



New Product Disclosure Statement Regulations commence

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The Corporations Amendment Regulations 2010 (No.5) commenced on 22 June 2010, aimed at ensuring that a Product Disclosure Statement (PDS) is short and simple for margin loans, superannuation products and simple managed investment schemes.

Under the *Corporations Act 2001* (Cth) (Act), superannuation interests, managed investment schemes and, more recently, margin loans are all considered 'financial products'. As a result, the general disclosure rules of the Act apply. While the Act states that the information included in the PDS must be worded in a "clear, concise and effective manner", there was otherwise no limit on the length of a PDS.

What do the Regulations set out to achieve?

With the Regulations introducing a maximum length for a PDS, it is hoped that potential investors will take the time to read the information contained in the document and consequently make better informed decisions. In turn, the new regime is said to be more accessible and user friendly for consumers.

Although it is intended that the new regime will be less costly for business to produce, it remains to be seen how issuers will adapt to the restrictions imposed on them (such as the prescribed length titles and content, and the inability to issue a supplementary PDS). Reduced flexibility may make disclosing specific risks raised by a particular investment in a sufficiently prominent way problematic, with flow on implications for issuers and consumers.

Margin loan PDS

A PDS for margin loans must not exceed **four** A4 pages and must include sections which are to be numbered and titled as follows:

1. About [name of provider of the margin loan] and [name of margin loan product]
2. Benefits of [name of margin loan product]
3. How [name of margin loan product] works
4. What is a margin call?
5. The risk of losing money
6. The costs
7. How to apply

Superannuation PDS

A PDS for superannuation products must not exceed **eight** A4 pages and must include sections which are to be numbered and titled as follows:

1. About [name of superannuation product]
2. How super works
3. Benefits of investing with [name of superannuation product]
4. Risks of super
5. How we invest your money
6. Fees and costs
7. How super is taxed
8. Insurance in your super
9. How to open an account

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Simple managed investment scheme PDS

Only 'simple managed investment schemes' are subject to the new regime. In general terms, these schemes have at least 80 per cent of their assets in certain bank deposits or other investments that are easily realisable (for example, assets that can be sold for market value within ten days).

A PDS for simple managed investment schemes must not exceed eight A4 pages and must include sections which are to be numbered and titled as follows:

1. About [name of responsible entity]
2. How [name of simple managed investment scheme] works
3. Benefits of investing in [name of simple managed investment scheme]
4. Risks of simple managed investment schemes
5. How we invest your money
6. Fees and costs
7. How simple managed investment schemes are taxed
8. How to apply

Can additional information be provided?

Further material can be provided outside the PDS as long as there is a reference included in the PDS telling consumers where to find that information (commonly a website). This information may be either 'incorporated by reference' (only if it relates to one of the topics specified under the headings, or by another law) or 'otherwise referred to'.

This additional information is subject to the liability and enforcement provisions under the Act and the Australian Securities and Investments Act 2001 (Cth). This ensures that consumers continue to be effectively protected against any defective or misleading information included in the PDS and its associated material.

If a PDS needs to be updated, it must be replaced, as there is no provision for issuing a supplementary PDS. The

Government's rationale behind this was that a PDS under the regime would only have to be amended rarely and only if there were major changes required. Given that the PDS would be a very short document, the Government considered it appropriate that a new PDS be issued, instead of a supplementary PDS.

When does the new regime apply?

The provisions for superannuation and simple managed investment scheme PDSs are being phased in over 24 months. From 22 June 2011, businesses will have to comply with the new regime if they amend an existing PDS or offer new products requiring a new PDS.

The margin loan PDS provisions apply from 1 January 2011, coinciding with the date when margin loans come under Commonwealth regulation as a result of the Corporations Legislation Amendment (Financial Services Modernisation) Act 2009 (Cth).

From 22 June 2012, all PDSs for products for which the new regime applies will need to comply.

PricewaterhouseCoopers can assist by advising you on the impacts of the new regulation as well as assisting you to draft – or redraft – your product disclosure statements to meet the new requirements.

For further information, please contact your usual PricewaterhouseCoopers adviser or:

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