction costs shown in the fees and costs summary is shown net of any amount recovered by the buy-sell spread charged by the trustee, responsible entity or operator of a notified foreign passport fund as defined in paragraph (a) or (b) (as relevant) of the definition of buy-sell spread in clause 101; and
 - (iii) a description of each cost; and
 - (iv) how and when the costs are recovered; and
 - (v) a statement that the cost is an additional cost to the investor where it has not already been recovered by the buy-sell spread charged by the trustee, responsible entity or operator of a notified foreign passport fund as defined in paragraph (a) or (b) (as relevant) of the definition of buy-sell spread in clause 101;
- (k) the following information about fee changes:
 - (i) if applicable, a statement about the issuer's right to change the amount of fees without the investor's consent;

- (ii) any indexation arrangements that apply;
 - (iii) the period of advance notice required for fee changes;
 - (iv) any change in fee structure that is dependent on a person's employment;
- (l) if the issuer has instituted a flexible charging structure, for each applicable fee, if known:
- (i) any maximum, and when it would apply; and
 - (ii) any waiver, and when it would not apply.

Division 4A—Defined fees for superannuation products

209A Defined fees for superannuation products

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

Activity fees

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

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

Administration fees and costs

Administration fees and costs are fees and costs that relate to the administration or operation of the superannuation entity and includes costs incurred by the trustee [*OR the trustees*] of the entity that:

- (a) relate to the administration or operation of the entity; and
- (b) are not otherwise charged as investment fees and costs, a buy-sell spread, a switching fee, an activity fee, an advice fee or an insurance fee.

Advice fees

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

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

Buy-sell spreads

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

Exit fees

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

Investment fees and costs

Investment fees and costs are fees and costs that relate to the investment of the assets of a superannuation entity and includes:

- (a) fees in payment for the exercise of care and expertise in the investment of those assets (including performance fees); and
- (b) costs incurred by the trustee [*OR the trustees*] of the entity that:
 - (i) relate to the investment of assets of the entity; and
 - (ii) are not otherwise charged as administration fees and costs, a buy-sell spread, a switching fee, an activity fee, an advice fee or an insurance fee.

Switching fees

[In the case of a MySuper product:]

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

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

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

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

Transaction costs

Transaction costs are costs associated with the sale and purchase of assets of the superannuation entity other than costs that are recovered by the superannuation entity charging buy-sell spreads.

Division 5—Example of Annual Fees and Costs

210 Example of Annual Fees and Costs

The Example of Annual Fees and Costs:

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

211 Superannuation products—Example of Annual Fees and Costs

Example of annual fees and costs for a superannuation product

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

EXAMPLE — <i>[insert name of generic MySuper product or other investment option as required by subclause 220(1)]</i>		BALANCE OF \$50,000
Investment fees and costs	[]	For every \$50,000 you have in the superannuation product you will be charged or have deducted from your investment \$[] each year
PLUS Administration fees and costs	[]	And , you will be charged \$[] in administration fees and costs regardless of your balance
PLUS Transaction costs	[]	And , you will be charged \$[] in transaction costs
EQUALS Cost of product		If your balance was \$50,000 at the beginning of the year, then for that year you will be charged fees of \$[] for the superannuation product.

Note: * Additional fees may apply.

212 Collective investment products—Example of Annual Fees and Costs for a balanced investment option or other investment option

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

This table gives an example of how the ongoing annual fees and costs in the balanced investment option for this product can affect your investment over a 1-year period. You should use this table to compare this product with other products offered by managed investment schemes.

EXAMPLE — <i>[insert name of balanced investment option or other investment option required by subclause 220(2)]</i>		BALANCE OF \$50,000 WITH A CONTRIBUTION OF \$5,000 DURING YEAR
Contribution Fees	[]	For every additional \$5,000 you put in, you will be charged between \$0 and \$[]
PLUS Management fees and costs	[]	And , for every \$50,000 you have in the <i>[insert name of balanced investment option or other investment option required by subclause 220(2)]</i> you will be charged \$[] each year
PLUS Performance fees	[]	And , you will be charged \$[] in performance fees each year
PLUS Transaction costs	[]	And , you will be charged \$[] in

EXAMPLE — <i>[insert name of balanced investment option or other investment option required by subclause 220(2)]</i>	BALANCE OF \$50,000 WITH A CONTRIBUTION OF \$5,000 DURING YEAR
	transaction costs
EQUALS Cost of <i>[insert name of balanced investment option or other investment option required by subclause 220(2)]</i>	If you had an investment of \$50,000 at the beginning of the year and you put in an additional \$5,000 during that year, you would be charged fees of from: \$[] to \$[]* What it costs you will depend on the investment option you choose and the fees you negotiate.

* Additional fees may apply:

Establishment fee—\$[]

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

213 Defined benefit funds

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

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

Division 6—How to fill in the Example of Annual Fees and Costs

214 Fees and costs must be ongoing amounts

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

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

214A Example of Annual Fees and Costs for a MySuper product—lifecycle MySuper product

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

215 Minimum entry balance rule

If the minimum balance required to enter a superannuation entity or a managed investment scheme is greater than \$50,000, the Example of

Annual Fees and Costs must be based on an amount that is the lowest multiple of \$50,000 that exceeds the minimum entry balance.

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

216 Exit fees

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

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

217 Contribution fees

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

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

218 Administration fees and costs, investment fees and costs and transaction costs for a superannuation product

Administration fees and costs

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

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

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

Investment fees and costs

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

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

- (3A) Where the amount for performance fees is negative, the amount of performance fees included in investment fees and costs in the example must be zero.
- (4) If there is a range in the amount of investment fees and costs that may be charged for a MySuper product or an investment option offered by a superannuation entity, the example must use the highest investment fees and costs in the range.

Transaction costs

- (4A) The example of transaction costs for a MySuper product or an investment option offered by a superannuation entity is the amount of transaction costs net of any amount recovered by the buy-sell spread, applied to an amount of \$50,000 or an amount that is a multiple of \$50,000 if clause 215 applies.

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

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

218A Management fees and costs, performance fees and transaction costs for a collective investment product

Management fees and costs

- (1) The example of management fees and costs for an investment option offered by a managed investment scheme is applied to an

amount of \$50,000 or an amount that is a multiple of \$50,000 if clause 215 applies.

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

- (2) If there is a range in the amount of management fees and costs that may be charged for an investment option offered by a managed investment scheme, the example must use the highest management fees and costs in the range.
- (3) Any dollar based management fees and costs that are deducted directly from a product holder's account must be shown separately in the management fees and costs cell.

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

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

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

Performance fees

- (3A) The example of performance fees for an investment option offered by a managed investment scheme is applied to an amount of \$50,000 or an amount that is a multiple of \$50,000 if clause 215 applies.

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

- (3B) Where the amount for performance fees is negative, the amount of performance fees in the example must be zero.

Transaction costs

- (4) The example of transaction costs for an investment option offered by a managed investment scheme is the amount of transaction costs net of any amount recovered by the buy-sell spread, applied to an amount of \$50,000 or an amount that is a multiple of \$50,000 if clause 215 applies.

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

- (5) If there is a range in the amount of transaction costs that may be charged for an investment option offered by a managed investment scheme, the example must use the highest transaction costs in the range.

219 Withdrawal fees and exit fees

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

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

Superannuation entities

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

Managed investment schemes

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

Division 6A—Cost of Product Information

220A Superannuation products

- (1) Cost of product information for each MySuper product offered by the superannuation entity and each investment option offered by the entity:
 - (a) must be included in the “Fees and other costs” section of the Product Disclosure Statement, following the “Example of Annual Fees and Costs”;

- (b) must include the following heading and text immediately before the presentation of the first cost of product information:

Cost of product for 1 year

The cost of product gives a summary calculation about how ongoing annual fees and costs can affect your superannuation investment over a 1-year period for all superannuation products and investment options. It is calculated in the manner shown in the Example of annual fees and costs.

The cost of product information assumes a balance of \$50,000 at the beginning of the year. (Additional fees such as a buy-sell spread may apply: refer to the Fees and costs summary for the relevant superannuation product or investment option.)

You should use this figure to help compare superannuation products and investment options.

- (c) must be set out as using the following form:

<i>[insert name of superannuation product or investment option]</i>	Cost of product \$[]
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and

- (d) must be calculated in accordance with the method set out in the Example of Annual Fees and Costs in clause 211 and Division 6.
- (2) Cost of product information is not required in a Product Disclosure Statement for a defined benefit fund.

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

- (3) Cost of product information is not required in a Product Disclosure Statement where the Statement relates to only one product or option and an Example of Annual Fees and Costs has been included in relation to that product or option in accordance with Division 5.

220B Collective investment products

- (1) Cost of product information for each investment option offered by the managed investment scheme:
- (a) must be included in the “Fees and other costs” section of the Product Disclosure Statement, following the Example of Annual Fees and Costs;
 - (b) must include the following heading and text immediately before the presentation of the first cost of product information:

Cost of product for 1 year

The cost of product gives a summary calculation about how ongoing annual fees and costs can affect your investment over a 1-year period for all investment options. It is calculated in the manner shown in the Example of annual fees and costs.

The cost of product assumes a balance of \$50,000 at the beginning of the year with a contribution of \$5,000 during the year. (Additional fees such as an establishment fee or an exit fee may apply: refer to the Fees and costs summary for the relevant option.)

You should use this figure to help compare this product with other products offered by managed investment schemes.

- (c) must be set out as using the following form;

<i>[insert name of investment option]</i>	Cost of product \$[]
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and

- (d) must be calculated in accordance with the method set out in the Example of Annual Fees and Costs in clause 212 and Division 6.
- (2) Cost of product information is not required in a Product Disclosure Statement where the Statement relates to only one investment option and an Example of Annual Fees and Costs has been included in relation to that option in accordance with Division 5.

Division 7—Consumer Advisory Warning

221 Consumer advisory warning

(1) *Superannuation products*

DID YOU KNOW?

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

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

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

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

TO FIND OUT MORE

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

(2) *Collective investment products*

DID YOU KNOW?

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

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

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

You may be able to negotiate to pay lower fees. Ask the fund or your financial adviser.

TO FIND OUT MORE

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

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

222 Where to place the Consumer Advisory Warning

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

Part 3—Fees and costs in periodic statements

Division 1—Fees and costs

301 Amounts deducted and other amounts

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

Fees deducted directly from your account

\$[]

This amount has been deducted directly from your account (reflected in the transactions listed on this statement).

Fees and costs deducted from your investment

\$[]

This approximate amount has been deducted from your investment and covers amounts that have reduced the return on your investment and that are not reflected as transactions listed on this statement or in the Additional explanation of fees and costs.

- (1A) For a collective investment product, the following text and the appropriate amounts, in dollars, must be inserted after the part of the periodic statement that itemises transactions during the period under the heading “Fees and costs summary”.

Fees deducted directly from your account

\$[]

This amount has been deducted directly from your account (reflected in the transactions listed on this statement).

Fees and costs deducted from your investment

\$[]

This approximate amount has been deducted from your investment and covers amounts that have reduced the return on your investment and that are not reflected as transactions listed

on this statement or in the Additional explanation of fees and costs.

- (2) The amount:
 - (a) deducted directly from an account is the total of the amounts of fees deducted shown on the transaction list in the periodic statement; and
 - (b) deducted from the investment is the apportioned amount of fees and costs for the product or option that are not:
 - (i) excluded transactional and operational costs;
 - (ii) reflected in paragraph (a); and
 - (iii) reflected in paragraph 303(1)(a) or paragraphs 303(2)(a) and (b).
- (3) The amounts in subclauses (1) and (1A) must be shown as a single total amount in dollars.
- (4) For a superannuation product that is subject to tax—if a reduced fee or cost is disclosed in the statement because of the benefit of any income tax deduction, the fees and costs deducted from your investment for the product must include the part of the cost that reduced the disclosed fee or costs.
- (5) For a collective investment product that is subject to tax—if a reduced fee or cost is disclosed in the statement because of the benefit of any income tax deduction, the fees and costs deducted from your investments must include the part of the cost that reduced the disclosed fee or cost.

Division 2—Total fees and costs

302 Total of fees and costs in the periodic statement

- (1) The following text and the appropriate amounts, in dollars, must be displayed:
 - (a) after the information in subclause 301(1) or (1A); or
 - (b) in a summary part of the periodic statement.

TOTAL FEES AND COSTS YOU PAID

\$[]

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

- (2) The total fees and costs you paid are the total of all fees and costs disclosed in the periodic statement, including any fees detailed in paragraph 303(1)(a) or paragraphs 303(2)(a) and (b).

Division 3—Additional Explanations of Fees and Costs

303 Matters to be included as Additional Explanation of Fees and Costs

Superannuation products

- (1) The following information must be included in the periodic statement for a superannuation product under the heading “Additional explanation of fees and costs”, if it has not been included in another part of the periodic statement:
 - (a) details of any activity fees, advice fees and insurance fees that were incurred by the member during the period; and
 - (b) for a superannuation product that is subject to tax—whether the benefit of any tax deduction has been passed on to the investor in the form of a reduced fee or cost; and
 - (c) a statement that if the account balance for a MySuper product or a choice product offered by the superannuation entity is less than \$6,000 at the end of the entity’s income year:
 - (i) certain fees and costs charged to you in relation to administration and investment for the MySuper product or a choice product are capped at 3% of the account balance; and
 - (ii) any amount charged in excess of that cap must be refunded.

Collective investment products

- (2) The following information must be included in the periodic statement under the heading “Additional explanation of fees and costs”, if it has not been included in another part of the periodic statement:
 - (a) details of incidental fees, such as cheque dishonour fees, that were incurred by the product holder during the period;

- (b) details of any service fees that may have been incurred by the product holder; and
- (c) for a collective investment product that is subject to tax—whether the benefit of any tax deduction has been passed on to the investor in the form of a reduced fee or cost.

Part 3—Consequential amendments

6 Consequential amendments

- (1) Part 7.9 of the Act applies in relation to collective investment products and superannuation products as if that Part were modified or varied as follows:
 - (a) in section 1011B, insert in the following definition in the appropriate alphabetical order:

“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.”;
 - (b) in subsection 1013C(2), omit “The”, substitute “Unless otherwise provided in the regulations, the”;
 - (c) in paragraph 1017B(6)(a), omit “event”, substitute “change or event”.
- (2) Part 7.9 of the Regulations applies in relation to collective investment products and superannuation products as if that Part were modified or varied as follows:
 - (a) omit subparagraph 7.9.15DA(4)(c)(iv), substitute:

“(iv) Divisions 5, 6 and 6A of Part 2 of Schedule 10;”
 - (b) after subparagraph 7.9.16J(a)(iv) insert:

“(v) pensions provided under the rules of a superannuation fund that meet the standards of subregulations 1.06(2), 1.06(6) or 1.06(7) of the SIS Regulations; and”
 - (c) omit paragraphs 7.9.16N(2)(a) and (b), substitute:
 - (a) the Fees and Costs Summary and Additional Explanation of Fees and Costs set out in Part 2 of Schedule 10; and
 - (b) an Example of Annual Fees and Costs and associated notes, and Cost of Product Information, as set out in Part 2 of Schedule 10; and”;
 - (d) in regulation 7.9.16T, omit the notional paragraph 1015D(2)(b) of the Act and the note, substitute:

“(b) a change is made to the fees and charges set out in the Fees and Costs Summary in the Statement;

Note: The Fees and Costs Summary is set out in clauses 201, 202 and 202A of Schedule 10 to the *Corporations Regulations 2001*.”;

- (e) in subregulation 7.9.60B(6) omit “fees and costs template”, substitute “Fees and Costs Summary”
- (f) in subregulation 7.9.60B(7) omit “template.”, substitute “Fees and Costs Summary.”

(g) omit paragraph 7.9.75(1)(b);

(h) omit the Note in subclause 8(1) of Schedule 10D, substitute:

Note: The statement will be made using the Fees and Costs Summary in accordance with subclause (3).

(i) omit subclause 8(3) of Schedule 10D, substitute:

- (3) Section 6 must set out the fees and costs for each MySuper product or other investment option that is presented in section 5 in detail in accordance with subclause 7(3) in the form of the following Fees and Costs Summary:

Fees and costs summary

[Name of superannuation product]

Type of fee or cost	Amount	How and when paid
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Ongoing annual fees and costs¹

Administration fees and costs

Investment fees and costs²

Transaction costs

Member activity related fees and costs

Buy-sell spread

Switching fee

Other fees and costs³

1. If your account balance for a product offered by the superannuation entity is less than \$6,000 at the end of the entity’s income year, certain fees and costs charged to you in relation to administration and investment are capped at 3% of the account balance. Any amount charged in excess of that cap must be refunded.
2. [Where the amount for performance fees is zero or positive, insert a footnote *Investment fees and costs includes an amount of x.xx% for performance fees. The calculation basis for this amount is set out under “Additional explanation of fees and costs”*. Where the amount for performance fees is negative, insert a footnote *Information about performance fees is set out under “Additional explanation of fees and costs”*]

3. *[If there are other fees and costs, such as activity fees, advice fees for personal advice or insurance fees, include a cross-reference to the “Additional explanation of fees and costs”.]*
- (j) in subclause 8(4) of Schedule 10D, omit “template”, substitute “Fees and Costs Summary”;
- (k) in paragraph 8(6) of Schedule 10D, omit “template”, substitute “Fees and Costs Summary”;
- (l) omit paragraph 8(6A)(a) of Schedule 10D, substitute:
- “(a) apply, adopt or incorporate the definitions in relation to fees mentioned in subsection 99BA(2) of the SIS Act or clause 101 of Schedule 10; and”;
- (m) in subclause 8(7) of Schedule 10D, omit “a worked example”, substitute “an Example of Annual Fees and Costs”;
- (n) in subclause 8(7A) of Schedule 10D, omit “The example”, substitute “the Example of Annual Fees and Costs”;
- (o) omit the Note in subclause 8(1) of Schedule 10E, substitute:
- Note: The statement will be made using the Fees and Costs Summary in accordance with subclause (3).
- (p) omit subclause 8(3) of Schedule 10E, substitute:
- (3) Section 6 must set out the fees and costs for each investment option that is presented in section 5 in detail in accordance with subclause 7(3) in the form of the following Fees and Costs Summary:

Fees and costs summary

<i>[Name of collective investment product]</i>		
Type of fee or cost	Amount	How and when paid
Ongoing annual fees and costs		
<i>Management fees and costs</i> The fees and costs for managing your investment ²		
<i>Performance fees</i> Amounts deducted from your investment in relation to the performance of the product		

<i>[Name of collective investment product]</i>		
Type of fee or cost	Amount	How and when paid
<i>Transaction costs</i> The costs incurred by the scheme when buying or selling assets		
Member activity related fees and costs (fees for services or when your money moves in or out of the scheme)¹		
<i>Establishment fee</i> The fee to open your investment		
<i>Contribution fee²</i> The fee on each amount contributed to your investment		
<i>Buy-sell spread</i> An amount deducted from your investment representing costs incurred in transactions by the scheme		
<i>Withdrawal fee²</i> The fee on each amount you take out of your investment		
<i>Exit fee²</i> The fee to close your investment		
<i>Switching fee</i> The fee for changing investment options		

1. *[If there are other service fees, such as advice fees or special request fees, include a cross-reference to the “Additional explanation of fees and costs”.]*

2. This fee includes an amount payable to an adviser. (See Division 4, “Adviser remuneration” under the heading “Additional explanation of fees and costs”.)

- (q) in subclause 8(4) of Schedule 10E, omit “template”, substitute “Fees and Costs Summary”;
- (r) in subclause 8(6) of Schedule 10E, omit “template”, substitute “Fees and Costs Summary”;
- (s) in subclause 8(7) of Schedule 10E, omit “a worked example” (wherever occurring), substitute “an Example of Annual Fees and Costs”.

Part 4—Transitional

7 Application to Product Disclosure Statements

This instrument applies to Product Disclosure Statements given on or after 30 September 2020.

8 Application to periodic statements

- (1) This instrument applies to periodic statements for reporting periods commencing on or after 1 July 2021.

Election

- (2) A person may, in accordance with subsection (3), elect to apply this instrument to a periodic statement for a reporting period (an *earlier reporting period*) that:
 - (a) commences on or after 1 July 2020; or
 - (b) ends on a day (the *exit date*) that is on or after 1 July 2020 if the reporting period ends on the exit date because the holder of the product ceased to hold the product on the exit date.
- (3) A person elects to apply this instrument to a periodic statement for an earlier reporting period if the person makes a written record of:
 - (a) the financial products to which the election relates;
 - (b) the reporting periods to which the election relates; and
 - (c) the date or dates the election is made.
- (4) If a person elects to apply this instrument to a periodic statement for an earlier reporting period, this instrument applies to the periodic statement.

Note: The effect of making an election in relation to a periodic statement in accordance with subsection (3) is that ASIC Class Order [CO 14/1252] does not apply to the periodic statement: see paragraph 14 of that class order.