



Investment & Financial Services Association Ltd

**IFSA Submission on
Facilitating online financial services disclosures**

Dated: 3 June 2008

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IFSA letter to John Price dated 28 May 2008

PART I – INTRODUCTION

1 Background

IFSA and its members strongly support the progression of electronic disclosure and welcome ASIC's initiatives in this regard. We firmly believe that electronic disclosure is the most sensible, efficient and effective form of disclosure and that it represents beyond any doubt the way of the future.

We thought it would be useful to set out some context to our submission. We canvass below a number of different issues which we believe are key to the evolution of on-line and other forms of electronic disclosure. We note that when we (and others in the industry) refer to 'electronic disclosure' (or 'e-disclosure'), the reference is to disclosure via an electronic medium generally rather than disclosure made to an investor through a specific electronic means, such as an email.

We also include within 'electronic disclosure', the concept of disclosure by making the material available via an electronic medium (such as a website) which we shall call 'e-accessibility'.

2 State of Play Prior to the Consultation Paper 93 (CP)

The status of non-paper disclosure prior to the CP is as follows:

Disclosure can be effected under the existing provisions of the Corporations Act without recourse to a physical paper document in several key areas. These are broadly:

(a) **Incorporation by Reference (IBR)**

The new IBR regime (which will be the subject of a separate submission to ASIC) allows for, in essence, partial paperless disclosure insofar as specified material can be incorporated via an electronic medium.

This is an important development, as the policy infrastructure of IBR is that investors can be expected to access that electronic (or other) medium or else they can elect to receive a paper copy of the relevant information. This opt-out mechanism is common to a number of provisions of chapter 7.9 as can be seen from the discussion below.

(b) **Class Order Relief in respect of section 1012IA**

This regime adopts the same methodology insofar as investors are not required prima facie to be given the underlying disclosure document ordinarily required by section 1012IA unless he or she specifically requests a copy of such document.

(c) **Other specific provisions of Chapter 7.9**

Various other provisions of chapter 7.9 allow documents to be made available in a paperless application, including via an electronic medium, by specific exception or prescription.

For example:

- (1) section 1012D(2) where a PDS does not have to be given to a client in certain circumstances where the issuer reasonably believes that the client has either received or has access to the information required by the PDS.
- (2) Regulation 7.9.02A whereby a PDS need not be given (including in paper form) if the PDS is made available to the person in a way agreed by the person and the issuer is reasonably satisfied that the person has received the statement. This last mode of disclosure is similar to other provisions of

chapter 7.9 which allow the provision of information in a way agreed with the client as we now comment on.

(d) **The general provisions of chapter 7.9 allowing electronic disclosure by agreement with the client**

As noted in Appendix 1 of the CP the current provisions of chapter 7.9 allow for the provision of **all** relevant disclosure material in a way agreed to by the client.

It is IFSA's view, and the prevailing view of the industry as well as the legal fraternity, that these provisions of chapter 7.9 **currently** allow for the provision of information via a website (what we have referred to as e-accessibility) where that is agreed by the client.

As commented upon below, this is an extremely significant point and has major ramifications for the CP.

We now then turn to the approach or approaches taken in relation to electronic disclosure by the industry.

3 Industry Practice(s)

At the outset we note that clearly practices of different industry participants will differ.

However, there are clear trends and clearly prevalent practices which we will now describe.

Most importantly, a large and significant number of participants already make information available through electronic disclosure (in the form of e-accessibility).

They do this by obtaining the consent of their relevant clients, in accordance with the existing enabling provisions of the Corporations Act, for the information to be provided via an electronic medium such as a website.

For many, if not most issuers, this is an on-going exercise designed to bring as many of their investors into the paperless disclosure regime as they can.

It can be appreciated that this is typically a process which takes considerable time, effort, resources and money.

The process typically starts with new investors at a given point in time being asked to provide their consent to e-disclosure and then progressively the issuer would seek similar consent from existing investors.

The point to be noted here is that the **current** Corporations Act regime:

- already allows for the outcomes contemplated in the CP (as the subject of future relief); and
- is the subject of quite large take-up by a large number of institutions.

Equally important is the fact that the requirements of the **current** regime are less prescriptive than the relief regime contemplated by the CP.

Specifically:

- there is no express requirement for positive, express and clear consent;
- there is no requirement for that consent to be sought through an email process; and
- there is no requirement for the protective mechanisms provided for in table 3 (at page 15 of the CP) to be adopted.

4 The proposed relief under the CP

As mentioned, we welcome the efforts and focus on ASIC on better disclosure through online and other forms of e-disclosure.

It follows, however, from paragraph 3 that much of the relief discussed in the CP is not required and, moreover, it would, if brought into effect, actually hamper and restrict the existing disclosure methodology for many issuers. This is primarily because it is more restrictive than the current part 7.9 regime. It would necessitate enormous cost and time to effectively undo the procedures already adopted by these institutions which they implemented in accordance with the requirements of the Corporations Act.

On the other hand, some aspects of the CP represent beneficial and desirable changes in terms of the key objective of evolving towards better disclosure.

In particular:

- the clarification around the use of hyperlinks; and
- the model adopted in the case of annual superannuation reports (which we still refer to as the E-accessibility Model).

As we elaborate on below, in IFSA's submission, the E-accessibility Model represents the logical evolution of electronic disclosure for, in fact, all relevant disclosure material discussed in the CP.

5 Summary of relevant principles

At this stage, it is probably useful to summarise what we regard as the key issues and principles which, in our view, are relevant to the content of the CP.

These are:

- (a) the existing regime under the Corporations Act already allows for e-disclosure through agreement with a client;
- (b) it does so in a less prescriptive and more flexible manner, without compromise to any protection of clients;
- (c) this regime has been adopted in a widespread manner by the industry;
- (d) the CP does, however, contain a number of measures and clarifications which are key planks in the progression of e-disclosure, including hyperlinks and annual report disclosure.

We now turn to the general framework of IFSA's submission on the CP.

6 IFSA's submission

IFSA submits that the CP should utilise the E-accessibility Model for all relevant disclosure under part 7.9.

The reasons underpinning this position are as follows:

- (a) the current law already allows for all measures proposed in the CP (in a less prescriptive manner);
- (b) other areas of the Corporations Act already gravitate towards the E-accessibility Model (see discussion above);
- (c) the E-accessibility Model proposed by ASIC for annual reports is logical and sensible.

- (d) As mentioned below, IFSA submits that this measure be introduced as soon as reasonably possible;
- (e) the Government's 4-6 page PDS model will not be capable of being achieved through any of the existing disclosure provisions including IBR. In the experience of our members, it is not generally possible to produce a 4-6 page PDS using the current IBR regime (this is discussed in the IFSA IBR submission). Substantial changes to the IBR regime would, in fact, be required to produce this result;
- (f) the protective mechanisms proposed by ASIC in the CP in relation to annual reports are, it is submitted, generally appropriate and fit for the purpose of protecting clients (noting that IFSA believes that some minor refinement [as noted in section 8 below] is requested).

IFSA further submits whilst the industry could continue its efforts to bring clients within the e-disclosure regime by seeking their consent, unassisted by ASIC relief, a better outcome for all participants in the industry (including the regulator) would be for relief to be granted in the manner suggested.

We say this because:

- (a) the general thrust of reform has been in this direction (as discussed above);
- (b) the e-accessibility route delivers a better outcome for both clients and issuers;
- (c) it is desirable and equitable to have all clients treated in the same way under the legislation. As a practical matter, it will be extremely difficult for issuers to obtain consent for e-disclosure (either under the existing regime or under the regime proposed by the CP) as some investors will simply not be capable of interacting in relation to a request for an e-disclosure consent. These include lost members, itinerant employees and, in many cases, standard employer-sponsored members more generally;
- (d) the policy outcome of protecting investors will be upheld. It is appreciated that relief may take some time to be implemented. (In addition, some differences in the way different products are treated may emerge.)

7 The annual report relief

As mentioned earlier, IFSA requests that ASIC consider implementation of the e-accessibility model for all relevant disclosure.

We appreciate that this may take some time to implement. In the interim, we request that ASIC introduce the annual report relief as soon as reasonably practicable. In this context, there are immediate time constraints in relation to the next annual report cycle. This was the subject of an earlier submission provided to ASIC on 28 May 2008 (appendix A).

PART II – RESPONSE TO CONSULTATION PAPER 93

A. OUR GENERAL APPROACH TO USING EMAIL AND THE INTERNET

Question A1Q1: Do you agree with our proposed guidance in proposal A1? If not, why not? Are there any practical problems with our proposed guidance? If so, please give details.

A1(a) Guidance for two types of ‘consent’ by clients are proposed by the CP –

- one for disclosure sent as text in an e-mail or attachment to an e-mail or fax where the client has identified either a relevant e-mail address or fax number; and
- another for disclosures (ongoing) sent via hyperlink or notification via a website.

For both forms of disclosure, the CP requires positive, express and clear consent. This is not currently required under the law and, as already expressed, may add an unnecessary burden to Issuers. In addition, the draft CP appears to allow PDSs, SoAs and FSGs to be sent using the first option only. For other communications the second option is available. We are not convinced making a distinction between these two methods is appropriate, or that a distinction necessarily exists in all cases.

Providing an e-mail address can represent an express consent given the right instructions. A number of IFSA members currently use receipt of an e-mail address as an express instruction to provide disclosures to members/investors in this way. It also permits such consent to be provided in other ways (tick a box on applications form or via the website). Just as provision of a postal address has created an expectation that paper copies of information would be mailed to customers, the provision of an email address creates the expectation that information might be provided by electronic means. The law should not prescribe the method of a provider communication with clients.

We suggest ASIC clarifies its proposal and removes the distinction between the two methods so that providing an e-mail address “for communications” (or similar) is all that is necessary, consistent with current business practices.

A1(b) We agree that clients should be able to change their mind about receiving information electronically. However, the question of cost for providing paper copies where electronic access is available should be left to the market. We would anticipate that electronic disclosure will eventually become the norm and that the expense of a paper copy should be borne by the client as it is where a client prints their electronic copy of the information provided.

Large financial service providers may currently benefit from the “scale” associated with printing services. Once there is movement to electronic communication, they will lose the advantage of scale associated with wholesale documentation printing. While no specific determination has yet been made as to the cost impact on the business of a change, a provider should have the flexibility to charge for printing where that process is no longer the normal business approach to the provision of documentation.

A1(c) Agreed.

A1(d) This proposal presents a number of practical and cost issues. Where information disclosures are made available by email it is difficult to determine whether a client has successfully received an email. The underlying infrastructure and protocols on the Internet supporting email do not, at this time, have any mechanism to support non repudiation or guaranteed delivery.

The onus should be placed on the client to advise the issuer or their Representative if they have not received the relevant disclosure document/s. Product providers will themselves pursue appropriate strategies to maintain client contact.

Internet only offerings/online products

Where the financial product or services is an internet only offering – in other words, the product or service can only be obtained and accessed by the client via the internet – the provider should not be required to permit the client to opt to receive information in hardcopy. Online only offerings are priced to take advantage of the reduced costs achieved by providing the product or service electronically. Requiring a provider to also establish an entire process for the provision of hardcopy information is a costly exercise and, in the case of online only offerings, does not enhance a client's access to information and is inconsistent with the agreement. It would not enhance a client's access to information, as the clients of online only offerings can reasonably be presumed to have online access, where the information is already readily accessible.

Question A1Q2: Is our proposed guidance likely to result in additional compliance costs for providers? Please give details, including figures and reasons.

In so far as this Question relates only to the general guidelines proposed in Part A1, the requirement of specific positive, express and clear consent may be different to the manner in which issuers now obtain email addresses and use those addresses to send information to clients. To that extent, there will be additional compliance costs associated with a change in practice and procedure. Impliedly there would also be the cost of revisiting all existing client communication consents as well as changing the process.

We submit, on the basis that we are not aware that clients have expressed any difficulty with the form of consent currently relied upon by our members that ASIC should refrain from specific guidance in the area of 'consent'.

More generally concerning the cost implications associated with an electronic solution to communications with clients, there may be initial establishment costs for changes or refinements to Information Technology (IT) systems. The reasons for these costs could include:

- encrypting the technology to ensure that security concerns are met;
- creating password-protected areas within the websites;
- additional IT staff training; and
- additional resources to implement the appropriate guidelines to compliment the proposals outlined in this Paper.

We believe it is an acceptable policy outcome, as the changes will provide long-term benefits to both clients and Representatives, such as decreased paper usage and costs, faster and more time efficient methods of communicating with clients.

Question A1Q3: Is our proposed guidance likely to result in additional risks or costs for clients? Please give details, including figures and reasons. If you think clients will incur increased costs is this an acceptable policy outcome?

Apart from our concerns, expressed above that there will be an unnecessary cost associated with regulation around 'consent', the cost of moving to an electronic environment for communication with our members' clients, we expect will reduce over time. The sooner the type of approach ASIC recommends in relation to Annual Reports is adopted more generally for all communications, (giving latitude to issuers to accommodate client's needs for alternative communication, as those needs arise) the greater the savings overall.

We do not believe clients will incur any significant additional costs. Where operational expenses impact unit prices, a reduction in such fund expenses through electronic delivery will benefit clients. The larger the scale and the more immediate the change to e-communications generally, the more likely the cost savings. The more gradual the change, the more likely the increase in costs in the short term.

The possibility of the client facing additional risks is minimal and the benefits of providing disclosure documents electronically outweigh the risks.

B. PROPOSED RELIEF TO USE EMAIL AND THE INTERNET TO SEND INFORMATION

Question B1Q1: Do you agree with our proposed relief? If not, why not? For example, should we extend the relief for FSGs to enable providers to use a website as the default method for providing their FSGs?

We agree with the proposed relief notifying clients that the information is available to them on a website. Over time, if they are users of the website, then they would probably see that it is a far quicker and more secure way of getting their information than by post. In the longer term, we would envisage that some providers should be able to dispense with email notification where their information disclosure arrangement is set up in a similar way to banks secure internet banking sites.

Provided that it is made clear to the customer that the default approach for delivery of specified information is via electronic means, then there is no need for email reminders every time information becomes available. They will simply accept that they can retrieve it as a normal part of how their product operates.

In a similar way, when providers offer the electronic information service to existing customers it would be made clear that the retrieval of information is in the hands of the customer. An existing customer who opts in with understanding should not expect to be notified by email.

We agree that the website should be able to be used as the default method for the provision of FSGs. Ideally, this would form part of a robust and efficient incorporation by reference mechanism. For information that is static and not individualised – eg FSGs, PDSs, annual reports and policy documents - we believe it is sufficient that the client is informed of the website where the information can be viewed. Where an SOA recommends financial products, we believe it is sufficient to refer the client to the website where the PDS can be viewed rather than having to provide it to them with the SOA.

Question B1Q2: Please give details of the benefits for providers and/or clients of our proposed relief.

Immediate benefits to clients include:

- access to information is quicker;
- the information accessed will be current;
- it will be easy for clients to store documents (especially as some SOA's and PDS's can be lengthy);
- it will assist clients who live in remote locations;
- it may also assist clients who have a disability, such as a client who is deaf or finds it difficult to leave their home;
- it removes the costs and carbon energy associated with producing printed material for clients.

The proposed relief will save providers significant costs associated with the mailing of disclosure documents. These costs include printing, mail house, warehouse and postage of the disclosure documents. For example, last year, one IFSA member mailed out approximately 600,000 x 60 page A5 documents containing annual fund information for their corporate superannuation business. The cost of printing (alone) these annual reports was approximately \$170,000 and did not include postage costs. With postage included, the cost would have run well into the hundreds of thousands of dollars given the volume of documents required to print.

Question B1Q3: Please give details of the costs and consumer risks created by our proposed relief (e.g. the risk of internet scams or fraud such as phishing). For example, do you think the relief increases the possibility that clients will not read financial services disclosures?

Electronic disclosure is unlikely to increase the possibility of clients not reading financial services disclosures (certainly not any more than the current paper environment). If the client perceives the information to be important, they're more likely to read it / seek it regardless of the delivery mechanism. If there's no perceived value, it's likely to be 'binned'.

We do not believe the costs and consumer risks created by ASIC's proposed relief outweigh the benefits of the relief. While we acknowledge that there will be a level of cost and risk involved, particularly with the use of hyperlinks, we believe it should be up to the provider to determine how best to deal with them. We acknowledge risks associated with fraudulent activities such as phishing and member security issues should be addressed as in the banking sector on an individual provider basis.

The level of risk associated with electronic delivery is dependent on the type/classification of the data that is transmitted. Notification of the existence of information at a website address, whether by direct access or via password use for confidential information, is, we believe, a fundamentally important advancement which does not present significant opportunities for fraudulent activity in our view.

A number of IFSA members have suggested that this is an appropriate area for industry to work with ASIC on the development of appropriate industry guidance.

Question B1Q4: If you think clients will incur increased costs or risks, is this an acceptable policy outcome? For example, do you think the benefits of allowing disclosure to be delivered electronically outweigh the risks?

We do not believe that clients will overall incur increased costs where electronic information disclosure is further facilitated. We do believe there may be increased risks but that the benefits of allowing disclosures to be delivered electronically outweigh the risks.

Significant cost reductions will accrue to financial services providers in the event that we see wholesale changes from paper based communication to electronic medium use in the short term rather than a gradual take-up and such savings should lower the cost to serve and to deliver information and advice to clients. Certainly, the success of Government's eTax initiative and the benefits to clients is a good example of the success of being able to provide information electronically in order to get a more timely outcome.

Question B1Q5: Our proposed relief is limited to Pts 7.6 – 7.9 information requirements. Do you think that ASIC should consider other relief? For example, do you think that relief from Ch 6D is also necessary?

We believe the relief should enable any document that must be given to a client to be given electronically. In other words, if it is necessary for a provider to provide a document under Chapter 6D (for example a prospectus for securities) it should be possible to either deliver it electronically or identify a website where it can be viewed.

Question B2Q1: Do you agree with these requirements? Or do you think we should provide:

- (a) unconditional relief and allow industry associations or individual Australian financial services licensees to develop guidance in relation to our relief; or
- (b) relief subject to only some of the protections?

If it is currently possible to provide information by email or attachment, it should not be necessary to get express consent to provide the information by email with a hyperlink or details of a website where it can be viewed. There is little or no inconvenience in opening a hyperlink or accessing a website, so the additional cost of getting express consent is not justified and we believe will defeat the benefit of providing electronic disclosure in the first place.

We believe the better approach is to allow clear communication at the time of first use of the email address for the purpose.

We believe ASIC should provide unconditional relief and allow individual Australian financial services licensees to develop guidance in relation to ASIC's relief. We believe there is a danger in ASIC being too prescriptive particularly given the fast pace at which technology changes. We submit that the problem with Class Order relief is that if the provider fails one condition, in a fast changing electronic environment, they lose the benefit of the relief altogether

See comments in A1(b) on costs and comments on internet only offerings/online products at A1(d).

For proposal 6, we would prefer that this restriction be removed and replaced by the ability for the client to contact the financial services provider to request the information. If not, a "reasonable period" should be defined. The issue is one that is common to the problems with the existing incorporation by reference requirements.

Question B2Q2: Would those protections result in practical problems or additional compliance costs? In particular:

- (a) will requirement 5 result in significant compliance costs on providers that have a low cost base?; and
- (b) will requirement 6 create practical difficulties? Please give details, including figures and reasons?

In general, we believe the protections suggested will result in additional compliance costs especially in relation to requirement 5 and as stated above may defeat the benefit of providing electronic disclosure in the first place. For requirements 1 and 5 see comments made in relation to A1(b) above on costs.

Proposal 6 gives rise to one of the more difficult issues to manage, being Version control. ASIC must stipulate that the hyperlink takes the client to the exact version of the PDS or to a page where the document can be clearly identified or relates to the advice given. Where documents are updated and placed on a website, an archive needs to be created that stores earlier versions and these need to be easily identified and located.

Question B2Q3: Are there any cost-effective technological enhancements that could make the use of hyperlinks safer for consumers?

This should be a matter for the provider to determine based on the provider's security policy.

Technically, most recognised software protection solutions are cost effective in protecting systems from viruses, bugs, phishing and spyware.

C. PROPOSED RELIEF FOR ANNUAL SUPERANNUATION INFORMATION

Question C1Q1: Do you agree with our proposed relief? Please give details.

We support this proposed relief.

Further, we would also want to ensure that the proposed relief also covers obligations in relation to significant event disclosure. The practice for some IFSA members is to combine non adverse significant event reporting with annual fund reporting. The requirements should accommodate the continuation of this practice as an option.

As outlined in B1Q1, in the long term we think that email notification should not be required where information disclosure arrangement between a provider and their client is set up in a similar way to banks secure internet banking sites

Question C1Q2: Is our proposed relief likely to result in significant compliance cost savings? Please give details including figures.

We believe the proposal will result in significant compliance cost savings. Fundamental to that assumption is the assumption that clients will accept electronic communication of the Annual Report rather than request a paper version. At a recent IFSA Key Issues Presentation Computershare quoted that in the company annual report regime, only about 1 in 10 members request a paper copy and this is expected to decline.

As stated in our response to B1Q2, an example of the current cost of producing annual information for the Corporate Superannuation business of one IFSA member runs well into the hundreds of thousands of dollars given the volume of documents required to be produced each year. Another member has indicated that while fixed costs would obviously remain, they would expect to save 75-80% of the incremental cost on the basis that no more than 1 in 5 clients would request a hard copy.

Question C1Q3: Is our proposed relief likely to result in additional consumer risks or costs? Please give details, including figures and reasons. If you think product holders will incur increased costs, do you think this is an acceptable policy outcome?

In so far as the relief as proposed is stated, we do not believe the relief increases consumer risks or costs. However, we believe relief should be broader to further reduce the costs associated with such publications in paper form as significant event reporting including PDS and policy documents.

The cost savings from this proposal will offset any additional technology costs in providing the information on web sites. These technology costs are acceptable given the potential cost savings.

See comments on A1(b) in relation to costs.

Question C2Q1: Do you agree with our proposed relief requirements? If not, why not?

See comments on A1(b) in relation to costs and A1(d) internet offerings/online products.

The proposed relief is that annual superannuation information for each reporting period can be provided via a website as the default, but the requirements strangely require active follow-

up by the trustee if the member seems to be happy with this default because they haven't made an election to be sent a copy.

- Requirement 1 needs to be reworded to reinforce the website as the default method for providing the information (ie the information will be available on the website unless the member specifically requests a hard copy).

We agree with the proposal that clients be given a one-off notice that superannuation annual reports and other generic information are accessible on a specified website.

We do not agree with the need for 2 mail outs. Item 1 and 6 should be combined.

- Requirements 2, 3 and 5 – OK subject to comments at A1(b) and A1(d). The question of whether issuers charge for paper reports should be left to the market to determine.
- Requirement 4 - why would a member need to request an electronic copy if it's readily accessible on the website (requirement 5) and they have been advised of this (requirement 1).
- Requirement 6 – This follow-up requirement doesn't make sense if we don't actually need to obtain an express election from the member.

D. REGULATORY AND FINANCIAL IMPACT

(a) What are the likely compliance costs?

To the extent that the proposals would increase the compliance burden on the existing requirements and ability of providers to make disclosures to clients electronically, costs would be increased. The effect on compliance costs is otherwise relatively minor and would be outweighed by a reduction in print and associated costs.

(b) What will be the likely effect on competition?

The financial services industry is very competitive and providers seek to gain a competitive advantage through cost reduction. Competition is strongest (ie consumer benefits greatest) when providers are able to develop their own relationship with customers.

Benefits can be limited if restrictive Class Order conditions are imposed. Additionally, such requirements tend to limit innovation.

(c) What may be other impacts, costs and benefits?

IFSA members are supportive of a move to enable electronic disclosure of all regulated documents.

Significant potential savings have been identified by a range of IFSA members. Relatively conservative estimates on individual company savings for the online provision of annual superannuation information (**Super Annual Report**) alone range from APPROXIMATELY \$160,000 to \$2.8M. Individual IFSA member companies have provided a range of indicative cost savings they would realise through the broader adoption of electronic communication with clients. These estimates assume, however, that some clients will continue to request paper documents to be mailed to them.

While immediate savings can be realised if a provider website is the default method of delivering Super Annual Reports significant additional savings can be realised over time if electronic disclosure is permitted to become the norm for client communications.

The potential savings in relation to the electronic provision of Super Annual Reports is indicative of the savings potentially accruing to industry and consumers across all mandatory disclosures. In superannuation alone, based on APRA Annual Superannuation Statistics (issued on 26 March 2008) there were a total of 26,767,000 corporate, industry and retail superannuation accounts as at June 2007. If disclosure via a website were to become the default method for disclosure, we conservatively estimate current industry savings in excess of \$21M for Super Annual Reports. This saving assumes:

1. the average cost of production and postage of a Super Annual Report is approximately one dollar (\$1) - lower for large organisations due to economies of scale but more expensive for smaller companies; and
2. that one in five superannuants elect to receive a printed copy of the Super Annual Report. (NB Computershare Limited has estimated that one in ten shareholders continue to request a printed copy of the company annual report otherwise available electronically).

The indirect savings and, of course, the associated environmental benefits of facilitating electronic would increase the total savings significantly.

The financial services industry in Australia has been quick to adopt technological developments and innovations to improve operations and disclosure to clients. Any relief proposed by ASIC should be broad, non-prescriptive and allow product providers to determine the level of risk or cost at which a service is to be provided to clients. Industry must be permitted over time to transition their operations and, to educate and transition their clients to electronic disclosure systems. We firmly believe that electronic disclosure is the most sensible, efficient and effective form of disclosure and that it represents beyond any doubt the way of the future.



Investment & Financial Services Association Ltd

APPENDIX A

28 May 2008

Mr John Price
Acting Executive Director, Regulatory Policy
Australian Securities & Investments Commission
GPO Box 9827
SYDNEY NSW 2001

Via email: john.price@asic.gov.au

Dear John

ANNUAL SUPERANNUATION INFORMATION CP93 – FACILITATING ONLINE FINANCIAL SERVICES DISCLOSURES

We refer to the proposed relief outlined in the ASIC Consultation Paper 93 – Facilitating online financial services disclosures, and our discussion with you at the ASIC/IFSA Regulatory Affairs Board Committee liaison meeting on the possibility of accelerating relief for the provision of annual superannuation fund information on a website. In view of the procedural constraints within ASIC, you sought an indication of industry's position and ability to make use of such relief in the coming reporting season.

For the relief to be effective this year it would need to be issued **as soon as possible**. There is wide industry support for the use of a website as the default method for giving their members annual superannuation information.

IFSA members have advised that they are already at or near the point of having to put in place commercial arrangements and contracts to provide paper-based annual superannuation reports to fund members. This includes placing orders for paper for the printing of the reports, printing arrangements, and mailing house arrangements. For some products the 'drop dead date' for the finalisation of any statement message information is as early as 4 June 2008.

An example of the current cost of producing annual information for the Corporate Superannuation business of one IFSA member runs well into the hundreds of thousands of dollars given the volume of documents required to be produced each year. Another member has indicated that while fixed costs would obviously remain, they would expect to save 75-80% of the incremental cost on the basis that no more than 1 in 5 clients would request a hard copy. Early relief would lead to significant efficiencies this year.

Proposed conditions of relief

The relief proposed in CP93 is that annual superannuation information for each reporting period can be provided via a website as the default. However, the terms of the relief strangely require active follow-up by the trustee if the member seems to be happy with this default because they haven't made an election to be sent a copy. Specifically in relation to the requirements contained in Table 3 of the CP, we make the following comments:

- Requirement 1 needs to be reworded to reinforce the website as the default method for providing the information (ie the information will be available on the website unless

the member specifically requests a hard copy or an electronic copy to be sent to them – trustees will still send electronic copies to those members who have requested it until the member instructs otherwise.

We agree with the proposal that clients be given a one-off notice that superannuation annual reports and other generic information are accessible on a specified website. We do not agree with the need for 2 mail outs. Item 1 and 6 should be combined.

- Requirements 2, 3 and 5 - OK. However, some providers do not have freecall numbers for all of their products (eg some have low cost ones – 1300 numbers). If freecall numbers were required that could be a significant cost to the industry with eg needing to update references to it on stationary, brochureware etc. Whether or not there is a charge for a call or charge for a copy of documentation should be a matter for the provider having regard to market conditions.
- Requirement 4 - why would a member need to request an electronic copy if it's readily accessible on the website (requirement 5) and they've have been advised of this (requirement 1). A trustee may already received consent on this basis – see comments at first dot point above.
- Requirement 6 – This follow-up requirement doesn't make sense if we don't actually need to obtain an express election from the member.

Further, it is the practice for some IFSA members to combine non adverse significant event reporting with annual fund reporting. We would want to ensure that the proposed relief accommodates the continuation of this optional practice.

Conclusion

We understand that accelerated relief would be limited to Annual Superannuation Statements and not periodic statements which are part of the broader CP93 examination and consideration. We consider that finalising the requirements for the 'annual reports solution' and achieving certainty on this front is an immediate priority.

The complete IFSA submission and response to CP93 will be lodged with ASIC on Monday 2 June 2008. We would be pleased to provide additional information and further discuss any aspect of this submission.

Regards



David O'Reilly
Policy Director – Regulation