

PwC summary of ASIC Consultation Paper 308 on RG97



Overview

8 January 2019 ASIC released its long-awaited Consultation Paper (CP 308) in relation to proposed amendments to the Regulatory Guide 97 *Disclosing fees and costs in PDSs and periodic statements* (RG97). This follows Darren McShane's (the independent expert) review report of the fees and costs disclosure regime of August 2018 issued to ASIC. ASIC requires any comments on CP 308 by industry participants to be sent via email by 2 April 2019.

The response by ASIC to comments provided by industry on CP 308 is expected to be released in the second half of 2019 and will take the form of a revised Class Order [CO 14/1242], technical modifications to Schedule 10 of the *Corporations Regulations* and an updated RG97. While the industry waits for ASIC's updated RG97, ASIC has reminded entities to continue to comply with RG97 on a best endeavours basis.

ASIC Consultation Paper 308 buckets Darren McShane's recommendations into three categories:



Recommendations from the independent expert report that ASIC proposes to adopt and which will require amendments to Schedule 10 to the Corporations Act.



Recommendations which ASIC proposes to adopt and which do not require amendments to Schedule 10 of the Corporations Act.



Recommendations and observations made by the independent expert that ASIC proposes not to adopt at this stage.

Key highlights of the ASIC consultation paper:

ASIC proposes to adopt:

- ✓ Reducing differences between superannuation product and managed investment product fee disclosure
- ✓ Not requiring property operating costs, borrowing costs and implicit transaction costs to be disclosed in PDSs and periodic statements
- ✓ Removing the distinction between performance fees and performance-related fees
- ✓ Performance fees to be calculated by reference to the average of each of the previous five financial years instead of one year
- ✓ Providing guidance to improve consistency in presentation of fee information in the 'Fees and costs template' across superannuation funds and managed investment schemes (MIS).
- ✓ Simplifying periodic statements by introducing 3 lines: Fees deducted from your account, Fees and costs deducted from your investment and Total fees and costs you paid.
- ✓ After the amendments to the fees and costs regime have been finalised, developing and implementing a surveillance strategy for RG97 compliance.

ASIC proposes not to adopt:

- ✗ Enhancements to disclosure requirements for platforms to improve comparison between platform and non-platform based products
- ✗ Conducting a feasibility study into a consumer comparison tool
- ✗ Explaining transactional and operational costs to consumers within the context of information about returns.

Further details of ASIC’s key proposals set out in CP 308 are summarised below:

Table 1: Recommendations ASIC proposes to adopt that require amendments to Schedule 10 of the Corporations Act

<p>1. Changing the superannuation product ‘Fees and costs template’ such that:</p> <ul style="list-style-type: none"> ongoing annual fees and costs are disclosed separately to member activity related fees and costs. Ongoing fees and costs to separately disclose: <ul style="list-style-type: none"> admin fees, including advice fees, and indirect costs (grouped together) investment fees and indirect costs (grouped together) <p>4. Simplifying periodic statements by introducing the following 3 lines:</p> <ul style="list-style-type: none"> Fees deducted from your account Fees and costs deducted from your investment Total fees and costs you paid. 	<p>2. Changing the treatment of transactional and operational costs such that</p> <ul style="list-style-type: none"> explicit transaction costs and counterparty spreads are a separate line item in the ‘Fees and costs template’ and are included in the ‘Cost of Product information’ not requiring property operating costs, borrowing costs and implicit transaction costs to be disclosed in PDSs and periodic statements. <p>5. Including ‘Cost of product information’ where the fee example is extended to all MySuper products and investment options for MIS products.</p>	<p>3. Removing the distinction between performance fees and performance-related fees</p> <ul style="list-style-type: none"> Performance fees to be calculated by reference to the average of each of the previous five financial years or if less than 5 years, the number of financial years in which it operated or had a performance fee charging mechanism in place Allowing issuers to set out related performance information in the ‘Additional explanation of fees and costs’. <p>6. Clarifying the treatment of costs paid out of reserves to make it clear that investment and admin fees and costs include costs met through the use of reserves.</p>
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Table 2: Recommendations which ASIC proposes to adopt and which do not require amendments to Schedule 10 of the Corporations Act.

<p>1. Consumer testing some proposed changes, including fees and costs template, aggregation of admin and investment fees and changing the Additional explanation of fees and costs to Fees and costs details.</p> <p>4. Updating guidance on periodic statement content for defined benefit members so that this guidance applies to any defined benefit member in a superannuation entity, instead of only to superannuation entities where all members are defined benefit members.</p> <p>7. Explaining the purpose and context of the fees and costs disclosure regime.</p> <p>10. Making a consolidated version of Schedule 10 available on ASIC’s website.</p>	<p>2. Developing additional resources and information for consumers to explain the importance and relevance of fees and costs when making decisions about superannuation products and managed investment products.</p> <p>5. Working with industry bodies that represent advisers to clarify how fees and costs disclosure should be used when giving advice about choice of products.</p> <p>8. Providing guidance to improve consistency in presentation of fee information in the ‘Fees and costs template’.</p> <p>11. After the amendments to the fees and costs regime have been finalised, developing and implementing a surveillance strategy over RG97.</p>	<p>3. Guidance on including a prominent statement in the ‘Fees and costs template’ for platforms indicating that the fees and costs charged by the platform relate only to gaining access to the accessible financial products, and do not include the fees and costs that may be charged by the issuers of accessible financial products.</p> <p>6. Clarifying in RG97 the treatment of amounts paid by third parties or offset against other amounts.</p> <p>9. Reducing differences between superannuation product and managed investment product fee disclosure.</p>
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Table 3: Recommendations and observations made by the independent expert that ASIC proposes not to adopt at this stage.

<p>1. Explaining transactional and operational costs to consumers within the context of information about returns, i.e. what part of gross returns goes to the member, the provider and related parties and what part is consumed by other cost impacts.</p> <p>4. Changing indirect cost ratio to indirect costs in the ‘Fees and costs template’ for superannuation products to avoid confusion as other line items are expressed as a fee or cost.</p>	<p>2. Enhancing disclosure requirements for platforms to improve comparison between platform and non-platform based products.</p> <p>5. Consistency in the way fees and costs information is incorporated by reference to other documents/sources.</p>	<p>3. Observations for the future, for example on how to assist members with better decision making (e.g. showing how total returns are allocated between members, providers, related parties, etc.) as well as consideration of the impact of technological developments on the delivery of information.</p> <p>6. Conducting a feasibility study into a consumer comparison tool.</p>
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How can PwC help?



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.)



RG97 training to directors, client teams and other key stakeholders

Contacts

Please reach out to any of the below contacts should you wish to obtain further information on the expert review and its consequences.



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