



ASIC

Australian Securities &
Investments Commission

CONSULTATION PAPER 308

Review of RG 97 Disclosing fees and costs in PDSs and periodic statements

January 2019

About this paper

This consultation paper sets out our response to the recommendations in [Report 581](#) *Review of ASIC Regulatory Guide 97: Disclosing fees and costs in PDSs and periodic statements* (REP 581).

It seeks feedback on a draft updated Regulatory Guide 97 *Disclosing fees and costs in PDSs and periodic statements* (draft updated RG 97) and proposed amendments to Sch 10 to the Corporations Regulations (draft amendments to Sch 10).

Note: The draft amendments to Sch 10 and the draft updated RG 97 are available on our website at www.asic.gov.au/cp under CP 308.

About ASIC regulatory documents

In administering legislation, ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This paper was issued on 8 January 2019 and is based on the Corporations Act as at the issue date.

Disclaimer

The proposals, explanations and examples in this paper do not constitute legal advice. They are also at a preliminary stage only. Our conclusions and views may change as a result of the comments we receive or as other circumstances change.

Contents

The consultation process.....	5
A Background to the proposals.....	7
Current regulatory framework for fees and costs disclosure for PDSs and periodic statements.....	8
External review of the fees and costs disclosure regime	9
Purpose of this paper.....	10
Impact of other laws on proposals	14
Compliance obligations applying before implementation of consultation outcomes	15
Your feedback.....	16
B Recommendations we propose to adopt that require amendments to Sch 10.....	18
Changing the superannuation product 'Fees and costs template' ..	18
Changing the managed investment product 'Fees and costs template'	21
Including 'Cost of product information'	24
Simplifying periodic statements	26
Changing the treatment of transactional and operational costs	29
Changing the treatment of performance fees.....	36
Clarifying the treatment of costs paid out of reserves	40
Drafting clarification in cl 301(2) of Sch 10	41
C Recommendations we propose to adopt that do not require amendments to Sch 10.....	43
Consumer testing some proposed changes	43
Developing additional resources and information for consumers....	45
Working with industry bodies on choice of product advice	46
Explaining why fees and costs must be disclosed	46
Guidance on including a prominent statement in the 'Fees and costs template' for platforms	47
Clarifying in RG 97 the treatment of amounts paid by third parties or offset against other amounts	48
Periodic statement content for defined benefit members	49
Consistent presentation of fee information in the 'Fees and costs template'	50
Reducing differences between superannuation product and managed investment product fee disclosure	52
Making a consolidated version of Sch 10 available on ASIC's website.....	53
Developing and implementing a surveillance strategy	54
D Recommendations that we do not propose to adopt at this stage.....	55
Conducting a feasibility study into a consumer comparison tool	55
Platform disclosure	56
Consistency in the way fees and costs information is incorporated by reference.....	59
Changing indirect cost ratio to indirect costs in the 'Fees and costs template' for superannuation products	60
Explaining transactional and operational costs to consumers within the context of information about returns	61
Calculating and disclosing performance fees.....	62
Clarifying the drafting in cl 303(2) of Sch 10.....	62
Observations for the future	63

E	Additional proposals	65
	Removing the indirect cost ratio concept.....	65
	Treatment of derivative financial products.....	67
	Changing the structure and content of RG 97	68
	Minor drafting amendments	69
F	Regulatory and financial impact	71
	List of proposals and questions	72

The consultation process

You are invited to comment on the proposals in this paper, which are only an indication of the approach we may take and are not our final policy.

As well as responding to the specific proposals and questions, we also ask you to describe any alternative approaches you think would achieve our objectives.

We are keen to fully understand and assess the financial and other impacts of our proposals, and any alternative approaches. Therefore, we ask you to comment on:

- the likely compliance costs;
- the likely effect on competition; and
- other impacts, costs and benefits.

Where possible, we are seeking both quantitative and qualitative information.

We are also keen to hear from you on any other issues you consider important relating to fees and costs disclosure in Product Disclosure Statements (PDSs) and periodic statements.

Your comments will help us develop our policy on fees and costs disclosure in PDSs and periodic statements for superannuation and managed investment products. In particular, any information about compliance costs, impacts on competition and other impacts, costs and benefits will be taken into account if we prepare a Regulation Impact Statement: see Section F, 'Regulatory and financial impact'.

Making a submission

You may choose to remain anonymous or use an alias when making a submission. However, if you do remain anonymous, we will not be able to contact you to discuss your submission should we need to.

Please note we will not treat your submission as confidential unless you specifically request that we treat the whole or part of it (such as any personal or financial information) as confidential.

Please refer to our privacy policy at www.asic.gov.au/privacy for more information about how we handle personal information, your rights to seek access to and correct personal information, and your right to complain about breaches of privacy by ASIC.

Comments should be sent via email by 2 April 2019 to:

Kathy Neilson
Senior Lawyer, Investment Managers & Superannuation
Australian Securities and Investments Commission
Level 5, 100 Market Street, Sydney, NSW 2000
email: feeandcostdisclosure@asic.gov.au

What will happen next?

Stage 1	8 January 2019	ASIC consultation paper released. Draft updated Regulatory Guide 97 <i>Disclosing fees and costs in PDSs and periodic statements</i> (draft updated RG 97) released. Proposed amendments to Sch 10 to the Corporations Regulations (draft amendments to Sch 10) released.
Stage 2	2 April 2019	Comments due on the consultation paper, draft updated RG 97 and draft amendments to Sch 10.
Stage 3	Expected to be in the second half of 2019	Response to submissions on the consultation paper and conclusions from consumer testing released. Release of: - revised Class Order [CO 14/1252] <i>Technical modifications to Schedule 10 of the Corporations Regulations</i>; and - updated RG 97.
Stage 4	To be determined	Commencement of revised [CO 14/1252]. Guidance in updated RG 97 applies.
Stage 5	Second half of 2019 onwards	Consideration of any outstanding proposals identified for further consideration.

A Background to the proposals

Key points

[Regulatory Guide 97](#) *Disclosing fees and costs in PDSs and periodic statements* (RG 97) provides guidance on the fees and costs disclosure regime for Product Disclosure Statements (PDSs) and periodic statements.

In July 2018, we released [Report 581](#) *Review of ASIC Regulatory Guide 97: Disclosing fees and costs in PDSs and periodic statements* (REP 581). The report was prepared by an external expert and sets out recommendations and observations for ASIC to consider.

We are consulting about the changes we propose to make to RG 97 and [Class Order \[CO 14/1252\]](#) *Technical modifications to Schedule 10 of the Corporations Regulations* in response to this review.

Note 1: The draft amendments to Sch 10 and the draft update to RG 97 (draft updated RG 97) are available on our website at www.asic.gov.au/cp under CP 308.

Note 2: See the draft updated RG 97 for a list of the 'Key terms' that are also relevant to this consultation paper.

- 1 [REP 581](#) is a comprehensive analysis of the fees and costs disclosure issues arising under the Australian regulatory framework.
- 2 Within the scope of ASIC's powers, we are committed to ensuring that consumers who actively seek information about fees and costs receive transparent and usable fees and costs information to help them to:
 - (a) make confident and informed value for money decisions;
 - (b) compare products; and
 - (c) understand the fees and costs charged to them.
- 3 We also want to make sure that the fees and costs disclosure regime is practicable for industry while ensuring the consumer objectives in paragraph 2 are met.
- 4 Any disclosure regime for fees and costs applicable to superannuation products and managed investment products will, as a consequence of the variety of underlying investments, and operating and investment structures used, contain complexity.
- 5 Promoting consistency in the data inputs for fees and costs disclosure requires:
 - (a) rules that will not always be easy to apply; and
 - (b) a commitment by issuers to transparency, as no set of rules can cover all circumstances.

- 6 The value to consumers of any fees and costs disclosure is lessened if there are significant inconsistencies in the compilation of this information.
- 7 However, the complexity associated with compiling fees and costs information for presentation to consumers need not translate into complexity for consumers.
- 8 This consultation paper seeks input from stakeholders to improve the fees and costs disclosure regime for superannuation product and managed investment product PDSs and periodic statements. We are also consumer testing some aspects of the proposals while industry consultation is underway: see paragraph 54 for more information.

Current regulatory framework for fees and costs disclosure for PDSs and periodic statements

- 9 Issuers of superannuation products and managed investment products must disclose fees and costs in PDSs and periodic statements.
- 10 The requirements for PDS fees and costs disclosure are set out in Pt 7.9 of the *Corporations Act 2001* (Corporations Act) and Sch 10 to the Corporations Regulations 2001 (Corporations Regulations). Different requirements apply if a shorter PDS is used (see, for example, Subdiv 4.2B of Pt 7.9, and Sch 10D to the Corporations Regulations for superannuation products).
- 11 The requirements for fees and costs disclosure for periodic statements are set out in:
- (a) Pt 7.9 of the Corporations Act;
 - (b) Pt 7.9 of the Corporations Regulations; and
 - (c) Pt 3 of Sch 10 to the Corporations Regulations.

Note: For a detailed overview of the historical development of fees and costs disclosure in Australia, and a summary of the current fees and costs disclosure requirements, see Ch 5 of [REP 581](#).

- 12 We have modified the fees and costs disclosure requirements in [\[CO 14/1252\]](#).
- 13 The fees and costs disclosure requirements are also relevant to:
- (a) providers of investor directed portfolio services (IDPS)—see [Class Order \[CO 13/763\]](#) *Investor directed portfolio services*; and
 - (b) providers of managed discretionary account (MDA) services—see [ASIC Corporations \(Managed Discretionary Account Services\) Instrument 2016/968](#).

- 14 To provide guidance we have also:
- (a) issued [RG 97](#); and
 - (b) maintained a questions and answers page about fees and costs disclosure on our website ([ASIC Q&As](#)).
- 15 We issued [CO 14/1252](#) and [RG 97](#) in response to findings made in [Report 398](#) *Fee and cost disclosure: Superannuation and managed investment products* (REP 398), which was issued in July 2014.
- 16 [REP 398](#) examined the industry practices of superannuation product and managed investment product issuers in relation to fees and costs disclosure. It identified a number of key inconsistencies in the disclosure of fees and costs, including non-disclosure of fees and costs relating to investments in underlying investment vehicles, incorrect disclosure of fees net of tax and inconsistent disclosure of performance fees: see [Media Release \(14-158MR\)](#) *ASIC reports on fee disclosure practices for super and managed investments* (8 July 2014).

External review of the fees and costs disclosure regime

- 17 On 1 November 2017, in response to strong industry-wide feedback on the challenges of implementing [CO 14/1252](#) and following the guidance in [RG 97](#), we announced that we would appoint an external expert to review the fees and costs disclosure regime to ensure that it is, in practice, giving consumers greater transparency (the Review): see [Media Release \(17-369\)](#) *ASIC updates work on fee transparency for super and managed investment schemes* (1 November 2017).
- 18 On 28 November 2017, we appointed Darren McShane as the external expert to conduct the Review: see [Media Release \(17-409MR\)](#) *ASIC appoints expert to review fees and costs disclosure settings* (28 November 2017).
- 19 The Review's scope involved a consideration of the law, existing policy settings, business practices in the industry, international experience, interaction with the Australian Prudential Regulation Authority's (APRA) data collection obligations and industry's concerns. The key considerations for the Review were:
- (a) the value of the information currently required to be provided in PDSs and periodic statements in relation to fees and costs, and whether this assists consumers in making an investment decision;
 - (b) the extent to which the current fees and costs regime results in disclosure which assists consumers (including by contributing to market analysis) in comparing superannuation products and managed investment products;

- (c) the practicalities of producing information required for disclosure of fees and costs under [RG 97](#), including the cost to consumers of doing so as well as whether it might lead to decisions adverse to the long-term interests of consumers; and
 - (d) how the legislative modifications and guidance outlined in RG 97 could be amended to improve clarity and ease of implementation.
- 20 To seek feedback from industry in relation to [\[CO 14/1252\]](#) and [RG 97](#), Mr McShane met face-to-face or via teleconference with more than 120 stakeholders—some multiple times—in Sydney, Melbourne and Brisbane. These stakeholders included industry bodies, research houses, industry advisers, service providers and representatives from the managed investment and superannuation industry. We attended all of these industry stakeholder meetings as an observer.
- 21 On 24 July 2018, we released the external expert’s recommendations and observations following the Review: see [REP 581](#) and [Media Release \(18-217MR\)](#) *External report on fees and costs disclosure welcomed by ASIC* (24 July 2018).
- 22 For a summary of the 34 recommendations and observations arising from the Review, see Ch 8 of [REP 581](#) (pages 150–160).
- 23 Numerous areas of the fees and costs disclosure requirements—such as the interposed vehicle definition and the treatment of derivative financial products—were not the subject of specific recommendations in [REP 581](#).
- 24 As part of formulating our response to the Review, we carefully considered [REP 581](#). We also listened to and considered the feedback provided during the industry stakeholder meetings: see paragraph 20. For example, many stakeholders felt property operating costs should not be included in fees and costs disclosure as they are difficult to collect, may be distortive and may not be relevant to consumers. We have included a proposal relating to disclosure of property operating costs in this paper: see proposal B6.

Purpose of this paper

- 25 We seek feedback on the changes to the guidance and law ASIC proposes to make, as outlined in this paper. To build on the analysis already contained in [REP 581](#), we have structured this consultation paper by reference to the recommendations and observations set out in REP 581.
- 26 Table 1 sets out the recommendations from [REP 581](#) that we are proposing to adopt. Adopting these recommendations will require amendments to Sch 10. Our proposals are set out in Section B.

- 27 Table 2 sets out the recommendations from [REP 581](#) that we are proposing to adopt and which do not require amendments to Sch 10. Our proposals are set out in Section C.
- 28 Table 3 sets out our proposals in relation to the other recommendations and observations from [REP 581](#) that we do not propose to adopt at this stage. Further discussion of these recommendations and observations is set out in Section D.
- 29 Section E contains some further proposals that we identified during our consideration of the recommendations from [REP 581](#).

Table 1: Recommendations we propose to adopt that require amendments to Sch 10

Our proposal	Recommendation in REP 581
Changing the superannuation product 'Fees and costs template': see proposal B1	Recommendations 6, 8 and 11: see pages 97, 99 and 101 of REP 581
Changing the managed investment product 'Fees and costs templates': see proposal B2	Recommendations 9–10: see pages 98 and 102 of REP 581
Including 'Cost of product information': see proposal B3	Recommendations 13–14: see pages 103–106 of REP 581
Simplifying periodic statements: see proposal B4	Recommendation 16: see pages 107–110 of REP 581
Changing the treatment of transactional and operational costs: see proposals B5–B7	Recommendation 24: see pages 118–139 of REP 581
Changing the treatment of performance fees: see proposals B8–B10	Recommendation 24: see pages 118–123 and 139–145 of REP 581
Clarifying the treatment of costs paid out of reserves: see proposal B11	Recommendation 30: see page 156 of REP 581
Drafting clarification in cl 301(2) of Sch 10: see proposal B12	Recommendation 33: see page 157 of REP 581

Table 2: Recommendations we propose to adopt that do not require amendments to Sch 10

Our proposal	Recommendation in REP 581
Consumer testing some proposed changes: see proposal C1	Recommendations 12 and 15: see pages 100 and 107 of REP 581
Developing additional resources and information for consumers see proposal C2	Recommendation 28: see pages 155–156 of REP 581
Working with industry bodies on choice of product advice: see proposal C3	Recommendation 29: see page 156 of REP 581
Explaining why fees and costs must be disclosed: see proposal C4	Recommendation 23: see pages 117–118 of REP 581

Our proposal	Recommendation in REP 581
Guidance on including a prominent statement in the 'Fees and costs template' for platforms: see proposal C5	Recommendation 20: see pages 110–115 of REP 581
Clarifying in RG 97 the treatment of amounts paid by third parties or offset against other amounts: see proposal C6	Recommendation 26: see pages 148–149 of REP 581
Periodic statement content for defined benefit members: see proposal C7	Recommendation 32: see pages 156–157 of REP 581
Consistent presentation of fee information in the 'Fees and costs template': see proposal C8	Recommendation 3: see pages 90–94 of REP 581
Reducing differences between superannuation product and managed investment product fee disclosure: see proposal C9	Recommendation 5: see pages 95–96 of REP 581
Making a consolidated version of Sch 10 available on ASIC's website: see proposal C10	Recommendation 22: see pages 117–118 of REP 581
Developing and implementing a surveillance strategy: see proposal C11	Recommendation 27: see page 154 of REP 581

Table 3: Recommendations and observations that we do not propose to adopt at this stage

Our proposal	Recommendation in REP 581
Conducting a feasibility study into a consumer comparison tool: see proposal D1	Recommendations 1–2: see pages 86–89 of REP 581
Platform disclosure: see proposal D2	Recommendations 17–21: pages 110–116 of REP 581
Consistency in the way fees and costs information is incorporated by reference: see proposal D3	Recommendation 4: see pages 94–95 of REP 581
Changing indirect cost ratio to indirect costs in the 'Fees and costs template' for superannuation products: see proposal D4	Recommendation 7: see page 97 of REP 581
Explaining transactional and operational costs to consumers within the context of information about returns: see proposal D5	Recommendation 25: see page 139 of REP 581
Calculating and disclosing performance fees: see proposal D6	Recommendation 31: see page 156 of REP 581
Clarifying the drafting in cl 303(2) of Sch 10: see proposal D7	Recommendation 34: see page 157 of REP 581
Observations for the future: see proposal D8	See pages 157–158 of REP 581

- 30 We note that there are limitations to the scope of reform that ASIC can legally or appropriately pursue in relation to fees and costs disclosure, having regard to the existing legislative framework.

Attachments to this consultation paper

- 31 To assist you in providing feedback, this consultation paper attaches a draft updated RG 97 (Attachment 1) and draft amendments to Sch 10 (Attachment 2). Before engaging with the proposals in this consultation paper, we encourage you to read the draft updated RG 97 at Attachment 1 to this paper so that you can obtain the background and context to the changes to the guidance and law that we propose to make.

Draft updated RG 97

- 32 We have attempted to structure the draft updated RG 97 so that it is logical and easy to follow. We have also tried to more clearly explain the fees and costs disclosure requirements.
- 33 We have incorporated material from the [ASIC Q&As](#) into the draft updated RG 97, with a view to making the [ASIC Q&As](#) redundant. We want to ensure that [RG 97](#) is sufficiently clear and comprehensive so that a separate Q&A document is unnecessary.

Modification to the law—draft amendments to Sch 10

- 34 Attachment 2 shows the provisions of Sch 10 as modified by [\[CO 14/1252\]](#). It then shows amendments marked up to illustrate how we may give effect to the recommendations in Table 1. We consider that an indicative version of a draft amended Sch 10 is the most helpful way to understand the proposals that are the subject of this consultation paper.

Note: The draft amendments to Sch 10 include amendments made by the Corporations Amendment (Asia Region Funds Passport) Regulations 2018, [ASIC Corporations \(Amendment\) Instrument 2018/697](#) and [ASIC Corporations \(Amendment\) Instrument 2018/1088](#).

- 35 [REP 581](#) noted (at page 150) that no attempt had been made to track through all of the consequential impacts that would need to be pursued if any of the recommendations or observations made in REP 581 were implemented, and that consequential impacts may occur across a number of areas. We have attempted to identify as many consequential impacts as possible, and have made amendments to reflect these in the draft amendments to Sch 10.
- 36 We have not prepared a draft amending instrument to [\[CO 14/1252\]](#) at this stage. However, we recognise that if some of the proposals in this consultation paper are implemented, then changes may need to be made to sections of the Corporations Act and to the Corporations Regulations (e.g. to ensure that any changes to the superannuation product ‘Fees and costs

template' in cl 201 of Sch 10 are also reflected in the 'Fees and costs template' for superannuation products, which use the shorter PDS regime in Sch 10D if recommendation 6 (proposal B1) is implemented).

- 37 We also recognise that if some of the proposals are implemented, consequential changes may need to be made to [\[CO 13/763\]](#), such as to reflect the fact that transaction costs (shown net of any amount recovered by the buy–sell spread) will appear as a line item in the 'Fees and costs template' for managed investment products if recommendation 24 (proposal B5) is implemented.

Impact of other laws on proposals

Treasury Laws Amendment (Protecting Your Superannuation Package) Bill 2018

- 38 The Treasury Laws Amendment (Protecting Your Superannuation Package) Bill 2018 (PYSP Bill) is currently before Parliament.
- 39 Among other things, the PYSP Bill proposes to impose a fee cap of 3% on superannuation product accounts that have a balance of less than \$6,000 at the end of the superannuation entity's income year or at the time of account closure. The Explanatory Memorandum to the PYSP Bill states that the fee cap will apply to administration fees, investment fees and other amounts prescribed in regulations. As stated in the Explanatory Memorandum (at paragraphs 214–216), it is expected that regulations will:
- (a) capture amounts that directly or indirectly reduce the return on a member's investment; and
 - (b) prescribe these amounts with reference to the amount of indirect costs disclosed by the superannuation trustee.
- 40 While the PYSP Bill had not been passed at the time this consultation paper was published, we believe that, if passed, the PYSP Bill (and any associated regulations) may have significant impacts on the proposals set out in this paper. In particular, it may not be possible to implement:
- (a) recommendation 11 (see proposal B1), as the merger of indirect costs with administration fees and investment fees will result in indirect costs no longer being a stand-alone visible figure in superannuation product PDSs; and
 - (b) recommendation 16 (see proposal B4), which proposes to simplify periodic statements to no longer show indirect costs as a stand-alone visible figure.

- 41 Accordingly, we may need to reconsider the proposals in this paper if Parliament passes the PYSP Bill and/or any associated regulations are made. This may occur during the consultation period or following consultation and implementation of the proposals in this paper.
- 42 We welcome any feedback you may have on how the PYSP Bill could impact our proposals if it were passed.

Treasury Laws Amendment (Corporate Collective Investment Vehicle) Bill

- 43 The Government has been conducting consultation on the Treasury Laws Amendment (Corporate Collective Investment Vehicle) Bill (CCIV Bill). The CCIV Bill has not yet been introduced into Parliament. If Parliament passes the CCIV Bill and any associated regulations are made, this will likely require further amendments to Sch 10 and [RG 97](#).

Compliance obligations applying before implementation of consultation outcomes

Extension to the time period for compliance with some parts of [CO 14/1252]

- 44 [\[CO 14/1252\]](#) previously provided for certain disclosure obligations in relation to periodic statements for both superannuation products and managed investment products for reporting periods before 30 June 2018 to operate differently for reporting periods after 30 June 2018. It also permitted superannuation trustees to deal with property operating costs in PDSs given before 30 September 2018 by disclosing these costs in the 'Additional explanation of fees and costs' rather than in investment fees.
- 45 Following a written request from a number of industry bodies, on 21 December 2017 we decided to extend these dates by one year to their equivalent dates in 2019. This was to ensure that further costs in relation to system changes need only be incurred in relation to implementing the fees and costs disclosure requirements that emerged after our consideration of the Review's recommendations.
- 46 We have decided to again extend these dates by one further year to their equivalent dates in 2020 so that industry is not required to incur additional expenses while we consult on proposals that would, for example, change the treatment of borrowing costs and property operating costs: see proposal B6. We have therefore modified [\[CO 14/1252\]](#) accordingly.

- 47 After we have considered the feedback obtained through this consultation, we can communicate what obligations will apply going forward. We note that the timing for implementing the proposals is a specific matter on which we are seeking feedback.

Compliance expectations

- 48 In light of our consultation, our oversight of fees and costs disclosure is currently focused on whether issuers are endeavouring to comply with the current legislative requirements and [RG 97](#) in good faith and not mislead consumers about fees and costs. This approach will continue until any changes to the fees and costs disclosure requirements are finalised and in force.
- 49 We expect that issuers will:
- (a) endeavour to comply with the current legislative requirements in good faith and not mislead customers about fees and costs;
 - (b) be as transparent as possible, and not make disclosures that give a false impression about fees and costs;
 - (c) not make any changes to existing PDSs that render the fees and costs disclosure less compliant; and
 - (d) accurately categorise and disclose fees and costs, particularly in relation to direct costs, as the data for this disclosure should be readily available to the superannuation trustee or responsible entity.
- 50 We will continue to monitor disclosure and advertising. Any strong claims about low fees that are misleading will be treated very seriously, and we will continue to intervene against inadequate disclosure.

Your feedback

- 51 We welcome any feedback you may have on our proposals. We will take your comments into account when finalising our amendments to [\[CO 14/1252\]](#) and [RG 97](#). When making a submission, it is not necessary to provide feedback in relation to every proposal set out in this paper or every feedback question we have asked in relation to each proposal.
- 52 We also seek feedback on any regulatory or financial impacts of our proposals: see Section F. We have also asked specific questions in relation to our proposals regarding changes required to systems and processes and additional costs associated with implementation. Where we have asked for feedback on the additional costs associated with implementation of a proposal, we are asking whether there will be additional costs as compared with the current fees and costs disclosure requirements.

- 53 Before the close of the consultation period, we will hold roundtables in Sydney and Melbourne to provide a further opportunity for stakeholders to engage with our proposals: see the [RG 97 consultation page](#) on our website for details of the roundtables.
- 54 We will also undertake consumer testing of some of the proposed changes to the fees and costs disclosure regime: see proposal C1. So that the fees and costs disclosure requirements can be finalised as soon as possible, we will undertake this consumer testing during the consultation period. If the results of the consumer testing indicate that substantial changes may be required to any of the proposals set out in this paper, we will seek further feedback from industry before finalising the fees and costs disclosure requirements.
- 55 We appreciate that effectively implementing changes to the fees and costs disclosure regime involves not simply changing issuers' practices but also improving how users—including consumers and financial advisers—understand fees and costs information. We are considering strategies to improve this understanding (see proposals C2 and C3) but would also welcome suggestions from industry on this point.

B Recommendations we propose to adopt that require amendments to Sch 10

Key points

This section seeks feedback on our proposals to implement recommendations in [REP 581](#) that require amendments to Sch 10, including our proposals to:

- change the 'Fees and costs templates' for superannuation products (see proposal B1) and managed investment products (see proposal B2) to make them simpler for consumers;
- require disclosure of 'Cost of product information' (see proposal B3);
- make periodic statements simpler (see proposal B4);
- change the treatment of transactional and operational costs (see proposals B5–B7) and performance fees (see proposals B8–B10);
- clarify the treatment of costs paid out of reserves (see proposal B11); and
- make a drafting clarification to cl 301(2) of Sch 10 (see proposal B12).

Changing the superannuation product 'Fees and costs template'

Proposal: Recommendations 6, 8 and 11 in [REP 581](#)

B1 We propose to:

- (a) modify the 'Fees and costs template' for superannuation products to:
 - (i) present all administration fees and costs as one line item, by merging administration fees and indirect costs that relate to administration or operation of the superannuation entity;
 - (ii) present all investment fees and costs as one line item, by merging investment fees and indirect costs that relate to investment of the superannuation entity's assets;
 - (iii) remove advice fees (intrafund advice costs) as a line item, and include this cost in the disclosure of administration fees; and
 - (iv) group together the 'Ongoing annual fees and costs' separately from the 'Member activity related fees and costs'; and
- (b) give effect to these proposals by:
 - (i) removing the original 'Fees and costs template' in cl 201 of Sch 10 and replacing it with the 'Fees and costs summary' in Figure 2 of draft updated RG 97 at Attachment 1 to this paper;

- (ii) inserting definitions of investment fees and costs and administration fees and costs in cl 209A of Sch 10 so they include the relevant indirect costs, and changing all references to investment fees and administration fees in Sch 10 to match these terms;
- (iii) inserting a definition of intrafund advice costs into cl 101 of Sch 10;
- (iv) removing the ability of superannuation trustees to elect to treat certain types of costs as indirect costs rather than administration fees or investment fees, because these amounts will now be combined into other line items in the 'Fees and costs template' (now to be called the 'Fees and costs summary'); and
- (v) making corresponding changes to the 'Example of annual fees and costs' for superannuation products, to reflect the changes made to the 'Fees and costs template' (now to be called the 'Fees and costs summary').

See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.30–RG 97.55, Figure 2 and Figure 3, at Attachment 1 to this paper.

Your feedback

- B1Q1 Do you agree with our approach? If not, please explain why.
- B1Q2 Although indirect costs will be combined with investment fees into a single line item in the 'Fees and costs template' (to be renamed 'Fees and costs summary'), should issuers be able to include an additional breakdown of the figure into two separate components in the 'Fees and costs summary' or in another place (such as on the issuer's website)? If yes, how would this help consumers make investment decisions and compare products? Should the same breakdown be permitted in respect of administration fees and indirect costs?
- B1Q3 What system and process changes would be needed to implement these proposals?
- B1Q4 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable.
- B1Q5 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper?

Rationale

Single line items for administration fees and costs, and for investment fees and costs

- 56 [REP 581](#) observes (at pages 98–99) that superannuation trustees currently have discretion as to whether costs that are paid out of the superannuation entity are treated as investment fees or indirect costs. REP 581 notes that technically it does not matter whether an amount is treated as an investment fee or an indirect cost, as one offsets the other and does not affect the total amount of fees and costs disclosed. REP 581 also states that from a consumer’s perspective in understanding those fees and costs, there is little point in drawing any distinction between investment fees and indirect costs. REP 581 also says (at pages 98–99) that a similar point could possibly apply in relation to administration fees, to the extent any administration fees are incurred indirectly.
- 57 We agree with these observations. We believe that merging the indirect costs that relate to the investment of the superannuation entity’s assets with investment fees—and merging the indirect costs that relate to the administration or operation of the superannuation entity with administration fees—would simplify fees and costs disclosure, which may help consumers to make value for money decisions.
- 58 [REP 581](#) also states (although Mr McShane noted that he did not support this view in general) that it should be acceptable if the ‘Fees and costs template’ additionally breaks down the combined single figure of investment fees and indirect costs to explain its components, if an issuer considers this information to be meaningful for consumers. We believe that this breakdown may hinder consumers’ ability to compare products. We welcome feedback from industry on whether providing an additional breakdown would assist consumers.
- 59 We believe the proposed changes would help align the disclosure requirements for superannuation products and those for managed investment products: see recommendation 5, proposal C9. We believe greater consistency in the presentation and content of ‘Fees and costs templates’—and improved comparability of fees and costs across superannuation products and managed investment products—may help consumers better understand fees and costs information. In particular, merging investment fees and indirect costs reflects the fact that ultimately these fees and costs are borne by the superannuation entity regardless of the investment structure chosen.

Removing advice fees as a line item in the ‘Fees and costs template’

- 60 [REP 581](#) also notes (at page 97) that the advice fee in the superannuation product ‘Fees and costs template’ relates to a very specific type of financial product advice (intrafund advice costs) rather than personal advice, and that this meaning would be unclear and potentially confusing to a casual reader. REP 581 also observes that in PDSs this item is frequently shown as nil, which results in this line item being given undue prominence.
- 61 We agree with these observations and believe that removing intrafund advice costs as a line item from the ‘Fees and costs template’ will simplify the information provided to consumers, which may improve consumers’ understanding of the fees and costs they will be charged for their investment and therefore assist consumer decision making. Including intrafund advice costs as part of the new administration fees and costs line item ensures that these costs are still captured as part of fees and costs disclosure.

Grouping ‘Ongoing annual fees and costs’ and ‘Member activity related fees and costs’

- 62 [REP 581](#) states (at page 97) that it would be beneficial to group the ongoing elements from member-initiated elements in the superannuation product ‘Fees and costs template’. REP 581 also notes that the current layout of the superannuation ‘Fees and costs template’ must make consumers wonder what to do with the information in it, and that consumers may be tempted to add up all the items—a process that would be unsound given that some items are ongoing and some are only incurred if a relevant transaction or activity is initiated.
- 63 We agree with these observations. We believe that this proposal may improve consumer understanding of the fees and costs, and help them make decisions by giving prominence to the fees and costs they will be charged for each year that they remain in the investment. The proposal also seeks to highlight the additional fees and costs that may be payable if the consumer takes certain actions or certain things occur.

Changing the managed investment product ‘Fees and costs template’**Proposal: Recommendations 9 and 10 in [REP 581](#)**

- B2 We propose to:
- (a) modify the ‘Fees and costs templates’ for managed investment products to:
 - (i) change management costs to management fees and costs, to match the term used in Figure 9 and Example 1 of draft

- updated RG 97 at Attachment 1 to this paper, and place this line item at the top of the 'Fees and costs templates'; and
- (ii) include a line item for buy–sell spread; and
- (b) give effect to these proposals by:
- (i) removing the original 'Fees and costs templates' in cls 202 and 202A of Sch 10, and replacing them with the 'Fees and costs summaries' in Figure 9 and Example 1 of draft updated RG 97 at Attachment 1 to this paper;
 - (ii) changing all Sch 10 references to management costs to management fees and costs, to match the term used in Figure 9 and Example 1 of draft updated RG 97 at Attachment 1 to this paper; and
 - (iii) making corresponding changes to the 'Example of annual fees and costs' for managed investment products, to reflect the changes made to the 'Fees and costs templates' (now to be called 'Fees and cost summaries').

See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.152–RG 97.167, Figure 9 and Figure 10, at Attachment 1 to this paper.

Your feedback

- B2Q1 Do you agree with our approach? If not, please explain why.
- B2Q2 What system and process changes would be needed to implement these proposals?
- B2Q3 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable.
- B2Q4 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper?
- B2Q5 If a line item for buy–sell spread is included in the 'Fees and costs summary', should the 'Example of annual fees and costs' for managed investment products also refer to the fact that a member may be charged a buy–sell spread (as in the 'Example of annual of fees and costs' for superannuation products, in cl 211 of Sch 10)? If so, should a reference to the buy–sell spread also be included in the preamble text to the 'Cost of product information' for managed investment products, in cl 220B of Sch 10 (see proposal B3)?

Rationale

Moving management fees and costs to the top of the ‘Fees and costs templates’

- 64 [REP 581](#) notes (at page 98) that management costs are the most relevant fee for managed investment products, and that it currently appears at the bottom of the ‘Fees and costs template’. REP 581 suggests it is better if the more relevant and ongoing fee items appear first.
- 65 We agree with this observation, and believe this proposal may improve consumer understanding of the fees and costs by giving prominence to the fees and costs a consumer will be charged each year they remain in the investment. The proposal also seeks to highlight the additional fees and costs that may be payable if the consumer takes certain actions or if certain things occur.

Inclusion of buy–sell spread as a line item in the ‘Fees and costs templates’

- 66 [REP 581](#) notes (at page 98) that:
- (a) where a buy–sell spread applies, this can be an important fee when considering investment decisions; and
 - (b) buy–sell spread is commonly disclosed in managed investment product PDSs, and appears to be at least as significant as contribution fee and establishment fee, which appear in the ‘Fees and costs template’ and which are commonly disclosed as nil.
- 67 We agree that buy–sell spread can be an important fee for consumers to consider when making an investment decision. We believe this proposal may help consumers better understand the fees and costs associated with managed investment products, especially in relation to the costs of leaving the managed investment scheme or switching between investment options.
- 68 We also consider that the proposed changes would help align the disclosure requirements for superannuation products and those for managed investment products: see recommendation 5, proposal C9. We believe this greater consistency in the presentation and content of the ‘Fees and costs template’—and improved comparability of fees and costs across superannuation products and managed investment products—may help consumers better understand fees and costs information.

Including 'Cost of product information'

Proposal: Recommendations 13 and 14 in [REP 581](#)

B3 We propose to:

- (a) require 'Cost of product information' to be disclosed by:
 - (i) extending the current 'Example of annual fees and costs' for superannuation products and managed investment products, to include the calculation and disclosure of abbreviated 'Cost of product information' for each MySuper product and each investment option offered by the superannuation entity, and for each investment option offered by the managed investment scheme;
 - (ii) basing the 'Cost of product information' on a \$50,000 balance (we do not propose to extend this to other balance amounts);
 - (iii) requiring that the 'Cost of product information' for full PDSs be disclosed in the PDS and not be permitted to be incorporated by reference;
 - (iv) not requiring the 'Cost of product information' to be included in the body of shorter PDSs, but instead requiring that it be provided as part of the fees and costs information that must be disclosed in accordance with Sch 10, under cl 8(10) of Schs 10D and 10E (issuers are permitted under those provisions to incorporate this information by reference); and
 - (v) incorporating a contribution of \$5,000 on the last day of the year in the 'Cost of product information' and the 'Example of annual fees and costs' for superannuation products (noting that managed investment products already incorporate a contribution of \$5,000 on the last day of the period); and
- (b) give effect to these proposals by:
 - (i) inserting a new Div 6A into Pt 2 of Sch 10; and
 - (ii) amending cl 211 of Sch 10.

See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.59–RG 97.72 and Figures 3–5 (for superannuation products) and RG 97.182–RG 97.186 and Figures 11–12 (for managed investment products) at Attachment 1 to this paper.

Your feedback

B3Q1 Do you agree with our approach? If not, please explain why.

B3Q2 For the longer term, what alternative methods of providing fee examples may be helpful for consumers and practical to implement?

- B3Q3 Do you believe that incorporating a \$5,000 contribution on the last day of the year in the 'Example of annual fees and costs' and in the 'Cost of product information' for superannuation products will help consumers make investment decisions and compare products, given that:
- (a) contributions are not taken into account when calculating fees and costs for disclosure (see cls 218(1) and (3) of Sch 10); and
 - (b) contribution fees are not permitted to be charged in relation to MySuper products under s29V of the *Superannuation Industry (Supervision) Act 1993* (SIS Act)?
- B3Q4 What system and process changes would be needed to implement these proposals?
- B3Q5 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable.
- B3Q6 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper?

Rationale

- 69 [REP 581](#) notes (at page 103) that the objective of the 'Example of annual fees and costs' is to convert the information in the 'Fees and costs template' into a single synthetic figure for simple comparison purposes. However, it also notes (at page 104) that there are limitations in using the 'Example of annual fees and costs' for comparison purposes, including the fact that it is calculated only for commonly used options and in the case of superannuation products is typically given for the MySuper product, which is designed as a default rather than a Choice product. REP 581 goes on to state that extending the 'Example of annual fees and costs' to include 'Cost of product information' for all products or options may help consumers who do make investment choices.
- 70 We agree with these observations, and believe that requiring abbreviated 'Cost of product information' for each product or option may help consumers understand the fees and costs associated with the relevant product or option they are considering, and then make investment decisions. It may also help consumers to compare different products and options.
- 71 We propose to include 'Cost of product information' only for a balance of \$50,000. We consider that requiring 'Cost of product information' for multiple balance amounts may result in PDSs containing too much data, which may make the fees and costs information less usable by consumers.

- 72 For full PDSs, we do not propose to allow the ‘Cost of product information’ to be incorporated by reference. We believe consumers may use the ‘Cost of product information’ for each product or option in conjunction with information in the ‘Fees and costs template’ for the relevant products or options, and the ‘Fees and costs template’ cannot be incorporated by reference: see reg 7.9.15DA(4)(c)(ii).
- 73 [REP 581](#) notes (at page 106) that to further align disclosure between superannuation products and managed investment products, the same assumptions about flows should be used in the ‘Example of annual fees and costs’ and in the ‘Cost of product information’. It also states that the existing assumption used for managed investment schemes (a contribution of \$5,000 on the last day of the period) seems like a reasonable basis.
- 74 We agree it is desirable to align the disclosure for managed investment products and superannuation products, as this may help consumers compare products. It also helps implement recommendation 5: see proposal C9. However, we are uncertain as to whether incorporating a \$5,000 contribution on the last day of the year in the ‘Example of annual fees and costs’ and in the ‘Cost of product information’ for superannuation products may assist with comparisons, given that MySuper products cannot charge contribution fees. This might not be relevant to other investment options in superannuation entities. We welcome industry’s feedback on this matter.

Simplifying periodic statements

Proposal: Recommendation 16 in [REP 581](#)

B4 We propose to:

- (a) amend the requirements for periodic statements for superannuation products and managed investment products, so they contain the following three lines:
 - (i) ‘Fees deducted from your account’;
 - (ii) ‘Fees and costs deducted from your investment’; and
 - (iii) ‘Total fees and costs you paid’; and
- (b) give effect to this proposal by amending cls 301–303 of Sch 10.

See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 (Sections C and E) at Attachment 1 to this paper.

Your feedback

B4Q1 Do you agree with our approach? If not, please explain why.

B4Q2 What system and process changes would be needed to implement this proposal?

- B4Q3 What are the additional costs associated with implementing this proposal? Please provide details of one-off and/or annual costs as applicable.
- B4Q4 What would be a reasonable timeframe for issuers to implement this proposal, in light of the other changes proposed in this paper?
- B4Q5 We have not inserted a provision in the draft amended Sch 10 or provided guidance to explain how to calculate the approximate amount to be disclosed in 'Fees and costs deducted from your investment' and 'Total fees and costs you paid'. Do you believe a provision and/or guidance is necessary? Would a formula-based approach be necessary? We have included instructions in cl 301(2)(b) of Sch 10 about how to calculate the amount deducted from the investment. We have also included guidance in draft updated RG 97 (at RG 97.132 and RG 97.240 at Attachment 1 to this paper) that the amount to be inserted is the fees and costs for the product or option that are attributed to the particular member.
- B4Q6 Given that periodic statements provide fees and costs information about what a member has been charged over a past period, and given the proposed amendments to the periodic statement requirements, would it be necessary for an issuer to make reasonable estimates of amounts to be included in periodic statements? Would this be more likely for periodic statements given after the member has exited the product?
- B4Q7 We have retained the guidance that appears in the current version of [RG 97](#) (at RG 97.234) that amounts of transactions shown in the transaction list in periodic statements should include GST less reduced input tax credits: see draft updated RG 97 at RG 97.124 and RG 97.232 at Attachment 1 to this paper. Regulation 7.9.60B(3) requires that amounts of transactions must include GST (if applicable) but does not make reference to whether reduced input tax credits should be included or excluded. Should reduced input tax credits be excluded from transaction amounts? Please explain why or why not.
- B4Q8 We have retained the guidance that appears in the current version of [RG 97](#) (at RG 97.234) that if GST or stamp duty is not disclosed as part of the amount in a transaction, they should be reported as separate transactions: see draft updated RG 97 at RG 97.125 and RG 97.233 at Attachment 1 to this paper. Should GST or stamp duty be permitted to be disclosed separately from the transactions they relate to? Please explain why or why not.

- B4Q9 We have retained the guidance that appears in the current version of [RG 97](#) (at RG 97.237) that if the payment of a fee or cost results in the superannuation entity or registered scheme becoming entitled to a tax deduction, and the benefit is passed on to a member, the periodic statement must show two transactions—being one for the full amount charged and one for the tax benefit that was passed on to the member: see draft updated RG 97 at RG 97.126 and RG 97.234 at Attachment 1 to this paper. Should this guidance be retained? Please explain why or why not.
- B4Q10 We have retained the guidance that appears in the current version of [RG 97](#) (at RG 97.235–RG 97.236) that where a transaction creates an income tax liability or a tax deduction is given to the member, the issuer should show this transaction separately and include an explanation of the basis for the transaction and its relationship with other transactions: see draft updated RG 97 at RG 97.127 and RG 97.235 at Attachment 1 to this paper. Should this guidance be retained? Please explain why or why not.
- B4Q11 Should cls 301(5) and 301(6) of Sch 10 be retained? Please explain why or why not.
- B4Q12 Should ‘Total fees and costs you paid’ in cl 302(1) of Sch 10 be presented gross of any tax benefit passed on to the member: see [RG 97](#) at RG 97.237? Please explain why or why not?

Rationale

- 75 [REP 581](#) notes (at page 109) that it seems likely the volume of data now presented in periodic statements would be overwhelming to consumers, and that the current presentation has completely reversed the traditional focus on transactions and amounts deducted directly from the member’s account.
- 76 Recommendation 16 states that ASIC should consider consequential changes to the disclosure of fees and costs in periodic statements having regard to the following objectives:
- (a) reducing the relative overemphasis on amounts deducted from investments;
 - (b) reducing the number of data points; and
 - (c) making the item headings easier for consumers to understand.
- 77 We agree that these objectives are important. We believe this proposal meets those objectives and may also provide consumers with simpler, more usable fees and costs information. It may also make it easier for consumers to understand the fees and costs charged to them. We believe this proposal will help make periodic statement requirements more practicable for industry.

Changing the treatment of transactional and operational costs

Transaction costs (net) as a separate line item in the 'Fees and costs template' and in the 'Example of annual fees and costs'

Proposal: Recommendation 24 in [REP 581](#)

B5 We propose to:

- (a) require disclosure of explicit transaction costs and counterparty spreads (see proposal B7) as a separate line item in the 'Fees and costs template' and in the 'Example of annual fees and costs' for managed investment products and superannuation products;
- (b) include explicit transaction costs and counterparty spreads in the calculation of the 'Cost of product information' (see recommendation 13 and proposal B3);
- (c) require that these costs be shown net of any amounts recovered by the buy–sell spread charged by the superannuation trustee or responsible entity. The gross amount of explicit transaction costs and counterparty spreads will be set out in the 'Additional explanation of fees and costs' (to be renamed 'Fees and costs details') in cl 209(j)(ia) of Sch 10; and
- (d) give effect to this proposal by:
 - (i) replacing the 'Fees and costs template' for superannuation products in cl 201 of Sch 10 with the 'Fees and costs summary' in Figure 2 of draft updated RG 97 at Attachment 1 to this paper, which includes a transaction costs (net) line item;
 - (ii) replacing the 'Fees and costs templates' for managed investment products in cls 202 and 202A of Sch 10 with the 'Fees and costs summaries' proposed in Figure 9 and Example 1 of draft updated RG 97 at Attachment 1 to this paper, which include a transaction costs (net) line item;
 - (iii) including a transaction costs (net) line item in the 'Example of annual fees and costs' in cl 211 of Sch 10 (for superannuation products) and cl 212 of Sch 10 (for managed investment products);
 - (iv) including instructions for calculating the amount of transaction costs (net) in cls 218(4A)–(4B) and cls 218A(6)–(7) of Sch 10; and
 - (v) excluding explicit transaction costs and counterparty spreads from other fees and costs definitions (such as administration fees and costs, and investment fees and costs) to ensure these costs are not disclosed twice.

See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at

RG 97.44–RG 97.45, RG 97.163–RG 97.165, Figures 2–3 and Figures 9–10 at Attachment 1 to this paper.

Your feedback

- B5Q1 Do you agree with our approach? If not, please explain why.
- B5Q2 What system and process changes would be needed to implement these proposals?
- B5Q3 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable.
- B5Q4 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper?

Rationale

- 78 [REP 581](#) sets out (at pages 119–121) a characterisation methodology for considering whether certain items should be included in fees and costs disclosure, and where these items should be disclosed. This methodology categorises fees and costs based on their characteristics, such as whether they are forward-looking, objectively certain and not distortive:
- (a) Category 1 items should be disclosed in the headline tools (the ‘Fees and costs template’ and the ‘Example of annual fees and costs’).
 - (b) Category 2 items are those that do not satisfy Category 1 criteria but should still be disclosed in PDSs and periodic statements.
 - (c) Category 3 items are those that do not belong in PDSs but could be left to other explanatory documents, such as issuer websites or statistical returns.
 - (d) Category 4 covers items that are disproportionately burdensome to identify, produce and/or maintain, having regard to the relevance to the common understanding of the fees and costs narrative.
- 79 We support the characterisation methodology described above.
- 80 [REP 581](#) notes (at page 134) that based on the characterisation methodology, there are strong arguments for including explicit transaction costs and counterparty spreads in the amounts disclosed in the ‘Fees and costs template’ and in the ‘Example of annual fees and costs’, rather than in the ‘Additional explanation of fees and costs’. This is because:
- (a) explicit transaction costs and counterparty spreads meet many of the criteria of Category 1 items;
 - (b) although they are calculated based on the previous financial year and are therefore backward-looking, absent a major change in investment

strategy within an investment option, they should, on a percentage basis, be reasonably reliable as a forward year-on-year indicator; and

- (c) explicit transaction costs and counterparty spreads, being more tangible, should be more consistent with consumer expectations of cost impacts that could be relevant to cross-product comparison.

- 81 This approach means that explicit transaction costs and counterparty spreads must be carved out of other line items disclosed in the ‘Fees and costs template’ and in the ‘Example of annual fees and costs’, to avoid double counting.
- 82 [REP 581](#) notes (at page 134) that transaction costs can be a meaningful indicator in different circumstances from administration fees and investment fees. REP 581 also states that including transaction costs within an aggregated figure in the ‘Fees and costs template’ creates the disadvantage that these costs cannot be separated in circumstances where it is relevant to do so and therefore there are advantages in showing explicit transaction costs and counterparty spreads as a separate line item in the ‘Fees and costs template’.
- 83 [REP 581](#) notes (at pages 137–138) that transaction costs are particularly difficult for consumers to factor into their decision-making processes, partly because of the added complexity of understanding who pays for these costs. Transaction costs incurred by a superannuation entity or managed investment scheme may to some extent be offset by the buy and/or sell spreads charged to members on issues and withdrawals. REP 581 (at page 138) states that if explicit transaction costs and counterparty spreads are shown as a separate line item in the ‘Fees and costs template’, they should be shown net of cost recoveries made via the buy–sell spread.
- 84 [REP 581](#) also notes (at page 135) that:
- (a) there are clear advantages—simplicity and the avoidance of gaming—in keeping the ‘Fees and costs template’ and the ‘Example of annual fees and costs’ as closely aligned as possible; but
 - (b) on the other hand, transaction costs can be of doubtful relevance, depending on the decision being made.
- 85 [REP 581](#) also notes (at page 135) that, on balance, perhaps the preferred direction is that unless or until it can be shown through consumer testing that transaction costs are in most cases not relevant to the decision being made, and there are no material concerns about possible gaming, transaction costs as disclosed in the ‘Fees and costs template’ should also be included in the ‘Example of annual fees and costs’ and the ‘Cost of product information’.
- 86 We agree with the observations above. We believe that including explicit transaction costs and counterparty spreads as a line item in the ‘Fees and

costs template', in the 'Example of annual fees and costs' and in calculating the 'Cost of product information' may help consumers compare products and make informed value for money decisions.

Removing property operating costs, borrowing costs and implicit transaction costs

Proposal: Recommendation 24 in [REP 581](#)

B6 We propose to:

- (a) not require property operating costs, borrowing costs and implicit transaction costs to be disclosed in PDSs and periodic statements; and
- (b) give effect to this proposal by amending:
 - (i) cls 101 and 103 (to insert the concept of excluded transactional and operational costs) and cl 209A of Sch 10; and
 - (ii) cls 301–303; and
- (c) require that any operational costs that are not explicit transaction costs, counterparty spreads, implicit transaction costs, property operating costs or borrowing costs (to the extent that any exist) be treated as a part of administration fees for superannuation products (to be renamed administration fees and costs) or management costs for managed investment products (to be renamed management fees and costs).

Note: We do not propose to make any amendments to Sch 10 to give effect to this proposal, because we consider that the definitions of administration fees and costs in cl 209A of Sch 10 (for superannuation products) and management fees and costs in cl 102(1) of Sch 10 (for managed investment products) are sufficient to capture these types of operational costs.

See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.333–RG 97.344, RG 97.132(a) and RG 97.240(a) at Attachment 1 to this paper.

Your feedback

- B6Q1 Do you agree with our approach? If not, please explain why. If you think that some of these costs should be disclosed, where do you think is the best place for disclosure?
- B6Q2 Are cls 103(2)(c)–(d) of the draft amendments to Sch 10 at Attachment 2 to this paper sufficient to exclude all implicit transaction costs? Is a reference to market impact costs or some other type of cost also required?
- B6Q3 What system and process changes would be needed to implement these proposals?

B6Q4 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable. Would these proposals result in any cost savings? Please give details.

B6Q5 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper?

Rationale

87 [REP 581](#) notes (at page 130) that:

- (a) in most jurisdictions reviewed in REP 581, costs such as property operating costs are not included in consumer-level fees and costs disclosure;
- (b) on one view, costs such as property operating costs are more closely related to the narrative about net returns rather than that relating to fees; and
- (c) it seems unlikely that this type of cost would be within consumer expectations of a fees and costs disclosure regime.

88 [REP 581](#) notes (at page 132) that although the EU Regulation on [Key information documents for packaged retail and insurance-based investment products](#) (EU1286/2014) does require the disclosure of implicit transaction costs, this is a relatively new requirement and:

- (a) there have been numerous challenges and concerns with implementation; and
- (b) many have expressed the view that this approach is distorting and confusing for consumers.

89 [REP 581](#) also notes (at page 132) that a common accepted methodology for calculating implicit transaction costs is yet to emerge.

90 [REP 581](#) notes (at page 133) that it seems most unlikely, given the technical nature of the relevant costs, that consumers would:

- (a) understand the various components of implicit transaction costs;
- (b) expect that these costs are a part of fees and costs disclosure; and
- (c) appreciate how implicit transaction costs might apply differently to different types of assets.

91 However, [REP 581](#) notes (at page 135) that implicit transaction costs and operational costs are not unimportant in the broader context, and suggests that these costs contain information that may be of interest (at a minimum) to analysts, professional investors and fiduciaries, but might not be of general interest to consumers.

- 92 [REP 581](#) states (at page 135) that although there are arguments for consumers to have access to data on implicit transaction costs and property operating costs, this needs to be balanced against the effort and cost involved in collecting and presenting this data in a meaningful and consistent way.
- 93 [REP 581](#) suggests (at page 136) that in light of the conclusion drawn about implicit transaction costs, property operating costs and borrowing costs being relevant to fees and costs disclosure, and there being a preference for a clean and simple outcome for consumers, the starting point for consultation should be not to require these costs to be disclosed in PDSs and periodic statements.
- 94 We agree with the observations set out above. We believe that excluding implicit transaction costs, property operating costs and borrowing costs from fees and costs disclosure in PDSs and periodic statements may strike an appropriate balance between providing information that may help consumers make informed value for money decisions, and ensuring that the fees and costs disclosure regime is practicable for industry.

Inclusion of counterparty spreads

Proposal: Recommendation 24 in [REP 581](#)

B7 We propose that:

- (a) counterparty spreads be included in the transaction costs that will be disclosed in PDSs and periodic statements; and
- (b) at this stage, not to define counterparty spreads in the draft amendments to Sch 10 at Attachment 2 to this paper, as we would like to seek further information from industry about:
 - (i) how this concept should be defined; and
 - (ii) what kinds of financial products and markets counterparty spreads may apply to.

Your feedback

- B7Q1 Do you agree with our approach? If not, please explain why.
- B7Q2 Do you have any suggestions on how the concept of counterparty spreads could be defined in cl 101 of Sch 10? Please provide details.
- B7Q3 [REP 581](#) (at page 133) notes that counterparty spreads are readily and relatively objectively ascertainable. Do you agree? Please provide details.
- B7Q4 What types of financial products and markets do you think the concept of counterparty spreads would apply to? Would it be applicable to Australian markets or only to overseas markets? Please provide details.

- B7Q5 What are the additional costs associated with implementing this proposal? Please provide details of one-off and/or annual costs as applicable.
- B7Q6 What would be a reasonable timeframe for issuers to implement this proposal, in light of the other changes proposed in this paper?

Rationale

- 95 [REP 581](#) notes (at pages 130–131) that the bid–ask spread imposed by a counterparty or market maker is a type of implicit transaction cost.
- 96 [REP 581](#) states (at page 133) that consideration should be given to treating counterparty spreads on the same basis as explicit transaction costs.
- 97 [REP 581](#) also observes (at pages 133–134) that:
- (a) for many products traded on regulated markets, spreads charged by counterparties are readily and relatively objectively ascertainable;
 - (b) these types of spreads are quite analogous to explicit costs such as brokerage, as dealing with a broker as an agent incurs brokerage or commission costs, whereas dealing with the same broker as principal incurs a spread cost;
 - (c) treatment of counterparty spreads on the same basis as explicit transaction costs would overcome concerns that exclusion may incentivise issuers to perhaps inappropriately adjust trading practices in a way that will minimise explicit transaction costs; and
 - (d) including counterparty spreads could also be seen as being more consistent with the original drafting of cl 103(1) of Sch 10, which includes the similar concept of buy–sell spread—effectively the spread charged by the counterparty operating an underlying managed investment scheme.
- 98 We agree that it is important to ensure that the fees and costs disclosure regime does not facilitate issuers being able to avoid disclosing certain costs by changing the way they conduct transactions (e.g. deciding to deal with a market maker instead of a broker, as any brokerage incurred would be required to be disclosed).
- 99 We understand that the concept of counterparty spreads may be applicable in some markets. For example, if a market maker is offering to buy a security at \$0.99 and sell it at \$1.01, the counterparty spread would be \$0.02 and the cost impact would be \$0.01 each for a seller and a buyer.

Changing the treatment of performance fees

Removing the distinction between performance fees and performance-related fees

Proposal: Recommendation 24 in [REP 581](#)

B8 We propose to:

- (a) remove any distinction between performance fees and performance-related fees, so that performance fees will include amounts calculated by reference to performance of a product, part of a product, an interposed vehicle or part of an interposed vehicle; and
- (b) give effect to this proposal by inserting cl 101C into Sch 10.

See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.360–RG 97.364 at Attachment 1 to this paper.

Your feedback

- B8Q1 Do you agree with our approach? If not, please explain why.
- B8Q2 What system and process changes would be needed to implement this proposal?
- B8Q3 What are the additional costs associated with implementing this proposal? Please provide details of one-off and/or annual costs as applicable.
- B8Q4 What would be a reasonable timeframe for issuers to implement this proposal, in light of the other changes proposed in this paper?

Rationale

100 [REP 581](#) notes (at page 143) that from a consumer perspective, it should not matter whether a performance fee is incurred at the product level or in an underlying investment vehicle.

101 We agree with this observation. We believe this proposal may help simplify fees and costs disclosure for consumers, as all fees that relate to the performance of the product or option and any underlying investments will be included in the same disclosed amount.

Calculating performance fees

Proposal: Recommendation 24 in [REP 581](#)

B9 We propose to:

- (a) require that:

- (i) the amount of performance fees to be included in the 'Fees and costs template' as part of investment fees for superannuation products (to be renamed investment fees and costs) and management costs for managed investment products (to be renamed management fees and costs) will be calculated by reference to the average of the performance fees that accrued in the product, option, interposed vehicle or part in each of the previous five financial years;
 - (ii) where a product, option, interposed vehicle or part was not in operation for the previous five financial years, or did not have a performance fee charging mechanism in place for the full five financial years, the average should be calculated by reference to the number of financial years in which it operated or had a performance fee charging mechanism in place; and
 - (iii) where a product, option or interposed vehicle or part was first offered in the current financial year, the performance fee should be calculated by reference to the issuer's reasonable estimate of the performance fee for the current financial year; and
- (b) give effect to these proposals by inserting cl 101C into Sch 10.

See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.385–RG 97.390 at Attachment 1 to this paper.

Your feedback

- B9Q1 Do you agree with our approach? If not, please explain why.
- B9Q2 Are any transitional arrangements required to accommodate data availability, particularly for interposed vehicles? Please give details.
- B9Q3 Should we provide any further guidance on how to calculate performance fees? Please give details.
- B9Q4 Should carried interest charged by general partners in private equity funds be included in the definition of performance fee in cl 101C of Sch 10? Please give details.
- B9Q5 What system and process changes would be needed to implement these proposals?
- B9Q6 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable.
- B9Q7 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper?

Rationale

102

[REP 581](#) states (at page 142) that to reduce the likelihood of large differences between the disclosed amounts of performance fees and the

actual outcome, it is preferable that the quantum of performance fees be calculated by reference to a longer term average. REP 581 notes that a period of five years appears reasonable, based on the average adopted under the EU Regulation on [Key information documents for packaged retail and insurance-based investment products](#) (EU1286/2014).

103 [REP 581](#) also notes (at page 142) that the average calculation should be able to accommodate any negative (clawback) figures for individual years, although the calculated average figure itself should not be negative.

104 We agree with the statements in [REP 581](#). We believe this proposal may help consumers make informed value for money decisions by providing more reliable disclosure of performance fees, in the context that performance fees may often be volatile and that past performance is not an indicator of future performance. It also removes some complexity for industry by making it clear that performance fees relating to the superannuation entity or managed investment scheme, and performance fees relating to interposed vehicles, are to be calculated on the same basis.

Disclosing performance fees

Proposal: Recommendation 24 of [REP 581](#)

B10 We propose to:

- (a) require the 'Fees and costs templates' (now to be called the 'Fees and costs summaries') for both superannuation products and managed investment products to contain an additional footnote referring to performance fees in the form illustrated by footnote 1 of Figure 2, Figure 9 and Example 1 in draft updated RG 97 at Attachment 1 to this paper;
- (b) maintain the requirements for the 'Additional explanation of fees and costs' (to be renamed 'Fees and costs details') as set out in cls 209(b)(i) and (ii) of Sch 10, but with some amendments to clarify the operation of cl 209(b)(ii) of Sch 10;
- (c) amend cl 209(b)(iii) of Sch 10 to require the 'Additional explanation of fees and costs' (to be renamed 'Fees and costs details') to set out the calculated average performance fees for each product, option, interposed vehicle or part under cl 101C(3)(a) of Sch 10;
- (d) allow issuers to set out related performance information in the 'Additional explanation of fees and costs' (to be renamed 'Fees and costs details') if they choose to do so; and
- (e) allow issuers to set out a further explanation in the 'Additional explanation of fees and costs' (to be renamed 'Fees and costs details'), in circumstances where the issuer believes that the average figure based on the previous five financial years is not representative for the coming period.

See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.391–RG 97.395 at Attachment 1 to this paper.

Your feedback

- B10Q1 Do you agree with our approach? If not, please explain why.
- B10Q2 Given that cl 209A of Sch 10 requires performance fees to be included in investment fees (to be renamed investment fees and costs) for superannuation products rather than in administration fees (to be renamed administration fees and costs), should the reference to administration fees and costs in cl 209(b)(i) of Sch 10 be retained? If you believe the reference to administration fees should be retained, please explain why.
- B10Q3 We have drafted cl 209(b)(iii) of Sch 10 so that it requires disclosure of the five-year average for each performance fee for each product, option, interposed vehicle or part that makes up the total performance fees. Do you believe this provides consumers with sufficient information? Should it also require disclosure of the performance fee for each year that is included in the five-year average? Please explain why or why not.
- B10Q4 What system and process changes would be needed to implement these proposals?
- B10Q5 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable.
- B10Q6 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper?

Rationale

- 105 We believe that requiring issuers to provide this information will improve the disclosure of performance fees, and may help consumers understand how performance fees may impact their investment.
- 106 We propose to amend cl 209(b)(ii) of Sch 10 so the information provided is the method for calculating the total performance fees under cl 101C(3) of Sch 10. We have also inserted guidance in draft updated RG 97 at RG 97.393(b) at Attachment 1 to this paper that this is the method for calculating the total performance fees to be included in investment fees and costs or management fees and costs, not for calculating each individual performance fee.
- 107 If this amendment was not made, this clause would require issuers to set out the calculation method for every performance fee the superannuation entity or managed investment scheme incurs (e.g. the product or option level

performance fee and the performance fees incurred by interposed vehicles). We believe this would require the issuer to provide too much information, which may be confusing for consumers and could reduce the practicability of the fees and costs disclosure requirement for industry.

108 We propose to amend cl 209(b)(iii) of Sch 10 to require disclosure of the five-year average for each relevant performance fee that makes up the total performance fees. We do not propose to require disclosure of the individual annual performance fees that make up the five-year average. We believe this would require the issuer to provide too much information, which may be confusing for consumers and could reduce the practicability of the fees and costs disclosure requirements for industry.

Clarifying the treatment of costs paid out of reserves

Proposal: Recommendation 30 in [REP 581](#)

B11 We propose to:

- (a) amend cl 209A of Sch 10 to clarify the position on costs paid out of reserves; and
- (b) give effect to this proposal by amending the definitions of investment fee (to be renamed investment fees and costs) and administration fee (to be renamed administration fees and costs) in cl 209A of Sch 10, to make it clear that these fees and costs include costs met through the use of reserves.

See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.97–RG 97.101 at Attachment 1 to this paper.

Your feedback

B11Q1 Do you agree with our approach? If not, please explain why.

B11Q2 How should amounts that are transferred into reserves (as opposed to amounts transferred out to meet costs) be treated for the purposes of fees and costs disclosure? Please provide details, including whether the treatment should be different for amounts transferred into an operational risk reserve.

B11Q3 What system and process changes would be needed to implement this proposal?

B11Q4 What are the additional costs associated with implementing this proposal? Please provide details of one-off and/or annual costs as applicable.

B11Q5 What would be a reasonable timeframe for issuers to implement this proposal, in light of the other changes proposed in this paper?

Rationale

- 109 We understand that superannuation trustees often establish reserves that may be funded in various ways for several different purposes, including administration reserves (used to fund future administration and operational expenses), investment reserves and operational risk reserves. We acknowledge that reserves can be a necessary and appropriate tool for superannuation entities to use to meet their operational requirements.
- 110 We believe it is important for fees and costs disclosure to include amounts that are deducted from reserves and used to meet fees and costs. If these types of expenditures are not disclosed, members will not be aware of the full amount of the costs required to operate the superannuation entity. This may affect their ability to compare products and make value for money decisions.
- 111 We believe it is important for amounts deducted from reserves to meet fees and costs to be disclosed to members, as money held in reserves remains an asset of the superannuation entity and is therefore members' money.
- 112 The approach is consistent with disclosing all administration or investment fees and costs as one line item in the 'Fees and costs template', as reflected in proposal B1.

Drafting clarification in cl 301(2) of Sch 10

Proposal: Recommendation 33 in [REP 581](#)

B12 We propose to:

- (a) make minor amendments to the structure of cl 301 of Sch 10 to realign cl 301(2) with cl 301(1); and
- (b) give effect to this proposal by:
 - (i) moving cl 301(1B) down to become a new cl 301(3A); and
 - (ii) deleting cl 301(1E) and inserting the content requirements it imposes into the new cl 301(3A).

See the draft amendments to Sch 10 included at Attachment 2 to this paper.

Your feedback

B12Q1 Do you agree with our approach? If not, please explain why.

Rationale

- 113 [REP 581](#) notes (at page 157) that the opening words of cl 301(2) of Sch 10 (i.e. 'The amount inserted must include...') have become separated from the

clause they relate to (i.e. cl 301(1)) by the insertion of cls 301(1A)–(1E). [REP 581](#) concludes that the words relate to ‘Indirect costs of your investment’ in cl 301(1) and recommends that the drafting should be adjusted accordingly.

- 114 We agree with these observations. We believe that this minor amendment will provide greater clarity by plainly indicating how to calculate amounts to be disclosed under ‘Fees deducted directly from your account’ and ‘Fees and costs deducted from your investment’, which must be included in periodic statements by cls 301(1) and (1A).

C Recommendations we propose to adopt that do not require amendments to Sch 10

Key points

This section seeks feedback on our proposals to implement recommendations in [REP 581](#) that do not require amendments to Sch 10.

These proposals involve:

- consumer testing some proposals (see proposal C1); and
- developing additional resources and information for consumers (see proposal C2).

We also propose to work with industry to improve choice of product advice (see proposal C3).

We also propose to amend our guidance, to:

- improve the explanation in [RG 97](#) of the importance of fees and costs disclosure (see proposal C4);
- reduce misleading fees and costs disclosure concerning platforms (see proposal C5);
- clarify the treatment of amounts paid by third parties or offset against other amounts (see proposal C6); and
- clarify the application of our guidance on periodic statements for defined benefit members (see proposal C7).

We also propose to work with industry to make the presentation of fee information more consistent: see proposal C8.

We believe that these and other proposals discussed in this paper will reduce the differences in the fees and costs disclosure requirements for superannuation products and managed investment products: see proposal C9.

We also propose to make a consolidated version of Sch 10 available on our website (see proposal C10), and to develop and implement a surveillance strategy (see proposal C11) after the outcome of this consultation is settled.

Consumer testing some proposed changes

Proposal: Recommendations 12 and 15 in [REP 581](#)

- c1 We are conducting consumer testing in relation to some of the proposals in this consultation paper. The consumer testing will focus on:
- (a) the proposed 'Fees and costs summaries' for superannuation products and managed investment products in Figure 2, Figure 9

and Example 1 of draft updated RG 97 at Attachment 1 to this paper, which we propose will replace the 'Fees and costs templates';

- (b) merging administration fee (to be renamed administration fees and costs) with investment fee (to be renamed investment fees and costs) in the superannuation 'Fees and costs template' (now to be called the 'Fees and costs summary'); and
- (c) changing the name of the 'Fees and costs template' to the 'Fees and costs summary'; and
- (d) changing the name of the 'Additional explanation of fees and costs' to the 'Fees and costs details'.

We do not propose to engage in broader consumer testing regarding the legislative framework for fees and costs disclosure, as we need to work within the existing legislative framework and focus on implementing a consistent regime for consumers.

Your feedback

C1Q1 Is it helpful for consumers to see administration fees and costs and investment fees and costs disclosed separately? If so, why?

C1Q2 Do you believe the names 'Fees and costs summary' and 'Fees and costs details' (instead of 'Fees and costs template' and 'Additional explanation of fees and costs') will better help consumers understand information relating to fees and costs?

Rationale

115 [REP 581](#) (at page 100) notes that if the layout and structure of the 'Fees and costs templates' are to be reviewed generally, consumer testing may be an appropriate way to identify the preferred direction. REP 581 then sets out amended versions of the 'Fees and costs templates' in Diagram 6-1 (for superannuation products) and Diagram 6-2 (for managed investment products), for the purposes of proposing a layout that is worth consumer testing.

116 Recommendation 12 recommends testing consumer responses to merging administration fees with investment fees. [REP 581](#) notes (at page 100) that separating administration fees does not facilitate comparison if consumers have to add two numbers together, particularly when one is a percentage and the other is a dollar amount. REP 581 also notes that separating administration fees arguably does not help consumers choose a superannuation entity because administration services can only be 'purchased' as part of the relevant investment option, along with the investment fees and costs. REP 581 also notes that aggregating the administration fee and the investment fee would better align the disclosure requirements for superannuation products and managed investment products.

- 117 Depending on the results of the consumer testing, we may further consider whether to merge administration fees and costs with investment fees and costs. We may conduct further industry consultation on this matter.
- 118 Recommendation 15 recommends that if other changes to the ‘Fees and costs templates’ were to be consumer tested, there should also be simultaneous consumer testing in relation to changing the name of:
- (a) the ‘Fees and costs template’ to the ‘Fees and costs summary’; and
 - (b) the ‘Additional explanation of fees and costs’ to the ‘Fees and costs details’.
- 119 [REP 581](#) (at page 107) notes that these may be more consumer-friendly titles.
- 120 We will share the conclusions from our consumer testing with industry when they are available.

Developing additional resources and information for consumers

Proposal: Recommendation 28 in [REP 581](#)

- c2 After the amendments to the fees and costs disclosure regime have been finalised, we propose to undertake further work to refine the consumer-facing narrative about the importance and relevance of fees and costs when making decisions about superannuation products and managed investment products. This may include producing information and educational material (including for [MoneySmart](#)) and working with industry (e.g. to develop consumer tools). It is important that any narrative and related information and resources focus not just on fees and costs but identify fees and costs as one factor but not the sole consideration in choosing a product.

Your feedback

- c2Q1 Do you have any suggestions about how the importance and relevance of fees and costs can best be explained to consumers? Please provide details.
- c2Q2 Do you have any suggestions about the types of tools that may help explain the relevance of fees and costs to consumers? Please provide details.

Rationale

- 121 [REP 581](#) notes (at page 155) that information and educational material for consumers needs to go further than just emphasising that fees are important, and that it would be best to explain the relevance of fees, costs and other factors in the context of different decisions. REP 581 also notes (at page 155) that information and educational material should seek to explain

the nature and composition of fees and costs as disclosed. It should also touch on how to use the disclosure tools—including the ‘Fees and costs template’ and the ‘Example of annual fees and costs’—and how these tools can support the decision-making process.

- 122 We agree with these observations, and believe that it is important to ensure that consumers understand fees and costs in the particular context of superannuation products and managed investment products. We believe that if consumers can better understand the importance and relevance of fees and costs, they may be better able to make informed value for money decisions, compare products and understand the amounts charged to them.

Working with industry bodies on choice of product advice

Proposal: Recommendation 29 in [REP 581](#)

- c3 After the amendments to the fees and costs disclosure regime have been finalised, we propose to work with the industry bodies that represent advisers to clarify how fees and costs disclosure should be used when giving advice about choice of products.

Your feedback

- c3Q1 Are you aware of any particular topics within fees and costs disclosure that advisers need guidance on? Please provide details.
- c3Q2 Do you have any suggestions on what resources about fees and costs disclosure may be useful to advisers?

Rationale

- 123 [REP 581](#) notes (at page 156) that advisers have expressed concerns about how to factor fees and costs disclosure information into their advice to clients.
- 124 We believe it is important that advisers understand how to use fees and costs disclosure information when preparing financial product advice for their clients. If the fees and costs information about a product in a Statement of Advice is not accurate or is incomplete, it may affect the consumer’s ability to compare products and make informed value for money decisions.

Explaining why fees and costs must be disclosed

Proposal: Recommendation 23 in [REP 581](#)

- c4 We propose to explain the purposes and context of the fees and costs disclosure regime, so the intent of the regime is clear and the meaning

is more accessible to users: see draft updated RG 97 at RG 97.6–RG 97.12 at Attachment 1 to this paper, which sets out our views on why fees and costs must be disclosed in PDSs and periodic statements.

Your feedback

- C4Q1 Do you agree with our approach? If not, please explain why.
- C4Q2 Are there any other purposes of fees and costs disclosure that you believe should be included in our guidance?

Rationale

- 125 It is important that we and industry have a shared understanding of the purposes of fees and costs disclosure. These purposes should guide further policy developments, and give direction to issuers making decisions in relation to fees and costs disclosure, in circumstances where applying the law requires them to make judgements.

Guidance on including a prominent statement in the ‘Fees and costs template’ for platforms

Proposal: Recommendation 20 in [REP 581](#)

- c5 To help platform operators ensure that a PDS (or IDPS Guide) is not misleading, we propose to:
- (a) include guidance in draft updated RG 97 that platform operators should include a prominent statement in the ‘Fees and costs template’ 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; and
 - (b) retain the guidance in the current version of RG 97 (at RG 97.72–RG 97.74) regarding prominent statements that should be included after the ‘Example of annual fees and costs’, and including other examples that illustrate the combined effect of the fees and costs of the platform and accessible financial products.

See draft updated RG 97 at RG 97.252–RG 97.259 at Attachment 1 to this paper.

Your feedback

- C5Q1 Do you agree with our approach? If not, please explain why.
- C5Q2 What system and process changes would be needed to implement this guidance?
- C5Q3 What are the additional costs associated with implementing this guidance? Please provide details of one-off and/or annual costs as applicable.

C5Q4 What would be a reasonable timeframe for issuers to implement this guidance, in light of the other changes proposed in this paper?

Rationale

- 126 [REP 581](#) (at page 113) notes that because platforms have a more complex structure, disclosure is always going to be more complex than for non-platform products. REP 581 also states that consumers—or in most cases, their advisers—need to appreciate the double layer of fee impact and disclosure, and how to aggregate or disaggregate this disclosure depending on the comparison being made.
- 127 [REP 581](#) (at page 111) also notes the current guidance in [RG 97](#) about platform disclosure (to include a prominent statement following the ‘Example of annual fees and costs’ stating that the fees and costs of the platform in the PDS relate to access to the investments on the list, not the costs within those investments) but found this statement was presented quite differently and with varying degrees of prominence in different PDSs. REP 581 notes (at page 115) that consumer comparison would be assisted if there was greater consistency of approach in the way the prominent statement was presented.
- 128 We agree with these observations and believe that this guidance may help consumers compare products. By including this guidance, we will highlight that platform operators must take care to make clear to consumers that they will incur fees and costs both in relation to the platform and any accessible financial products they select and are facilitated to aggregate these.

Clarifying in RG 97 the treatment of amounts paid by third parties or offset against other amounts

Proposal: Recommendation 26 in [REP 581](#)

- c6 We propose to include guidance to clarify the principles for and the treatment of fees, costs and other amounts paid by third parties or offset against other amounts: see draft updated RG 97 at RG 97.276–RG 97.279, and RG 97.407–RG 97.411, at Attachment 1 to this paper.

Your feedback

- C6Q1 Do you agree with our approach? If not, please explain why.
- C6Q2 Is there any further guidance we should provide? Please give details.
- C6Q3 What system and process changes would be needed to implement this guidance?

C6Q4 What are the additional costs associated with implementing this guidance? Please provide details of one-off and/or annual costs as applicable.

Rationale

- 129 Recommendation 26 of [REP 581](#) recommends that ASIC should clarify in [RG 97](#) the principles relating to the payment of fees, costs and other amounts paid by third parties or offset against other amounts. REP 581 (at page 148) supported the manner in which third party and offset payments are to be disclosed, but notes that the principles and impact would not be immediately obvious from reading RG 97 or Sch 10.
- 130 We believe that the fact that a fee or cost is paid for by a third party does not affect its characterisation as a fee or cost for disclosure purposes. Including these amounts ensures that the true costs associated with the product or option are disclosed to consumers.
- 131 We also believe it is important that issuers do not reduce the fees and costs disclosed in a PDS to take into account any available tax deductions. We do not think that the fact that a fee or cost is funded by a tax deduction should affect its characterisation as a fee or cost. Not reducing disclosed fees and costs in this way ensures that consumers are informed of the true costs associated with the product or option.
- 132 We also believe that fees and costs cannot be reduced or offset against other income or through income-sharing arrangements. Although income may be generated, the superannuation entity or managed investment scheme will incur costs in doing so. Disclosing these costs in full ensures that consumers are informed of the true costs associated with the product or option.
- 133 We believe that failing to inform consumers of the true costs associated with a product or option may hinder their ability to compare products and make informed value for money decisions.

Periodic statement content for defined benefit members

Proposal: Recommendation 32 in [REP 581](#)

- c7 We propose to update our guidance on periodic statements for defined benefit superannuation entities, 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: see draft updated RG 97 at RG 97.139–RG 97.141 at Attachment 1 to this paper.

Your feedback

- C7Q1 Do you agree with our approach? If not, please explain why.
- C7Q2 What system and process changes would be needed to implement this guidance?
- C7Q3 What are the additional costs associated with implementing this guidance? Please provide details of one-off and/or annual costs as applicable.
- C7Q4 What would be a reasonable timeframe for issuers to implement this guidance, in light of the other changes proposed in this paper?

Rationale

- 134 [REP 581](#) notes (at page 156) that as some superannuation entities have defined benefit members and defined contribution (accumulation) members, it seems appropriate that the guidance in the current [RG 97](#) should apply to the periodic statements of all defined benefit members, regardless of whether the superannuation entity also has accumulation members.
- 135 We agree with these observations, and believe the revised guidance will help provide defined benefit members with disclosure that may be more relevant, more meaningful and more appropriate to the type of superannuation product they hold.

Consistent presentation of fee information in the ‘Fees and costs template’**Proposal: Recommendation 3 in [REP 581](#)**

- c8 We propose making specific amendments to our guidance, to help improve consistency in the way fees and costs information is set out in the ‘Fees and costs template’, by:
- (a) removing some existing guidance in [RG 97](#) (at RG 97.137) and being clearer about the circumstances in which adaptations to the ‘Example of annual fees and costs’ can be made (see draft updated RG 97 at RG 97.174–RG 97.175 at Attachment 1 to this paper);
 - (b) removing some existing guidance in [RG 97](#) (at RG 97.150–RG 97.151) and being clearer about our view on the meaning of ‘components’ in cl 204(6) of Sch 10 (see draft updated RG 97 at RG 97.370 at Attachment 1 to this paper);
 - (c) including some additional guidance in draft updated RG 97 at RG 97.371 at Attachment 1 to this paper stating that when considering fees and costs structures, issuers should also consider how easily the components of the structure can be described in the

line item of the 'Fees and costs template', and whether consumers will easily understand this; and

- (d) exploring with industry what other steps we can take together to ensure fees and costs information is presented more consistently.

Your feedback

- C8Q1 Do you agree with our approach? If not, please explain why.
- C8Q2 Do you believe further guidance is required?
- C8Q3 Do you believe industry standards could be developed to improve levels of consistency?
- C8Q4 What system and process changes would be needed to implement this guidance?
- C8Q5 What are the additional costs associated with implementing this guidance? Please provide details of one-off and/or annual costs as applicable.
- C8Q6 What would be a reasonable timeframe for issuers to implement this guidance, in light of the other changes that are proposed in this paper?
- C8Q7 How could we best work with industry to ensure fees and costs information is presented more consistently in the future?

Rationale

- 136 [REP 581](#) notes (at page 91) that many aspects of fee disclosure in the 'Fees and costs template' limit the effectiveness of the 'Fees and costs template' for use in effective comparison across products or issuers. REP 581 gives examples (at pages 91–93) of the different approaches to presenting fees and costs that limit the ability for consumers to compare products.
- 137 [REP 581](#) also notes (at page 90) that because of the complexity of the comparison task, the effort involved and the cognitive limitations of many consumers, fee information would need to be unqualified, simple and directly comparable for it to be usable by consumers.
- 138 We believe that by limiting issuers' ability to tailor the 'Fees and costs template' and 'Example of annual fees and costs', we can improve consistency in the way fees and costs information is displayed, which in turn may assist consumers compare products.
- 139 We also believe that only showing components of fees and costs as dollar and percentage amounts (rather than breaking down fees and costs amounts in the 'Fees and costs template' into the types of fees and costs that make up the total amounts) will improve consistency and may make it easier for consumers to compare products.

- 140 Issuers of superannuation products and managed investment products are responsible for complying with the fees and costs disclosure requirements, and must make day-to-day decisions about compliance. We note that some work has already been undertaken by industry to provide assistance to industry in the practical implementation of fees and costs disclosure: see RG97 Industry Working Group, [Fees and costs disclosure guidance](#), 24 November 2017.
- 141 We are willing to work with industry to improve consistency in fees and costs disclosure, recognising however that there are limits to our resourcing and role. We would welcome ideas about how to progress this matter in the future.

Reducing differences between superannuation product and managed investment product fee disclosure

Proposal: Recommendation 5 in [REP 581](#)

- c9 We believe that implementing the proposals in this paper will significantly reduce or eliminate the differences between fees and costs disclosure appearing in PDSs and periodic statements of managed investment products and those of superannuation products. We do not have any separate proposals to progress at this time regarding this recommendation.

Your feedback

- c9Q1 Do you believe further changes are needed to reduce the differences in the fees and costs disclosure requirements for managed investment products and superannuation products? If so, please give details.

Rationale

- 142 [REP 581](#) states (at page 95) that the differences in the ‘Fees and costs templates’ for superannuation products and managed investment products make it almost impossible for consumers or their advisers to compare the costs of these products. REP 581 also notes (at page 96) that reducing or eliminating differences in the layout and content of the ‘Fees and costs template’ would materially facilitate comparisons.
- 143 [REP 581](#) also states (at page 95) that differences in fees and costs disclosure requirements have other negative practical consequences for industry. For example, complications may arise if a superannuation entity invests in a managed investment scheme, and must disclose the fees and costs of the managed investment scheme as indirect costs on the same basis as is required for superannuation products.

- 144 We believe that the differences between the fees and costs disclosure requirements for managed investment products and superannuation products should be eliminated or reduced to the greatest extent possible.
- 145 We may reassess whether any further alignment is required following the conclusion of this consultation and the implementation of any changes proposed in this paper:
- (a) if doing so may assist consumers compare products and make informed value for money decisions; and
 - (b) if it will make the fees and costs disclosure regime more practicable for industry.

Making a consolidated version of Sch 10 available on ASIC's website

Proposal: Recommendation 22 in [REP 581](#)

- c10 After the amendments to the fees and costs disclosure regime are finalised, we propose to:
- (a) amend [\[CO 14/1252\]](#) to repeal and replace Sch 10 in its entirety, so that Sch 10 (as modified by [\[CO 14/1252\]](#)) is set out in a single document; and
 - (b) include a link to [\[CO 14/1252\]](#) on the fees and costs section of our website.

Your feedback

c10Q1 Do you agree with our approach? If not, please explain why.

Rationale

- 146 [REP 581](#) (at page 118) noted the complexity industry faces in understanding modified fees and costs disclosure requirements. To make it easier for issuers to identify the most current modified requirements, REP 581 suggested that ASIC should at least make a consolidated version of the relevant provisions publicly available, incorporating sequential modifications.
- 147 We acknowledge this and believe that this proposal will make it easier for industry to identify and understand the fees and costs disclosure requirements. It will mean that industry and industry advisers will no longer need to apply the modifications in [\[CO 14/1252\]](#), which are set out in one document, against Sch 10, which is set out in another.

Developing and implementing a surveillance strategy

Proposal: Recommendation 27 in [REP 581](#)

c11 After the amendments to the fees and costs disclosure regime have been finalised and are in force, we propose to develop and implement a surveillance strategy to assess compliance with the fees and costs disclosure requirements.

Your feedback

c11Q1 Do you have any suggestions on what areas the surveillance should focus on? Please provide details.

Rationale

- 148 We are committed to ensuring that consumers receive transparent and usable fees and costs information to help them compare products, make informed value for money decisions, and understand the fees and costs charged to them. If issuers do not comply with the fees and costs disclosure requirements, these consumer objectives may be compromised.
- 149 A surveillance program will help us identify issuers that are not complying with the fees and costs disclosure requirements, and determine if there is any uncertainty about the requirements. If there is uncertainty, we may consider providing further guidance to ensure that the fees and costs disclosure regime is practicable for industry.

D Recommendations that we do not propose to adopt at this stage

Key points

This section seeks feedback on our proposals to not implement certain recommendations in [REP 581](#) at this stage, including recommendations relating to:

- a feasibility study on a consumer-facing comparison tool (see proposal D1);
- platform disclosure (see proposal D2);
- consistency in the way information is incorporated by reference into PDSs (see proposal D3);
- changing indirect cost ratio to indirect costs in the 'Fees and costs template' for superannuation products (see proposal D4);
- explanations to consumers about transactional and operational costs in the context of information on returns (see proposal D5);
- calculation and disclosure of performance fees (see proposal D6); and
- a drafting clarification in cl 303(2) of Sch 10 (see proposal D7).

It also sets out our proposals in relation to the observations for the future made in REP 581: see proposal D8.

Conducting a feasibility study into a consumer comparison tool

Proposal: Recommendations 1 and 2 in [REP 581](#)

- D1** We support the development of a publicly accessible, consumer-facing comparison tool. This task would require significant resources, so at this stage we do not propose to undertake a feasibility study into whether ASIC or another government agency could provide this tool. In addition, the Productivity Commission's [Superannuation: Assessing Efficiency and Competitiveness](#) inquiry may affect these recommendations. We may reconsider these recommendations at a later date.

Your feedback

- D1Q1 Do you agree with our approach? If not, please explain why.
- D1Q2 What elements would be included in a good consumer-facing comparison tool? Please provide details.
- D1Q3 What other functionalities would a good consumer-facing comparison tool have? Please provide details.

D1Q4 Have you seen any examples of what you believe is a good consumer-facing comparison tool, in Australia or internationally? Please provide details.

Rationale

- 150 [REP 581](#) notes (at page 87) that there is a practical limitation on using PDSs to compare fees and costs, as comparing products or options is a laborious and time-consuming exercise, and consumers would see it as a time-inefficient process they would likely shortcut or avoid. REP 581 also notes (at page 87) that given the complexity of making comparisons and the various limitations to PDS disclosure, the consumer decision-making process needs to be better supported.
- 151 We believe consumers do need to be better supported in making decisions about fees and costs and we are undertaking work in this area.
- 152 We also believe that a comparison tool may help consumers make decisions about investments. We anticipate that a feasibility study into a consumer-facing comparison tool would require significant resources.
- 153 We do not believe that this is the appropriate time to be undertaking the feasibility study, given the Productivity Commission's [Superannuation: Assessing Efficiency and Competitiveness](#) inquiry. Although the final report for the inquiry is yet to be published, the final report and any future government response may affect the proposals in this paper. For instance, the draft report for the inquiry recommended that:
- (a) a 'best in show' shortlist of superannuation products should be produced and embedded by the Australian Taxation Office into a centralised online service (draft recommendation 2); and
 - (b) ASIC immediately publish all available MySuper and Choice product dashboards on a single website, with the information clearly and readily accessible from the area of myGov that allows for consolidation of accounts (draft recommendation 9).
- 154 We anticipate doing further work in relation to consumer comparison tools in the future, and may revisit these recommendations at that time. It is likely that effectively implementing any comparison tool would require some law reform.

Platform disclosure

Proposal: Recommendations 17–21 in [REP 581](#)

- D2 We propose:
- (a) at this stage, not to consult fully about adopting recommendations 17–21 on platform disclosure because this is a significant undertaking that would delay the implementation of the

other proposals in this paper. We are currently undertaking a project on platforms so we can better understand their operations. Once we have obtained further information from that project, we will consider if the regulatory settings for platforms need revision and may revisit these recommendations at that time. However, at this time we would like to seek industry's preliminary feedback as to whether recommendations 17–20 should be made legal obligations;

- (b) at this stage, in relation to recommendation 19 (showing the cost impacts of accessible financial products in periodic statements for platforms), to include the guidance from question 6 of the [ASIC Q&As](#) in RG 97 (see draft updated RG 97 at RG 97.260–RG 97.266 at Attachment 1 to this paper); and
- (c) at this stage, in relation to recommendation 20 (positioning of a prominent statement in the 'Fees and costs template' for platforms), to include guidance in draft updated RG 97 at Attachment 1 to this paper (see proposal C5).

Your feedback

- D2Q1 Do you agree with our approach? If not, please explain why.
- D2Q2 What system and process changes would be needed to implement the guidance in relation to showing the cost impacts of accessible financial products in periodic statements for platforms? (See draft updated RG 97 at RG 97.260–RG 97.266 at Attachment 1 to this paper.)
- D2Q3 What are the additional costs associated with implementing the guidance in relation to showing the cost impacts of including accessible financial products in periodic statements for platforms? Please provide details of one-off and/or annual costs as applicable. (See draft updated RG 97 at RG 97.260–RG 97.266 at Attachment 1 to this paper.)
- D2Q4 What would be a reasonable timeframe for issuers to implement the guidance in relation to showing the cost impacts of accessible financial products in periodic statements for platforms, in light of the other changes proposed in this paper? (See draft updated RG 97 at RG 97.260–RG 97.266 at Attachment 1 to this paper.)
- D2Q5 Should recommendation 17 (showing fees and costs of accessible financial products available through a platform within the platform's investment menu documents) be made a legal obligation? Please provide details.
- D2Q6 Should recommendation 18 (including abbreviated 'Cost of product' information—calculated, to the extent possible, consistently with the 'Cost of product information' figure in proposal B3—in platforms' investment menu documents, which include the fees and costs for both the platform and the accessible financial products) be made a legal obligation? Please provide details.

- D2Q7 Should recommendation 19 (that periodic statements should explicitly include the cost impacts of accessible financial products in platforms) be made a legal obligation? Please provide details.
- D2Q8 Should recommendation 20 (positioning a prominent statement in the 'Fees and costs template' for platforms to indicate 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, and including a cross-reference to the 'Cost of product information' described in recommendation 18) be made a legal requirement? Please provide details. Should this statement be positioned in the management costs line (for managed investment products) or the investment fee line (for superannuation products)?
- D2Q9 Is it practical for a paper-based point-of-sale document—which covers a large number of options permitting the acquisition of accessible financial products—to practically present aggregated fees and costs for a platform and each available accessible financial product, or is a technological solution required? Please provide details.

Rationale

- 155 We acknowledge the potential under the current fees and costs disclosure requirements for consumers to be confused about fees and costs when the consumer is investing via a platform. This makes it important for platform operators to take care not to mislead consumers, and to provide very clear fees and costs information. We believe that it is important that consumers are aware that they will incur fees and costs in relation to both the platform and the relevant accessible financial products they select.
- 156 We believe recommendation 20 (including a prominent statement in the 'Fees and costs template' in platform PDSs that the fees and costs 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) may be one of the ways to remind consumers that they should take into account the cumulative effect of fees and costs associated with a platform investment.
- 157 We also believe that recommendation 17 (requiring fees and costs of accessible financial products to be shown in the platform's investment menu documents) and recommendation 18 (including abbreviated 'Cost of product information' for each accessible financial product in the platform's investment menu documents) might be some of the methods that could be implemented that may help consumers to understand the double layer of fees and costs impact associated with investing in platforms. Recommendation 19

(including the fees and costs impacts of accessible financial products in periodic statements) may also assist consumers to understand the fees and costs they incur in relation to their platform investment.

- 158 We also understand that there are significant implementation challenges in rolling up the costs of accessible financial products into platform disclosure, given that each investor chooses their own accessible financial products and the range of accessible financial products is generally very large.
- 159 We are currently undertaking a project to explore consumer outcomes for MDAs offered by platforms, and to identify and action any potential risks and harms to consumers. This project involves gaining a better understanding of the way platforms are currently operating in practice. This project is anticipated to conclude at the end of 2019.
- 160 After we have obtained information from that project, and the proposals set out in this consultation paper have been implemented, we will consider if the regulatory settings for platforms need to be revised.
- 161 This may include considering whether the fees and costs disclosure requirements for platforms should change, including whether recommendations 17–20 should be made legal obligations. We therefore welcome, as part of this consultation, industry’s preliminary feedback on whether recommendations 17–20 should be made legal obligations.
- 162 We may also consider whether other fees and costs disclosure requirements should apply to platforms (which may require more and/or different disclosure than that proposed in recommendations 17–20). We may then propose further changes to the fees and costs disclosure requirements for platforms, and seek further industry feedback in relation to these proposed changes. It may be that law reform rather than the exercise of ASIC’s modification powers would be needed to effect appropriate obligations.
- 163 In relation to recommendation 17, if platform operators already include the fees and costs of accessible financial products available through the platform in the investment menu documents or through other tools, we encourage platform operators to continue to provide this information. We also encourage platform operators that do not currently provide this information to consider doing so. We believe providing this information may help consumers compare products and make informed value for money decisions.

Consistency in the way fees and costs information is incorporated by reference

Proposal: Recommendation 4 in [REP 581](#)

- D3 At this stage we do not propose to introduce legal requirements or include additional guidance dealing with consistency in the way fees

and costs information is incorporated by reference in PDSs. However, we would, in the future, like to work further with industry on consistency issues. We would like to seek feedback on whether industry could develop standards or best practice guidelines to improve consistency, and how we might contribute to this process.

Your feedback

D3Q1 Do you agree with our approach? If not, please explain why.

D3Q2 Do you think industry standards or best practice guidelines could improve the consistency with which fees and costs information is incorporated by reference?

Rationale

- 164 [REP 581](#) notes (at page 94) that there is much diversity in practice in the way documents incorporated by reference present fees and costs information. Depending on exactly what choice the consumer is considering, it can require some effort to even find the relevant document(s) (whether in hard copy or electronic form) and where the relevant fees and costs information is located.
- 165 We believe that greater consistency in the way fees and costs information is incorporated by reference into PDSs may make fees and costs information more usable for consumers, and may help them make informed value for money decisions.
- 166 If, following the consultation process, it does not appear that industry standards or best practice guidelines could be put in place, we may consider introducing legal requirements or inserting further guidance in [RG 97](#). We may also consider providing additional guidance on this topic when undertaking any future work on [Regulatory Guide 168](#) *Disclosure: Product Disclosure Statements (and other disclosure obligations)* (RG 168).

Changing indirect cost ratio to indirect costs in the 'Fees and costs template' for superannuation products

Proposal: Recommendation 7 in [REP 581](#)

- D4 We do not propose to change indirect cost ratio to indirect costs in the 'Fees and costs template' for superannuation products, as we propose to adopt recommendation 11: see proposal B1.

Your feedback

D4Q1 Do you agree with our approach? If not, please explain why.

Rationale

- 167 We propose to adopt recommendation 11 (see proposal B1), which will remove the distinction between investment fees and indirect costs, and administration fees and indirect costs, by:
- (a) merging investment fees and indirect costs that relate to the investment of the superannuation entity's assets into a single line item called investment fees and costs in the 'Fees and costs template'; and
 - (b) merging indirect costs that relate to the administration or operation of the superannuation entity into a single line item called administration fees and costs in the 'Fees and costs template'.
- 168 As indirect costs will no longer be a separate line item in the 'Fees and costs template', recommendation 7 is now not necessary.

Explaining transactional and operational costs to consumers within the context of information about returns

Proposal: Recommendation 25 in [REP 581](#)

- D5 At this stage, we do not propose to consider whether and how transactional and operational costs could be better explained to consumers within the context of information about returns.

Your feedback

- D5Q1 Do you agree with our approach? If not, please explain why.
- D5Q2 Do you believe explaining transactional and operational costs within the context of information about returns would help consumers compare products and make informed value for money decisions?
- D5Q3 Do you have any suggestions on the best method to give effect to this recommendation?

Rationale

- 169 [REP 581](#) noted (at page 139) that as transactional and operational costs are related to the narrative about returns, further consideration might be given in the longer term as to whether and how to explain those costs to consumers within the context of information about returns.
- 170 Given the number of proposals in this paper that may affect disclosure of transactional and operational costs, we do not believe it is the appropriate time to consider this recommendation. We may reconsider this recommendation in the future after the revised fees and costs disclosure requirements are finalised and implemented.

- 171 We will ensure that we consider this in the context of developing additional resources and information for consumers: see proposal C2.

Calculating and disclosing performance fees

Proposal: Recommendation 31 in [REP 581](#)

- D6 We do not propose to adopt this recommendation on calculating and disclosing performance fees because we are proposing to insert new provisions into Sch 10, and guidance in draft updated RG 97, on performance fees: see proposals B8–B10.

Your feedback

- D6Q1 Do you agree with our approach? If not, please explain why.

Rationale

- 172 [REP 581](#) noted (at page 156) that the drafting of the parts of Sch 10 and [RG 97](#) that relate to calculating and disclosing performance fees should be revisited to clarify the intention.
- 173 As we are proposing a new regime for performance fees in this consultation paper (see proposals B8–B10), we believe recommendation 31 is now not necessary.

Clarifying the drafting in cl 303(2) of Sch 10

Proposal: Recommendation 34 in [REP 581](#)

- D7 We do not propose to adopt this recommendation to clarify the drafting in cl 303(2) of Sch 10 because we consider this recommendation is now not necessary.

Your feedback

- D7Q1 Do you agree with our approach? If not, please explain why.

Rationale

- 174 [REP 581](#) noted (at page 157) that to better reflect the intention of the drafting, cl 303(2)(d) of Sch 10 should be amended so that cls 303(2)(d)(i) and (ii) are in the alternate rather than the conjunctive.
- 175 As we propose to make amendments to periodic statements under recommendation 16 (see proposal B4), which will include requiring

transaction costs to be shown in periodic statements in ‘Fees and costs deducted from your investment’ under cl 301(1A), we believe recommendation 34 is now not necessary.

Observations for the future

Proposal

- D8 At this stage, we do not propose to address or consider the observations for the future discussed at pages 157–158 of [REP 581](#).

Your feedback

- D8Q1 Do you agree with our approach? If not, please explain why.
- D8Q2 Do you have any other comments or observations you would like to make regarding the observations for the future discussed at pages 157–158 of [REP 581](#)?

Rationale

- 176 [REP 581](#) notes (at page 157) that given the complexities consumers face when factoring cost impacts into the decision-making process, the complexity of information they have available to them and the limitations of supporting tools, it is difficult to be confident that the current fees and costs disclosure regime is an optimal approach. However, REP 581 does note that the current fees and costs disclosure tools are consistent with international approaches, and that no other major jurisdiction has found a better solution at this stage.
- 177 [REP 581](#) notes (at page 157) that fees and costs information and disclosure could be approached in a way that better supports decision making. It also states that some of the current challenges include the fact that fees and costs information is often provided in a point-of-sale context, it is generally product or investment option specific, is largely static, is separated from other information relevant to decision making and tells a very complex story.
- 178 [REP 581](#) notes (at pages 157–158) that future directions that might be considered include more layering of information, more modular and tailored presentation, less segregated presentation, and more accessible delivery of fees and costs information.
- 179 We agree that it would be valuable to consider whether these observations might help consumers receive transparent and usable fees and costs information, and help ensure that the fees and costs disclosure regime is practicable for industry.

- 180 However, due to the number of changes that are proposed in this paper—and the time and effort required by industry to implement these proposed changes—we consider that these observations should not be considered on an industry-wide basis at this stage. In addition, implementing any changes to give effect to these observations may require government action, and may be affected by the Productivity Commission’s [Superannuation: Assessing Efficiency and Competitiveness](#) inquiry and any future government response to that inquiry.
- 181 We do encourage industry to reflect on the observations made and then respond to them. We would be happy to engage further with particular issuers on any proposals they may have to improve disclosure for consumers.
- 182 We would encourage issuers to consider what types of consumers invest in their products, and to think carefully about how they could change fees and costs disclosure for their products (within the limits of the fees and costs disclosure requirements), to help their disclosure better meet the needs of those consumers. This could include considering the ideas mentioned in paragraph 178, such as layering of information to address different levels of interest or need, providing other fees and costs information, offering other fees and costs tools, or delivering fees and costs information in a more accessible way that is more suitable for the particular consumers that invest in the issuer’s products.

E Additional proposals

Key points

This section seeks feedback on additional proposals, including proposals relating to:

- removing the indirect cost ratio concept (see proposal E1);
- the treatment of derivative financial products (see proposal E2);
- changing the structure and content of RG 97 (see proposal E3); and
- making some minor drafting amendments to Sch 10 (see proposal E4).

Removing the indirect cost ratio concept

Proposal

- E1** If recommendation 11 (proposal B1) is implemented, we propose to remove the concept of indirect cost ratio from Sch 10: see the draft amendments to Sch 10 at Attachment 2 to this paper.

Your feedback

- E1Q1 Do you agree with our approach? If not, please explain why.
- E1Q2 Do you believe the indirect cost ratio concept is still required so that issuers can calculate fees and costs, given that issuers must already identify and total their indirect costs as part of calculating the indirect cost ratio? (See cls 104(1) and (1A) of Sch 10.) Please provide details and indicate where in Sch 10 you believe the indirect cost ratio concept is required.
- E1Q3 Are there any other reasons why the indirect cost ratio concept should be retained? Please provide details.
- E1Q4 If the indirect cost ratio concept was retained, what amendments would be required to enable indirect costs to be assigned to administration fees (to be renamed administration fees and costs), or investment fees (to be renamed investment fees and costs), as proposed by recommendation 11, proposal B1? Please provide details.
- E1Q5 Do you believe that some other calculation method is required to:
- (a) effectively allocate indirect costs into investment fees and costs or administration fees and costs, depending on whether they relate to investment of the superannuation entity's assets or the administration or operation of the superannuation entity (as proposed by recommendation 11, proposal B1)? Please provide details; or

(b) combine indirect costs into management fees and costs? Please provide details.

E1Q6 Do you believe that an indirect cost ratio calculation method is required to provide a figure for the 'Fees and costs deducted from your investment' for periodic statements? (See cl 301(2)(b) of the draft amendments to Sch 10 at Attachment 2 to this paper.) Please provide details.

E1Q7 What system and process changes would be needed to implement this proposal?

E1Q8 What are the additional costs associated with implementing this proposal? Please provide details of one-off and/or annual costs as applicable.

E1Q9 What would be a reasonable timeframe for issuers to implement this proposal, in light of the other changes proposed in this paper?

Rationale

183 Proposal B1, which arises from recommendation 11, removes indirect costs and the indirect cost ratio as visible line items in the 'Fees and costs template' for superannuation products and in the 'Example of annual fees and costs'. This is because indirect costs will now be included in administration fees and costs or investment fees and costs, depending on their nature. (See the definitions of investment fees and costs and administration fees and costs in cl 209A of the draft amendments to Sch 10 at Attachment 2 to this paper.)

184 For managed investment products, the indirect cost ratio and indirect costs have never been line items in the 'Fees and costs template' or the 'Example of annual fees and costs'. Clause 218A(3) of Sch 10 requires that the indirect cost ratio be used to calculate management costs that are not deducted directly from the member's account, for inclusion in the 'Example of annual fees and costs' for managed investment products.

185 However, there are no provisions about how to determine the amount of indirect costs to be included in management costs in the 'Fees and costs template'. If indirect costs for managed investment products can be added to the other amounts that make up management costs for the purpose of presenting management costs in the 'Fees and costs template' without using an indirect cost ratio concept, then using an indirect cost ratio may not be necessary for the 'Example of annual fees and costs'.

186 Given the above, we believe that removing the indirect cost ratio concept could help simplify the fees and costs disclosure requirements, which may help make the regime more practicable for industry.

Treatment of derivative financial products

Proposal

E2 We propose to:

- (a) maintain the current requirements for the treatment of costs associated with derivative financial products as indirect costs, in cls 101A(3) and (4) of Sch 10;
- (b) include certain costs as transaction costs (see proposal B5 in relation to disclosing transaction costs as a line item in the 'Fees and costs template'); and
- (c) give effect to this proposal by:
 - (i) amending cl 101A(4)(b) of Sch 10 to maintain the extent of the exclusion from indirect costs; and
 - (ii) amending cl 103 of Sch 10 to insert a new cl 103(1)(fa), to maintain the inclusion of costs in cl 101A(4) as transaction costs.

See the draft amendments to Sch 10 at Attachment 2 to this paper.

Your feedback

- E2Q1 Do you agree with our approach? If not, please explain why.
- E2Q2 Have we succeeded in maintaining the status quo for the treatment of derivative financial products?
- E2Q3 Is any further guidance in relation to derivative financial products required in draft updated RG 97 at Attachment 1 to this paper?
- E2Q4 Should the requirements around disclosing costs of derivative financial products be aligned so they are the same for managed investment products and superannuation products? Please provide details.

Rationale

- 187 [REP 581](#) did not make any specific recommendations in relation to the treatment of costs associated with derivative financial products.
- 188 REP 581 did suggest (at page 139) that aligning the disclosure requirements for managed investment products and superannuation products could be further considered in light of directions agreed on other recommendations.
- 189 We would like to seek industry feedback as to how the disclosure requirements should be aligned.

Changing the structure and content of RG 97

Proposal

E3 We propose to:

- (a) restructure [RG 97](#) so that it is logical and easy to follow;
- (b) redraft RG 97 to more clearly explain the fees and costs disclosure requirements;
- (c) remove content in RG 97 that we consider does not help industry clearly understand its obligations, or where we consider the guidance in other sections of RG 97 is sufficient; and
- (d) incorporate the [ASIC Q&As](#) on our website into RG 97 where we believe the guidance will be helpful, and remove the ASIC Q&As from our website.

See draft updated RG 97 at Attachment 1 to this paper.

Your feedback

- E3Q1 Do you agree with our approach? If not, please explain why.
- E3Q2 Is there any guidance that no longer appears in draft updated RG 97 that appears in the current RG 97 and that you believe should be included in the updated RG 97? Please provide details.
- E3Q3 Do you have any other comments on our proposed guidance in draft updated RG 97?

Rationale

190 We believe it is crucial that industry understand its obligations under the fees and costs disclosure requirements.

191 As a result, we attempted to ensure that draft updated RG 97 at Attachment 1 to this paper provides a step-by-step approach to the fees and costs disclosure requirements, is user-friendly, and provides clear guidance to help industry understand and apply the requirements. We have designed the structure and content of draft updated RG 97 so that it can be clearly understood by:

- (a) all levels of the market (including new entrants);
- (b) staff members and officers within superannuation entities and managed investment schemes, including directors and operational staff members; and
- (c) service providers such as lawyers, custodians, superannuation entity administrators, auditors and accountants.

Minor drafting amendments

Proposal

E4 In the course of reviewing the recommendations made in [REP 581](#), we identified:

- (a) some other provisions of Sch 10 that could be amended to improve the clarity of the fees and costs disclosure requirements; and
- (b) potential amendments to the definitions of activity fee, advice fee, buy–sell spread, exit fee, insurance fee and switching fee for superannuation products in cl 101 of Sch 10, to remove the cross-references to s29V of the SIS Act and make them stand-alone definitions.

See the draft amendments to Sch 10 at Attachment 2 to this paper.

Your feedback

- E4Q1 Do you agree with our proposal to remove the SIS Act cross-references in the definitions of activity fee, advice fee, buy–sell spread, exit fee, insurance fee and switching fee in cl 101 of Sch 10? If not, please explain why.
- E4Q2 Do you agree with our proposed amendments to cl 206 of Sch 10? If not, please explain why.
- E4Q3 Should the definition of advice fee for managed investment products (in cl 101(b)(ii) of Sch 10) include a reference to switching fee? Please provide details.
- E4Q4 Should cl 102(2)(c) of Sch 10 refer to additional service fee, given that only service fee is defined in cl 101 of Sch 10? Please provide details.
- E4Q5 In the final line of the 'Example of annual fees and costs' for managed investment products (in cl 212 of Sch 10), should the word 'from' be removed? Please provide details.
- E4Q6 Given that the definitions in cl 209A of Sch 10 must be included in the PDS for a superannuation product or incorporated by reference, should we move the current fee definitions from cl 209A of Sch 10 to cl 101 of Sch 10, then draft new definitions for cl 209A of Sch 10 that are easier for consumers to understand and use?
- E4Q7 We have not changed all the fees defined in cls 101 and 209A of Sch 10 so they are called 'fees and costs' (as has been done for administration fees and costs, investment fees and costs, and management fees and costs). Should we do this to improve uniformity?

Rationale

Removing cross-references to the SIS Act in fee definitions

- 192 Section 29V of the SIS Act defines fees by describing what they are and then
qualifying that the relevant amount must not otherwise be charged as another
type of fee (such as an administration fee or investment fee). If
recommendations 6 and 11 (see proposal B1) are implemented,
administration fees will be renamed administration fees and costs, and
investment fees will be renamed investment fees and costs. The names of
these fees will then differ between the Corporations Regulations and the SIS
Act, which may cause confusion.
- 193 Creating stand-alone definitions for these fees in Sch 10 permits the new fee
names to be used and makes Sch 10 self-contained, so it will no longer be
necessary to cross-reference a separate piece of legislation.
- 194 We consider that these changes will help make the fees and costs disclosure
regime practicable for industry.

Minor drafting amendments

- 195 We want to ensure that any drafting errors or anomalies in Sch 10 can be
corrected. We believe this will make the fees and costs disclosure regime
more practicable for industry.

F Regulatory and financial impact

196 In developing the proposals in this paper, we have carefully considered their regulatory and financial impact. On the information currently available to us, we think they will strike an appropriate balance between ensuring that:

- (a) consumers receive transparent and usable fees and costs information to help them to compare products, make informed value for money decisions, and understand the fees and costs charged to them; and
- (b) the fees and costs disclosure regime is practicable for industry, while also ensuring the consumer objectives above are met.

197 Before settling on a final policy, we will comply with the Australian Government's regulatory impact analysis (RIA) requirements by:

- (a) considering all feasible options, including examining the likely impacts of the range of alternative options which could meet our policy objectives;
- (b) if regulatory options are under consideration, notifying the Office of Best Practice Regulation (OBPR); and
- (c) if our proposed option has more than minor or machinery impact on business or the not-for-profit sector, preparing a Regulation Impact Statement (RIS).

198 All RISs are submitted to the OBPR for approval before we make any final decision. Without an approved RIS, ASIC is unable to give relief or make any other form of regulation, including issuing a regulatory guide that contains regulation.

199 To ensure that we are in a position to properly complete any required RIS, please give us as much information as you can about our proposals or any alternative approaches, including:

- (a) the likely compliance costs;
- (b) the likely effect on competition; and
- (c) other impacts, costs and benefits.

See 'The consultation process', p. 5.

List of proposals and questions

Proposal	Your feedback
B1 We propose to: (a) modify the 'Fees and costs template' for superannuation products to: (i) present all administration fees and costs as one line item, by merging administration fees and indirect costs that relate to administration or operation of the superannuation entity; (ii) present all investment fees and costs as one line item, by merging investment fees and indirect costs that relate to investment of the superannuation entity's assets; (iii) remove advice fees (intrafund advice costs) as a line item, and include this cost in the disclosure of administration fees; and (iv) group together the 'Ongoing annual fees and costs' separately from the 'Member activity related fees and costs'; and (b) give effect to these proposals by: (i) removing the original 'Fees and costs template' in cl 201 of Sch 10 and replacing it with the 'Fees and costs summary' in Figure 2 of draft updated RG 97 at Attachment 1 to this paper; (ii) inserting definitions of investment fees and costs and administration fees and costs in cl 209A of Sch 10 so they include the relevant indirect costs, and changing all references to investment fees and administration fees in Sch 10 to match these terms; (iii) inserting a definition of intrafund advice costs into cl 101 of Sch 10; (iv) removing the ability of superannuation trustees to elect to treat certain types of costs as indirect costs rather than administration fees or investment fees, because these amounts will now be combined into other line items in the 'Fees and costs template' (now to be called the 'Fees and costs summary'); and (v) making corresponding changes to the 'Example of annual fees and costs' for superannuation products, to reflect the changes made to the 'Fees and costs template' (now to be called the 'Fees and costs summary').	B1Q1 Do you agree with our approach? If not, please explain why. B1Q2 Although indirect costs will be combined with investment fees into a single line item in the 'Fees and costs template' (to be renamed 'Fees and costs summary'), should issuers be able to include an additional breakdown of the figure into two separate components in the 'Fees and costs summary' or in another place (such as on the issuer's website)? If yes, how would this help consumers make investment decisions and compare products? Should the same breakdown be permitted in respect of administration fees and indirect costs? B1Q3 What system and process changes would be needed to implement these proposals? B1Q4 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable. B1Q5 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper?

Proposal	Your feedback
Proposal B1—<i>continued</i> See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.30–RG 97.55, Figure 2 and Figure 3, at Attachment 1 to this paper.	
B2 We propose to: (a) modify the 'Fees and costs templates' for managed investment products to: (i) change management costs to management fees and costs, to match the term used in Figure 9 and Example 1 of draft updated RG 97 at Attachment 1 to this paper, and place this line item at the top of the 'Fees and costs templates'; and (ii) include a line item for buy–sell spread; and (b) give effect to these proposals by: (i) removing the original 'Fees and costs templates' in cls 202 and 202A of Sch 10, and replacing them with the 'Fees and costs summaries' in Figure 9 and Example 1 of draft updated RG 97 at Attachment 1 to this paper; (ii) changing all Sch 10 references to management costs to management fees and costs, to match the term used in Figure 9 and Example 1 of draft updated RG 97 at Attachment 1 to this paper; and (iii) making corresponding changes to the 'Example of annual fees and costs' for managed investment products, to reflect the changes made to the 'Fees and costs templates' (now to be called 'Fees and cost summaries').	B2Q1 Do you agree with our approach? If not, please explain why. B2Q2 What system and process changes would be needed to implement these proposals? B2Q3 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable. B2Q4 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper? B2Q5 If a line item for buy–sell spread is included in the 'Fees and costs summary', should the 'Example of annual fees and costs' for managed investment products also refer to the fact that a member may be charged a buy–sell spread (as in the 'Example of annual of fees and costs' for superannuation products, in cl 211 of Sch 10)? If so, should a reference to the buy–sell spread also be included in the preamble text to the 'Cost of product information' for managed investment products, in cl 220B of Sch 10 (see proposal B3)?
See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.152–RG 97.167, Figure 9 and Figure 10, at Attachment 1 to this paper.	

Proposal	Your feedback
B3 We propose to: (a) require 'Cost of product information' to be disclosed by: (i) extending the current 'Example of annual fees and costs' for superannuation products and managed investment products, to include the calculation and disclosure of abbreviated 'Cost of product information' for each MySuper product and each investment option offered by the superannuation entity, and for each investment option offered by the managed investment scheme; (ii) basing the 'Cost of product information' on a \$50,000 balance (we do not propose to extend this to other balance amounts); (iii) requiring that the 'Cost of product information' for full PDSs be disclosed in the PDS and not be permitted to be incorporated by reference; (iv) not requiring the 'Cost of product information' to be included in the body of shorter PDSs, but instead requiring that it be provided as part of the fees and costs information that must be disclosed in accordance with Sch 10, under cl 8(10) of Schs 10D and 10E (issuers are permitted under those provisions to incorporate this information by reference); and (v) incorporating a contribution of \$5,000 on the last day of the year in the 'Cost of product information' and the 'Example of annual fees and costs' for superannuation products (noting that managed investment products already incorporate a contribution of \$5,000 on the last day of the period); and (b) give effect to these proposals by: (i) inserting a new Div 6A into Pt 2 of Sch 10; and (ii) amending cl 211 of Sch 10. See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.59–RG 97.72 and Figures 3–5 (for superannuation products) and RG 97.182–RG 97.186 and Figures 11–12 (for managed investment products) at Attachment 1 to this paper.	B3Q1 Do you agree with our approach? If not, please explain why. B3Q2 For the longer term, what alternative methods of providing fee examples may be helpful for consumers and practical to implement? B3Q3 Do you believe that incorporating a \$5,000 contribution on the last day of the year in the 'Example of annual fees and costs' and in the 'Cost of product information' for superannuation products will help consumers make investment decisions and compare products, given that: (a) contributions are not taken into account when calculating fees and costs for disclosure (see cls 218(1) and (3) of Sch 10); and (b) contribution fees are not permitted to be charged in relation to MySuper products under s29V of the Superannuation Industry (Supervision) Act 1993 (SIS Act)? B3Q4 What system and process changes would be needed to implement these proposals? B3Q5 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable. B3Q6 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper?

Proposal	Your feedback
B4 We propose to: (a) amend the requirements for periodic statements for superannuation products and managed investment products, so they contain the following three lines: (i) 'Fees deducted from your account'; (ii) 'Fees and costs deducted from your investment'; and (iii) 'Total fees and costs you paid'; and (b) give effect to this proposal by amending cls 301–303 of Sch 10. See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 (Sections C and E) at Attachment 1 to this paper.	B4Q1 Do you agree with our approach? If not, please explain why. B4Q2 What system and process changes would be needed to implement this proposal? B4Q3 What are the additional costs associated with implementing this proposal? Please provide details of one-off and/or annual costs as applicable. B4Q4 What would be a reasonable timeframe for issuers to implement this proposal, in light of the other changes proposed in this paper? B4Q5 We have not inserted a provision in the draft amended Sch 10 or provided guidance to explain how to calculate the approximate amount to be disclosed in 'Fees and costs deducted from your investment' and 'Total fees and costs you paid'. Do you believe a provision and/or guidance is necessary? Would a formula-based approach be necessary? We have included instructions in cl 301(2)(b) of Sch 10 about how to calculate the amount deducted from the investment. We have also included guidance in draft updated RG 97 (at RG 97.132 and RG 97.240 at Attachment 1 to this paper) that the amount to be inserted is the fees and costs for the product or option that are attributed to the particular member. B4Q6 Given that periodic statements provide fees and costs information about what a member has been charged over a past period, and given the proposed amendments to the periodic statement requirements, would it be necessary for an issuer to make reasonable estimates of amounts to be included in periodic statements? Would this be more likely for periodic statements given after the member has exited the product?

Proposal	Your feedback
Proposal B4— <i>continued</i>	B4Q7 We have retained the guidance that appears in the current version of RG 97 (at RG 97.234) that amounts of transactions shown in the transaction list in periodic statements should include GST less reduced input tax credits: see draft updated RG 97 at RG 97.124 and RG 97.232 at Attachment 1 to this paper. Regulation 7.9.60B(3) requires that amounts of transactions must include GST (if applicable) but does not make reference to whether reduced input tax credits should be included or excluded. Should reduced input tax credits be excluded from transaction amounts? Please explain why or why not. B4Q8 We have retained the guidance that appears in the current version of RG 97 (at RG 97.234) that if GST or stamp duty is not disclosed as part of the amount in a transaction, they should be reported as separate transactions: see draft updated RG 97 at RG 97.125 and RG 97.233 at Attachment 1 to this paper. Should GST or stamp duty be permitted to be disclosed separately from the transactions they relate to? Please explain why or why not. B4Q9 We have retained the guidance that appears in the current version of RG 97 (at RG 97.237) that if the payment of a fee or cost results in the superannuation entity or registered scheme becoming entitled to a tax deduction, and the benefit is passed on to a member, the periodic statement must show two transactions—being one for the full amount charged and one for the tax benefit that was passed on to the member: see draft updated RG 97 at RG 97.126 and RG 97.234 at Attachment 1 to this paper. Should this guidance be retained? Please explain why or why not.

Proposal	Your feedback
Proposal B4—<i>continued</i>	B4Q10 We have retained the guidance that appears in the current version of RG 97 (at RG 97.235–RG 97.236) that where a transaction creates an income tax liability or a tax deduction is given to the member, the issuer should show this transaction separately and include an explanation of the basis for the transaction and its relationship with other transactions: see draft updated RG 97 at RG 97.127 and RG 97.235 at Attachment 1 to this paper. Should this guidance be retained? Please explain why or why not. B4Q11 Should cls 301(5) and 301(6) of Sch 10 be retained? Please explain why or why not. B4Q12 Should 'Total fees and costs you paid' in cl 302(1) of Sch 10 be presented gross of any tax benefit passed on to the member: see RG 97 at RG 97.237? please explain why or why not?
B5 We propose to: (a) require disclosure of explicit transaction costs and counterparty spreads (see proposal B7) as a separate line item in the 'Fees and costs template' and in the 'Example of annual fees and costs' for managed investment products and superannuation products; (b) include explicit transaction costs and counterparty spreads in the calculation of the 'Cost of product information' (see recommendation 13 and proposal B3); (c) require that these costs be shown net of any amounts recovered by the buy–sell spread charged by the superannuation trustee or responsible entity. The gross amount of explicit transaction costs and counterparty spreads will be set out in the 'Additional explanation of fees and costs' (to be renamed 'Fees and costs details') in cl 209(j)(ia) of Sch 10; and (d) give effect to this proposal by: (i) replacing the 'Fees and costs template' for superannuation products in cl 201 of Sch 10 with the 'Fees and costs summary' in Figure 2 of draft updated RG 97 at Attachment 1 to this paper, which includes a transaction costs (net) line item;	B5Q1 Do you agree with our approach? If not, please explain why. B5Q2 What system and process changes would be needed to implement these proposals? B5Q3 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable. B5Q4 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper?

Proposal	Your feedback
Proposal B5— <i>continued</i>	
(ii) replacing the 'Fees and costs templates' for managed investment products in cls 202 and 202A of Sch 10 with the 'Fees and costs summaries' proposed in Figure 9 and Example 1 of draft updated RG 97 at Attachment 1 to this paper, which include a transaction costs (net) line item; (iii) including a transaction costs (net) line item in the 'Example of annual fees and costs' in cl 211 of Sch 10 (for superannuation products) and cl 212 of Sch 10 (for managed investment products); (iv) including instructions for calculating the amount of transaction costs (net) in cls 218(4A)–(4B) and cls 218A(6)–(7) of Sch 10; and (v) excluding explicit transaction costs and counterparty spreads from other fees and costs definitions (such as administration fees and costs, and investment fees and costs) to ensure these costs are not disclosed twice.	
See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.44–RG 97.45, RG 97.163–RG 97.165, Figures 2–3 and Figures 9–10 at Attachment 1 to this paper.	

Proposal	Your feedback
B6 We propose to: (a) not require property operating costs, borrowing costs and implicit transaction costs to be disclosed in PDSs and periodic statements; and (b) give effect to this proposal by amending: (i) cls 101 and 103 (to insert the concept of excluded transactional and operational costs) and cl 209A of Sch 10; and (ii) cls 301–303; and (c) require that any operational costs that are not explicit transaction costs, counterparty spreads, implicit transaction costs, property operating costs or borrowing costs (to the extent that any exist) be treated as a part of administration fees for superannuation products (to be renamed administration fees and costs) or management costs for managed investment products (to be renamed management fees and costs). Note: We do not propose to make any amendments to Sch 10 to give effect to this proposal, because we consider that the definitions of administration fees and costs in cl 209A of Sch 10 (for superannuation products) and management fees and costs in cl 102(1) of Sch 10 (for managed investment products) are sufficient to capture these types of operational costs. See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.333–RG 97.344, RG 97.132(a) and RG 97.240(a) at Attachment 1 to this paper.	B6Q1 Do you agree with our approach? If not, please explain why. If you think that some of these costs should be disclosed, where do you think is the best place for disclosure? B6Q2 Are cls 103(2)(c)–(d) of the draft amendments to Sch 10 at Attachment 2 to this paper sufficient to exclude all implicit transaction costs? Is a reference to market impact costs or some other type of cost also required? B6Q3 What system and process changes would be needed to implement these proposals? B6Q4 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable. Would these proposals result in any cost savings? Please give details. B6Q5 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper?

Proposal	Your feedback
B7 We propose that: (a) counterparty spreads be included in the transaction costs that will be disclosed in PDSs and periodic statements; and (b) at this stage, not to define counterparty spreads in the draft amendments to Sch 10 at Attachment 2 to this paper, as we would like to seek further information from industry about: (i) how this concept should be defined; and (ii) what kinds of financial products and markets counterparty spreads may apply to.	B7Q1 Do you agree with our approach? If not, please explain why. B7Q2 Do you have any suggestions on how the concept of counterparty spreads could be defined in cl 101 of Sch 10? Please provide details. B7Q3 REP 581 (at page 133) notes that counterparty spreads are readily and relatively objectively ascertainable. Do you agree? Please provide details. B7Q4 What types of financial products and markets do you think the concept of counterparty spreads would apply to? Would it be applicable to Australian markets or only to overseas markets? Please provide details. B7Q5 What are the additional costs associated with implementing this proposal? Please provide details of one-off and/or annual costs as applicable. B7Q6 What would be a reasonable timeframe for issuers to implement this proposal, in light of the other changes proposed in this paper?
B8 We propose to: (a) remove any distinction between performance fees and performance-related fees, so that performance fees will include amounts calculated by reference to performance of a product, part of a product, an interposed vehicle or part of an interposed vehicle; and (b) give effect to this proposal by inserting cl 101C into Sch 10. See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.360–RG 97.364 at Attachment 1 to this paper.	B8Q1 Do you agree with our approach? If not, please explain why. B8Q2 What system and process changes would be needed to implement this proposal? B8Q3 What are the additional costs associated with implementing this proposal? Please provide details of one-off and/or annual costs as applicable. B8Q4 What would be a reasonable timeframe for issuers to implement this proposal, in light of the other changes proposed in this paper?

Proposal	Your feedback
B9 We propose to: (a) require that: (i) the amount of performance fees to be included in the 'Fees and costs template' as part of investment fees for superannuation products (to be renamed investment fees and costs) and management costs for managed investment products (to be renamed management fees and costs) will be calculated by reference to the average of the performance fees that accrued in the product, option, interposed vehicle or part in each of the previous five financial years; (ii) where a product, option, interposed vehicle or part was not in operation for the previous five financial years, or did not have a performance fee charging mechanism in place for the full five financial years, the average should be calculated by reference to the number of financial years in which it operated or had a performance fee charging mechanism in place; and (iii) where a product, option or interposed vehicle or part was first offered in the current financial year, the performance fee should be calculated by reference to the issuer's reasonable estimate of the performance fee for the current financial year; and (b) give effect to these proposals by inserting cl 101C into Sch 10. See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.385–RG 97.390 at Attachment 1 to this paper.	B9Q1 Do you agree with our approach? If not, please explain why. B9Q2 Are any transitional arrangements required to accommodate data availability, particularly for interposed vehicles? Please give details. B9Q3 Should we provide any further guidance on how to calculate performance fees? Please give details. B9Q4 Should carried interest charged by general partners in private equity funds be included in the definition of performance fee in cl 101C of Sch 10? Please give details. B9Q5 What system and process changes would be needed to implement these proposals? B9Q6 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable. B9Q7 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper?

Proposal	Your feedback
B10 We propose to: (a) require the 'Fees and costs templates' (now to be called the 'Fees and costs summaries') for both superannuation products and managed investment products to contain an additional footnote referring to performance fees in the form illustrated by footnote 1 of Figure 2, Figure 9 and Example 1 in draft updated RG 97 at Attachment 1 to this paper; (b) maintain the requirements for the 'Additional explanation of fees and costs' (to be renamed 'Fees and costs details') as set out in cls 209(b)(i) and (ii) of Sch 10, but with some amendments to clarify the operation of cl 209(b)(ii) of Sch 10; (c) amend cl 209(b)(iii) of Sch 10 to require the 'Additional explanation of fees and costs' (to be renamed 'Fees and costs details') to set out the calculated average performance fees for each product, option, interposed vehicle or part under cl 101C(3)(a) of Sch 10; (d) allow issuers to set out related performance information in the 'Additional explanation of fees and costs' (to be renamed 'Fees and costs details') if they choose to do so; and (e) allow issuers to set out a further explanation in the 'Additional explanation of fees and costs' (to be renamed 'Fees and costs details'), in circumstances where the issuer believes that the average figure based on the previous five financial years is not representative for the coming period. See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.391–RG 97.395 at Attachment 1 to this paper.	B10Q1 Do you agree with our approach? If not, please explain why. B10Q2 Given that cl 209A of Sch 10 requires performance fees to be included in investment fees (to be renamed investment fees and costs) for superannuation products rather than in administration fees (to be renamed administration fees and costs), should the reference to administration fees and costs in cl 209(b)(i) of Sch 10 be retained? If you believe the reference to administration fees should be retained, please explain why. B10Q3 We have drafted cl 209(b)(iii) of Sch 10 so that it requires disclosure of the five-year average for each performance fee for each product, option, interposed vehicle or part that makes up the total performance fees. Do you believe this provides consumers with sufficient information? Should it also require disclosure of the performance fee for each year that is included in the five-year average? Please explain why or why not. B10Q4 What system and process changes would be needed to implement these proposals? B10Q5 What are the additional costs associated with implementing these proposals? Please provide details of one-off and/or annual costs as applicable. B10Q6 What would be a reasonable timeframe for issuers to implement these proposals, in light of the other changes proposed in this paper?

Proposal	Your feedback
B11 We propose to: (a) amend cl 209A of Sch 10 to clarify the position on costs paid out of reserves; and (b) give effect to this proposal by amending the definitions of investment fee (to be renamed investment fees and costs) and administration fee (to be renamed administration fees and costs) in cl 209A of Sch 10, to make it clear that these fees and costs include costs met through the use of reserves. See the draft amendments to Sch 10 at Attachment 2 to this paper. We also propose to update our guidance: see draft updated RG 97 at RG 97.97–RG 97.101 at Attachment 1 to this paper.	B11Q1 Do you agree with our approach? If not, please explain why. B11Q2 How should amounts that are transferred into reserves (as opposed to amounts transferred out to meet costs) be treated for the purposes of fees and costs disclosure? Please provide details, including whether the treatment should be different for amounts transferred into an operational risk reserve. B11Q3 What system and process changes would be needed to implement this proposal? B11Q4 What are the additional costs associated with implementing this proposal? Please provide details of one-off and/or annual costs as applicable. B11Q5 What would be a reasonable timeframe for issuers to implement this proposal, in light of the other changes proposed in this paper?
B12 We propose to: (a) make minor amendments to the structure of cl 301 of Sch 10 to realign cl 301(2) with cl 301(1); and (b) give effect to this proposal by: (i) moving cl 301(1B) down to become a new cl 301(3A); and (ii) deleting cl 301(1E) and inserting the content requirements it imposes into the new cl 301(3A). See the draft amendments to Sch 10 included at Attachment 2 to this paper.	B12Q1 Do you agree with our approach? If not, please explain why.

Proposal	Your feedback
C1 We are conducting consumer testing in relation to some of the proposals in this consultation paper. The consumer testing will focus on: (a) the proposed 'Fees and costs summaries' for superannuation products and managed investment products in Figure 2, Figure 9 and Example 1 of draft updated RG 97 at Attachment 1 to this paper, which we propose will replace the 'Fees and costs templates'; (b) merging administration fee (to be renamed administration fees and costs) with investment fee (to be renamed investment fees and costs) in the superannuation 'Fees and costs template' (now to be called the 'Fees and costs summary'); (c) changing the name of the 'Fees and costs template' to the 'Fees and costs summary'; and (d) changing the name of the 'Additional explanation of fees and costs' to the 'Fees and costs details'. We do not propose to engage in broader consumer testing regarding the legislative framework for fees and costs disclosure, as we need to work within the existing legislative framework and focus on implementing a consistent regime for consumers.	C1Q1 Is it helpful for consumers to see administration fees and costs and investment fees and costs disclosed separately? If so, why? C1Q2 Do you believe the names 'Fees and costs summary' and 'Fees and costs details' (instead of 'Fees and costs template' and 'Additional explanation of fees and costs') will better help consumers understand information relating to fees and costs?
C2 After the amendments to the fees and costs disclosure regime have been finalised, we propose to undertake further work to refine the consumer-facing narrative about the importance and relevance of fees and costs when making decisions about superannuation products and managed investment products. This may include producing information and educational material (including for MoneySmart) and working with industry (e.g. to develop consumer tools). It is important that any narrative and related information and resources focus not just on fees and costs but identify fees and costs as one factor but not the sole consideration in choosing a product.	C2Q1 Do you have any suggestions about how the importance and relevance of fees and costs can best be explained to consumers? Please provide details. C2Q2 Do you have any suggestions about the types of tools that may help explain the relevance of fees and costs to consumers? Please provide details.
C3 After the amendments to the fees and costs disclosure regime have been finalised, we propose to work with the industry bodies that represent advisers to clarify how fees and costs disclosure should be used when giving advice about choice of products.	C3Q1 Are you aware of any particular topics within fees and costs disclosure that advisers need guidance on? Please provide details. C3Q2 Do you have any suggestions on what resources about fees and costs disclosure may be useful to advisers?

Proposal	Your feedback
C4 We propose to explain the purposes and context of the fees and costs disclosure regime, so the intent of the regime is clear and the meaning is more accessible to users: see draft updated RG 97 at RG 97.6–RG 97.12 at Attachment 1 to this paper, which sets out our views on why fees and costs must be disclosed in PDSs and periodic statements.	C4Q1 Do you agree with our approach? If not, please explain why. C4Q2 Are there any other purposes of fees and costs disclosure that you believe should be included in our guidance?
C5 To help platform operators ensure that a PDS (or IDPS Guide) is not misleading, we propose to: (a) include guidance in draft updated RG 97 that platform operators should include a prominent statement in the 'Fees and costs template' 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; and (b) retain the guidance in the current version of RG 97 (at RG 97.72–RG 97.74) regarding prominent statements that should be included after the 'Example of annual fees and costs', and including other examples that illustrate the combined effect of the fees and costs of the platform and accessible financial products. See draft updated RG 97 at RG 97.252–RG 97.259 at Attachment 1 to this paper.	C5Q1 Do you agree with our approach? If not, please explain why. C5Q2 What system and process changes would be needed to implement this guidance? C5Q3 What are the additional costs associated with implementing this guidance? Please provide details of one-off and/or annual costs as applicable. C5Q4 What would be a reasonable timeframe for issuers to implement this guidance, in light of the other changes proposed in this paper?
C6 We propose to include guidance to clarify the principles for and the treatment of fees, costs and other amounts paid by third parties or offset against other amounts: see draft updated RG 97 at RG 97.276–RG 97.279, and RG 97.407–RG 97.411, at Attachment 1 to this paper.	C6Q1 Do you agree with our approach? If not, please explain why. C6Q2 Is there any further guidance we should provide? Please give details. C6Q3 What system and process changes would be needed to implement this guidance? C6Q4 What are the additional costs associated with implementing this guidance? Please provide details of one-off and/or annual costs as applicable.

Proposal	Your feedback
C7 We propose to update our guidance on periodic statements for defined benefit superannuation entities, 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: see draft updated RG 97 at RG 97.139–RG 97.141 at Attachment 1 to this paper.	C7Q1 Do you agree with our approach? If not, please explain why. C7Q2 What system and process changes would be needed to implement this guidance? C7Q3 What are the additional costs associated with implementing this guidance? Please provide details of one-off and/or annual costs as applicable. C7Q4 What would be a reasonable timeframe for issuers to implement this guidance, in light of the other changes proposed in this paper?
C8 We propose making specific amendments to our guidance, to help improve consistency in the way fees and costs information is set out in the 'Fees and costs template', by: (a) removing some existing guidance in RG 97 (at RG 97.137) and being clearer about the circumstances in which adaptations to the 'Example of annual fees and costs' can be made (see draft updated RG 97 at RG 97.174–RG 97.175 at Attachment 1 to this paper); (b) removing some existing guidance in RG 97 (at RG 97.150–RG 97.151) and being clearer about our view on the meaning of 'components' in cl 204(6) of Sch 10 (see draft updated RG 97 at RG 97.370 at Attachment 1 to this paper); (c) including some additional guidance in draft updated RG 97 at RG 97.371 at Attachment 1 to this paper stating that when considering fees and costs structures, issuers should also consider how easily the components of the structure can be described in the line item of the 'Fees and costs template', and whether consumers will easily understand this; and (d) exploring with industry what other steps we can take together to ensure fees and costs information is presented more consistently.	C8Q1 Do you agree with our approach? If not, please explain why. C8Q2 Do you believe further guidance is required? C8Q3 Do you believe industry standards could be developed to improve levels of consistency? C8Q4 What system and process changes would be needed to implement this guidance? C8Q5 What are the additional costs associated with implementing this guidance? Please provide details of one-off and/or annual costs as applicable. C8Q6 What would be a reasonable timeframe for issuers to implement this guidance, in light of the other changes that are proposed in this paper? C8Q7 How could we best work with industry to ensure fees and costs information is presented more consistently in the future?
C9 We believe that implementing the proposals in this paper will significantly reduce or eliminate the differences between fees and costs disclosure appearing in PDSs and periodic statements of managed investment products and those of superannuation products. We do not have any separate proposals to progress at this time regarding this recommendation.	C9Q1 Do you believe further changes are needed to reduce the differences in the fees and costs disclosure requirements for managed investment products and superannuation products? If so, please give details.

Proposal	Your feedback
C10 After the amendments to the fees and costs disclosure regime are finalised, we propose to: (a) amend [CO 14/1252] to repeal and replace Sch 10 in its entirety, so that Sch 10 (as modified by [CO 14/1252]) is set out in a single document; and (b) include a link to [CO 14/1252] on the fees and costs section of our website.	C10Q1 Do you agree with our approach? If not, please explain why.
C11 After the amendments to the fees and costs disclosure regime have been finalised and are in force, we propose to develop and implement a surveillance strategy to assess compliance with the fees and costs disclosure requirements.	C11Q1 Do you have any suggestions on what areas the surveillance should focus on? Please provide details.
D1 We support the development of a publicly accessible, consumer-facing comparison tool. This task would require significant resources, so at this stage we do not propose to undertake a feasibility study into whether ASIC or another government agency could provide this tool. In addition, the Productivity Commission's Superannuation: Assessing Efficiency and Competitiveness inquiry may affect these recommendations. We may reconsider these recommendations at a later date.	D1Q1 Do you agree with our approach? If not, please explain why. D1Q2 What elements would be included in a good consumer-facing comparison tool? Please provide details. D1Q3 What other functionalities would a good consumer-facing comparison tool have? Please provide details. D1Q4 Have you seen any examples of what you believe is a good consumer-facing comparison tool, in Australia or internationally? Please provide details.
D2 We propose: (a) at this stage, not to consult fully about adopting recommendations 17–21 on platform disclosure because this is a significant undertaking that would delay the implementation of the other proposals in this paper. We are currently undertaking a project on platforms so we can better understand their operations. Once we have obtained further information from that project, we will consider if the regulatory settings for platforms need revision and may revisit these recommendations at that time. However, at this time we would like to seek industry's preliminary feedback as to whether recommendations 17–20 should be made legal obligations; (b) at this stage, in relation to recommendation 19 (showing the cost impacts of accessible financial products in periodic statements for platforms), to include the guidance from question 6 of the ASIC Q&As in RG 97 (see draft updated RG 97 at RG 97.260–RG 97.266 at Attachment 1 to this paper); and	D2Q1 Do you agree with our approach? If not, please explain why. D2Q2 What system and process changes would be needed to implement the guidance in relation to showing the cost impacts of accessible financial products in periodic statements for platforms? (See draft updated RG 97 at RG 97.260–RG 97.266 at Attachment 1 to this paper.) D2Q3 What are the additional costs associated with implementing the guidance in relation to showing the cost impacts of including accessible financial products in periodic statements for platforms? Please provide details of one-off and/or annual costs as applicable. (See draft updated RG 97 at RG 97.260–RG 97.266 at Attachment 1 to this paper.)

Proposal	Your feedback
Proposal D2—<i>continued</i> (c) at this stage, in relation to recommendation 20 (positioning of a prominent statement in the 'Fees and costs template' for platforms), to include guidance in draft updated RG 97 at Attachment 1 to this paper (see proposal C5).	D2Q4 What would be a reasonable timeframe for issuers to implement the guidance in relation to showing the cost impacts of accessible financial products in periodic statements for platforms, in light of the other changes proposed in this paper? (See draft updated RG 97 at RG 97.260–RG 97.266 at Attachment 1 to this paper.) D2Q5 Should recommendation 17 (showing fees and costs of accessible financial products available through a platform within the platform's investment menu documents) be made a legal obligation? Please provide details. D2Q6 Should recommendation 18 (including abbreviated 'Cost of product' information—calculated, to the extent possible, consistently with the 'Cost of product information' figure in proposal B3—in platforms' investment menu documents, which include the fees and costs for both the platform and the accessible financial products) be made a legal obligation? Please provide details. D2Q7 Should recommendation 19 (that periodic statements should explicitly include the cost impacts of accessible financial products in platforms) be made a legal obligation? Please provide details. D2Q8 Should recommendation 20 (positioning a prominent statement in the 'Fees and costs template' for platforms to indicate 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, and including a cross-reference to the 'Cost of product information' described in recommendation 18) be made a legal requirement? Please provide details. Should this statement be positioned in the management costs line (for managed investment products) or the investment fee line (for superannuation products)?

Proposal	Your feedback
Proposal D2— <i>continued</i>	D2Q9 Is it practical for a paper-based point-of-sale document—which covers a large number of options permitting the acquisition of accessible financial products—to practically present aggregated fees and costs for a platform and each available accessible financial product, or is a technological solution required? Please provide details.
D3 At this stage we do not propose to introduce legal requirements or include additional guidance dealing with consistency in the way fees and costs information is incorporated by reference in PDSs. However, we would, in the future, like to work further with industry on consistency issues. We would like to seek feedback on whether industry could develop standards or best practice guidelines to improve consistency, and how we might contribute to this process.	D3Q1 Do you agree with our approach? If not, please explain why. D3Q2 Do you think industry standards or best practice guidelines could improve the consistency with which fees and costs information is incorporated by reference?
D4 We do not propose to change indirect cost ratio to indirect costs in the 'Fees and costs template' for superannuation products, as we propose to adopt recommendation 11: see proposal B1.	D4Q1 Do you agree with our approach? If not, please explain why.
D5 At this stage, we do not propose to consider whether and how transactional and operational costs could be better explained to consumers within the context of information about returns.	D5Q1 Do you agree with our approach? If not, please explain why. D5Q2 Do you believe explaining transactional and operational costs within the context of information about returns would help consumers compare products and make informed value for money decisions? D5Q3 Do you have any suggestions on the best method to give effect to this recommendation?
D6 We do not propose to adopt this recommendation on calculating and disclosing performance fees because we are proposing to insert new provisions into Sch 10, and guidance in draft updated RG 97, on performance fees: see proposals B8–B10.	D6Q1 Do you agree with our approach? If not, please explain why.
D7 We do not propose to adopt this recommendation to clarify the drafting in cl 303(2) of Sch 10 because we consider this recommendation is now not necessary.	D7Q1 Do you agree with our approach? If not, please explain why.
D8 At this stage, we do not propose to address or consider the observations for the future discussed at pages 157–158 of REP 581.	D8Q1 Do you agree with our approach? If not, please explain why. D8Q2 Do you have any other comments or observations you would like to make regarding the observations for the future discussed at pages 157–158 of REP 581?

Proposal	Your feedback
E1 If recommendation 11 (proposal B1) is implemented, we propose to remove the concept of indirect cost ratio from Sch 10: see the draft amendments to Sch 10 at Attachment 2 to this paper.	E1Q1 Do you agree with our approach? If not, please explain why. E1Q2 Do you believe the indirect cost ratio concept is still required so that issuers can calculate fees and costs, given that issuers must already identify and total their indirect costs as part of calculating the indirect cost ratio? (See cls 104(1) and (1A) of Sch 10.) Please provide details and indicate where in Sch 10 you believe the indirect cost ratio concept is required. E1Q3 Are there any other reasons why the indirect cost ratio concept should be retained? Please provide details. E1Q4 If the indirect cost ratio concept was retained, what amendments would be required to enable indirect costs to be assigned to administration fees (to be renamed administration fees and costs), or investment fees (to be renamed investment fees and costs), as proposed by recommendation 11, proposal B1? Please provide details. E1Q5 Do you believe that some other calculation method is required to: (a) effectively allocate indirect costs into investment fees and costs or administration fees and costs, depending on whether they relate to investment of the superannuation entity's assets or the administration or operation of the superannuation entity (as proposed by recommendation 11, proposal B1)? Please provide details; or (b) combine indirect costs into management fees and costs? Please provide details. E1Q6 Do you believe that an indirect cost ratio calculation method is required to provide a figure for the 'Fees and costs deducted from your investment' for periodic statements? (See cl 301(2)(b) of the draft amendments to Sch 10 at Attachment 2 to this paper.) Please provide details.

Proposal	Your feedback
Proposal E1— <i>continued</i>	E1Q7 What system and process changes would be needed to implement this proposal? E1Q8 What are the additional costs associated with implementing this proposal? Please provide details of one-off and/or annual costs as applicable. E1Q9 What would be a reasonable timeframe for issuers to implement this proposal, in light of the other changes proposed in this paper?
E2 We propose to: (a) maintain the current requirements for the treatment of costs associated with derivative financial products as indirect costs, in cls 101A(3) and (4) of Sch 10; and (b) include certain costs as transaction costs (see proposal B5 in relation to disclosing transaction costs as a line item in the 'Fees and costs template'); and (c) give effect to this proposal by: (i) amending cl 101A(4)(b) of Sch 10 to maintain the extent of the exclusion from indirect costs; and (ii) amending cl 103 of Sch 10 to insert a new cl 103(1)(fa), to maintain the inclusion of costs in cl 101A(4) as transaction costs. See the draft amendments to Sch 10 at Attachment 2 to this paper.	E2Q1 Do you agree with our approach? If not, please explain why. E2Q2 Have we succeeded in maintaining the status quo for the treatment of derivative financial products? E2Q3 Is any further guidance in relation to derivative financial products required in draft updated RG 97 at Attachment 1 to this paper? E2Q4 Should the requirements around disclosing costs of derivative financial products be aligned so they are the same for managed investment products and superannuation products? Please provide details.
E3 We propose to: (a) restructure RG 97 so that it is logical and easy to follow; (b) redraft RG 97 to more clearly explain the fees and costs disclosure requirements; (c) remove content in RG 97 that we consider does not help industry clearly understand its obligations, or where we consider the guidance in other sections of RG 97 is sufficient; and (d) incorporate the ASIC Q&As on our website into RG 97 where we believe the guidance will be helpful, and remove the ASIC Q&As from our website. See draft updated RG 97 at Attachment 1 to this paper.	E3Q1 Do you agree with our approach? If not, please explain why. E3Q2 Is there any guidance that no longer appears in draft updated RG 97 that appears in the current RG 97 and that you believe should be included in the updated RG 97? Please provide details. E3Q3 Do you have any other comments on our proposed guidance in draft updated RG 97?

Proposal	Your feedback
E4 In the course of reviewing the recommendations made in REP 581, we identified: (a) some other provisions of Sch 10 that could be amended to improve the clarity of the fees and costs disclosure requirements; and (b) potential amendments to the definitions of activity fee, advice fee, buy–sell spread, exit fee, insurance fee and switching fee for superannuation products in cl 101 of Sch 10, to remove the cross-references to s29V of the SIS Act and make them stand-alone definitions. See the draft amendments to Sch 10 at Attachment 2 to this paper.	E4Q1 Do you agree with our proposal to remove the SIS Act cross-references in the definitions of activity fee, advice fee, buy–sell spread, exit fee, insurance fee and switching fee in cl 101 of Sch 10? If not, please explain why. E4Q2 Do you agree with our proposed amendments to cl 206 of Sch 10? If not, please explain why. E4Q3 Should the definition of advice fee for managed investment products (in cl 101(b)(ii) of Sch 10) include a reference to switching fee? Please provide details. E4Q4 Should cl 102(2)(c) of Sch 10 refer to additional service fee, given that only service fee is defined in cl 101 of Sch 10? Please provide details. E4Q5 In the final line of the ‘Example of annual fees and costs’ for managed investment products (in cl 212 of Sch 10), should the word ‘from’ be removed? Please provide details. E4Q6 Given that the definitions in cl 209A of Sch 10 must be included in the PDS for a superannuation product or incorporated by reference, should we move the current fee definitions from cl 209A of Sch 10 to cl 101 of Sch 10, then draft new definitions for cl 209A of Sch 10 that are easier for consumers to understand and use? E4Q7 We have not changed all the fees defined in cls 101 and 209A of Sch 10 so they are called ‘fees and costs’ (as has been done for administration fees and costs, investment fees and costs, and management fees and costs). Should we do this to improve uniformity?