

Regulatory Guide 97 – Our observations on RG97 PDS updates

Considerations for periodic statements and where to from here



Product disclosure statements

Background

In November 2015, ASIC amended the enhanced fee disclosure regulations and updated Regulatory Guide 97—*Disclosing fees and costs in PDSs and periodic statements (RG97)*. The application of RG97 in Product Disclosure Statements' (PDS) disclosures came into effect from 30 September 2017 for those participants that applied for deferral. For new Funds established since 1 February 2017, RG97 is already in effect.

Our observations on RG97 PDSs updates

The objective of RG97 is to create consistency and transparency in the disclosure of fees and costs that make up the net investment return. RG97 allows discretion on the part of the RE and RSE in relation to treatment of certain fees and costs as well as the judgement involved in ascertaining whether a fund invests through an interposed vehicle.

Based on our interactions with ASIC and a large number of Responsible Entities (REs) and Registrable Superannuation Entities (RSEs) in relation to RG97 over the past year we have noted some variability in reported results across asset classes and between REs and RSEs, including:

- total fees and costs reported has increased across most asset classes. RSEs have seen larger increases than REs;
- the highest increase in Indirect Cost Ratio (ICR) was reported in the property, infrastructure and alternative investment asset classes;
- there is a high variability in transactional & operational costs reported in PDSs; and
- we noted a range of approaches and levels of documentation among market participants in relation to aspects of RG97 such as RG97 methodology documentation and definitions of materiality.

It is important to note that RG97 is a change to the disclosure of fees and costs, but should not impact the fees and costs performance of these products.

RG97 is not clear and most industry participants have relied on industry guidance and Q&As provided by ASIC.

Key judgmental aspects

While industries participants have updated their PDSs to meet the 30 September 2017 deadline, there is still debate between ASIC and the industry in relation to the treatment required under RG97. Implementation of RG 97 has increased the variability in reported fees and costs as entities interpret and apply the requirements of RG97 differently.

Judgmental aspects of RG97 contributing to these differences include:

- Treatment of property costs and REITs as interposed vehicles versus final investments
- Methodology used to determine the implicit transaction costs (bid/ask spread) for all types of investments
- Determination of which costs can be included in the ICR for a superannuation fund
- Differing interpretations for treatment of borrowing costs for Management Investment Schemes (MIS)
- Qualitative & quantitative materiality considerations in relation to inclusion or exclusion of fees and costs
- Treatment of administrative fee for superannuation funds (grossed up or not for tax)
- Lack of clarity in total fees paid by investor & inconsistencies between MIS and Super.

How can PwC help?



Post-implementation review of methodology and calculations supporting PDSs



Review of methodology and calculations supporting periodic statements



Review of proposed communications with stakeholders (media releases, script for call centres, board communications etc.)

Periodic statements

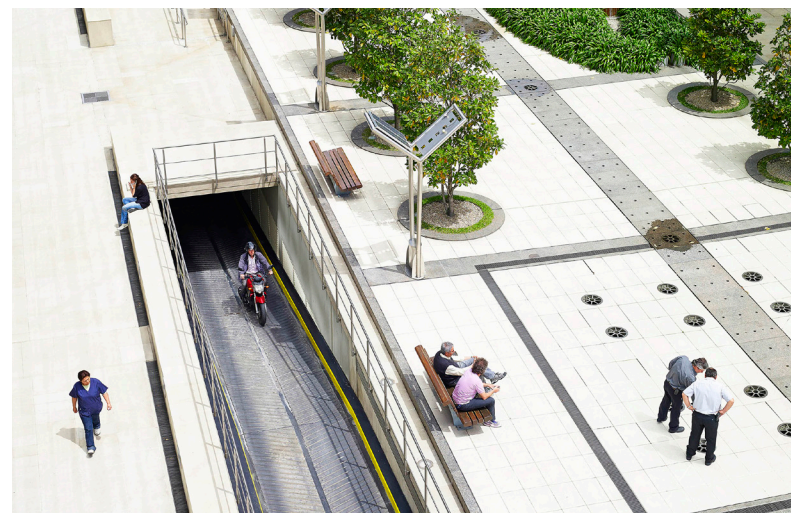
From 1 January 2018, industry participants are required to update disclosures required in periodic statements.

An industry working group comprising a number of industry participants and associations including the AIST and FSC has issued on 24 November 2017 an industry wide toolkit on RG97 which provides detailed guidance and examples both for PDS and periodic statements disclosures.

What's next?

ASIC reviews

ASIC has communicated its intention to engage in a variety of compliance activities including an industry-wide review as well as on-site reviews. These reviews will commence post completion of the independent expert consultation process, which is expected around mid 2018. ASIC has communicated that entities should continue to comply with RG97 on a best endeavors basis. Given the complexity associated with adoption and interpretation of RG97, the documentation of methodology and calculations supporting disclosures, governance over fees and costs as well as communications to all stakeholders (media releases, script for call centres, board communications etc.) is extremely critical.



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