



**ASIC Consultation Paper 224  
Facilitating electronic financial services  
disclosure**

**30 January 2015**

**AIST Submission**

## AIST

The **Australian Institute of Superannuation Trustees** is a national not-for-profit organisation whose membership consists of the trustee directors and staff of industry, corporate and public-sector funds.

As the principal advocate and peak representative body for the \$600 billion not-for-profit superannuation sector, AIST plays a key role in policy development and is a leading provider of research.

AIST provides professional training, consulting services and support for trustees and fund staff to help them meet the challenges of managing superannuation funds and advancing the interests of their fund members. Each year, AIST hosts the Conference of Major Superannuation Funds (CMSF), in addition to numerous other industry conferences and events.

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## 1 Executive summary

**In brief:**

AIST strongly supports the use of electronic disclosure, and would welcome the implementation of options 1-3 as outlined in CP224, including the opportunity to develop more innovative PDSs. AIST estimates that between 25-50% per annum of current communication costs could be saved. AIST recommends that a Working Group be established to help develop greater guidance, including consumer testing outcomes, defining e-addresses and electronic delivery, and refining storage, retrieval and archiving of electronic materials.

Our key comments and recommendations are contained in Figure 1 on the following page.

AIST has drawn up what it believes are the key processes and comments/recommendations flowing from CP224 and draft Regulatory Guide 221 into a process flowchart (see Figure 1). These recommendations primarily relate to the need to establish a Working Group to help develop greater guidance regarding:

- What is an 'e-address'?
- What constitutes 'delivery' of electronic communications?
- Should e-messages be 'sealed'? And
- Storage, archiving, and retrieval guidelines.

In addition to the matters contained in Figure 1, AIST makes the following recommendations:

- ASIC maintain a working brief to ensure that prioritisation of information is undertaken (e.g. within innovative PDSs). See our comments under A1Q3;
- A review of any further barriers to the development of innovative PDSs be conducted once RG 221 has been issued and in place for a period of time. AIST would be pleased to gather information from its member funds. See our comments under C1Q4;
- RG 221 should require Funds to highlight the importance of the information being communicated. See our comments under A1Q3; and
- RG 221 should include guidance regarding how interactive information in innovative PDSs can be reduced to static information. See our comments under C1Q2.

# ASIC Consultation Paper 224: Facilitating electronic financial services disclosures



## Facilitating Electronic Financial Disclosures

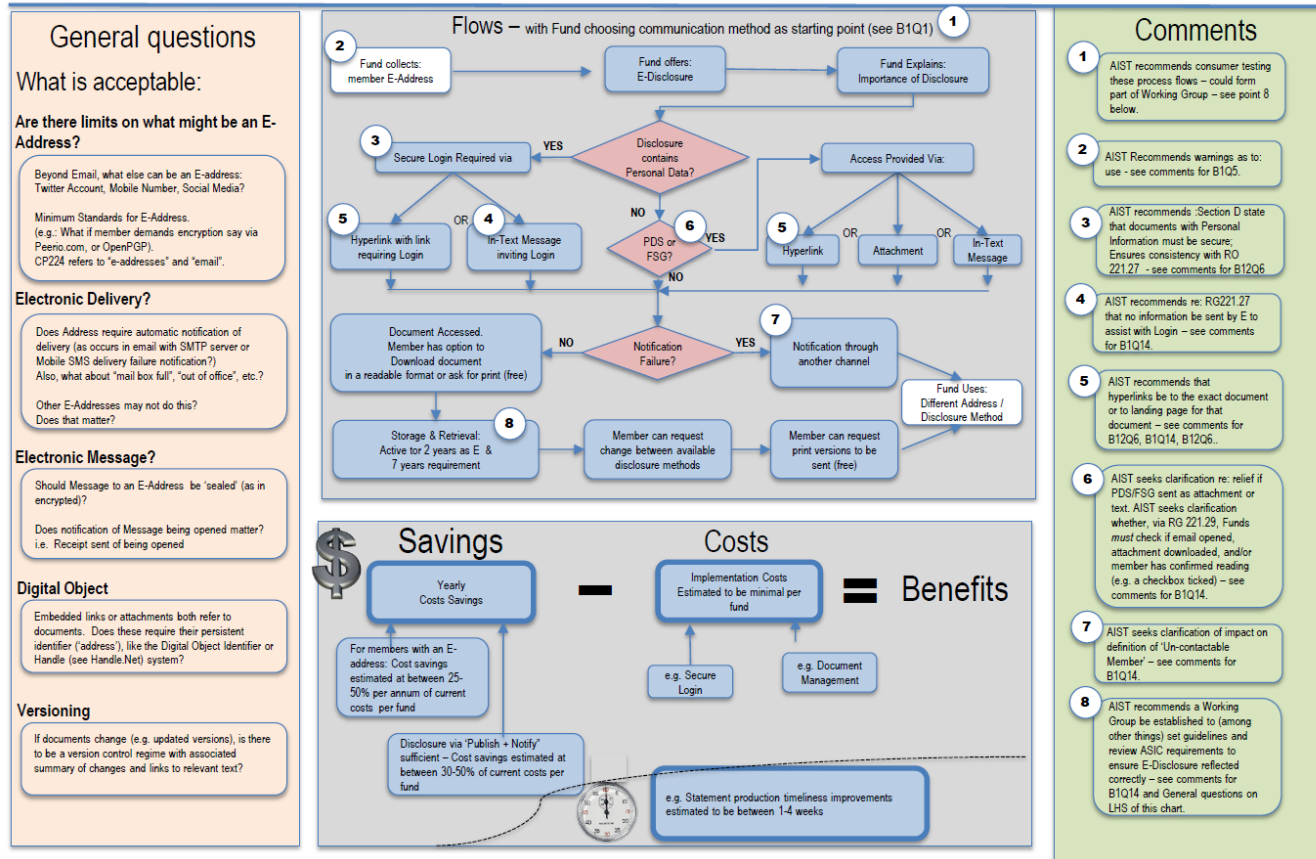


Figure 1

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## 2 Introduction

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AIST wishes to thank ASIC for seeking feedback on its Consultation Paper 224, *Facilitating electronic financial services disclosure* (CP 224).

AIST strongly supports the appropriate use of technologies, including the use of electronic disclosure. AIST and its member funds are keen to more widely use electronic disclosure as an efficient, engaging, and timely method of delivering a wider range of information to members. AIST would welcome the implementation of options 1-3 as outlined in CP 224, including the opportunity to develop more innovative Product Disclosure Statements.

AIST appreciates the clarifications ASIC has provided in draft Regulatory Guide 221 (RG 221), *Facilitating electronic financial services disclosures*. The continued expansion of the use of e-commerce within superannuation is needed, and AIST is supportive of ASIC's role in this area.

AIST notes that when introducing such changes it is important to consider and ensure the ongoing protection of consumers. As highlighted by PwC UK<sup>1</sup>, "The definition of e-disclosure, narrowly defined as part of a litigation or regulatory process, exists no more. E-disclosure is an information management issue, involving the identification, preservation, search, review and production of relevant corporate information to requesting parties, whether they are regulators, counterparties to litigation, stakeholders or business units." AIST believes that strengthening regulatory guidance in the areas of privacy and information management is needed to ensure that the full benefits of e-disclosure are delivered.

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<sup>1</sup> PwC UK, (2010). *Creating a strategic framework for the future E-disclosure 2020*. [online] PWC LLP. Available at: <http://pwc.blogs.com/files/e-disclosure-report.pdf> [Accessed 8 Jan. 2015].

### 3 Principles which should underpin e-disclosure

Before turning to examining the options and the questions in CP224, AIST wishes to outline the principles which it believes should underpin any rollout of e-disclosure. These issues will be examined in more depth later within this submission.

<b>Relevant OECD High Level Principles on financial consumer protection</b> (Summarised)	<b>Issues arising</b>
<p>The <b>legal, regulatory and supervisory framework</b> should be integral and reflect new technologies and protect consumers against financial fraud and abuses.</p>	<ul style="list-style-type: none"> <li>• <i>Regulatory support</i> Ongoing regulatory support for e-disclosure is essential to reflect new technologies.</li> <li>• <i>Retrieval and storage risks</i> APRA Prudential Practice Guides on managing data risk should be reviewed to ensure that new risks arising from e-disclosure, with particular reference to storage and retrieval, are reflected.</li> <li>• <i>Legal discovery</i> There is a need to ensure that legal discovery of documents (including innovative PDSs) is covered within existing e-disclosure discovery guidelines.</li> <li>• <i>E-disclosure leads to e-interaction</i> With the continuing expansion of e-disclosure, e-interaction should also continue to be extended, e.g. consumers being able to undertake any transactions electronically including the submission of Proof of Identify.</li> </ul>
<p><b>Disclosure and transparency</b> requires supplying appropriate information at all stages of the relationship and ensuring that the information is accurate, honest, understandable and not misleading.</p>	<ul style="list-style-type: none"> <li>• <i>Ensuring key information is highlighted.</i> <ul style="list-style-type: none"> <li>(i) AIST notes and supports the comments in draft RG 221 that all PDSs should follow the Good Disclosure Principles. While funds should have flexibility to deliver innovative PDSs, ASIC should maintain a watching brief to ensure that the prioritisation of information in, for example, innovative PDSs is not deflecting consumers from key information.</li> <li>(ii) Additionally, AIST recommends that additional guidance be provided regarding how interactive information can be reduced to a static form in a way which satisfies the disclosure requirements.</li> <li>(iii) AIST recommends that there should be a review once RG221 has been issued and in place for a period of time. AIST would be pleased to gather information from member funds following the implementation of</li> </ul> </li> </ul>

	<p>RG221.</p> <ul style="list-style-type: none"> <li>• <i>Ensuring the importance of the document is highlighted</i> Draft RG221 should include that funds highlight the importance of the e-document being mentioned.</li> <li>• <i>Disclosure and receipt of information</i> While draft RG 221 outlines relief for funds from being satisfied that the consumer has received the email or printed document, more guidance is needed in draft RG 221 regarding proving consumers have been sent the notification or e-disclosure document, handling of bounced emails, SMS not being delivered, and what happens to determining whether the member contact details are 'lost'. While draft RG 221 goes some way to addressing these issues, more detail is needed.</li> <li>• <i>Easy identification of the disclosure document</i> Hyperlinks should link to:             <ul style="list-style-type: none"> <li>- The exact disclosure document (where the document does not contain personal information), or</li> <li>- A discrete landing page which links to the exact document, or</li> <li>- The consumer login page (where the document does contain personal information).</li> </ul> </li> </ul> <p>Currently, consumers receive the relevant PDS via mail. It would be too confusing for consumers to determine (even though they may be given the name of the relevant PDS) to be given a hyperlink to a page which may contain many PDSs. Although AIST notes that draft RG 221 requires that websites include instructions where to find the document, AIST recommends that access should not take up to three clicks and that the ASIC guidance be amended accordingly.</p>
<p><b>Equitable and fair treatment of consumers</b> including special attention being paid to the needs of vulnerable groups.</p>	<ul style="list-style-type: none"> <li>• <i>Consumers choose delivery method</i> Consumers should be able to change their mind about the method of receiving disclosure material. AIST notes that draft RG 221 covers this aspect.</li> <li>• <i>Appropriate safeguards should be put in place for those who lack access to electronic communications.</i> AIST notes that draft RG 221 requires that if documents are provided by hyperlink or reference to a web address, funds should make it clear that</li> </ul>

	<p>consumers may request a print copy at no cost.</p>
<p><b>Protection of consumer assets against fraud and misuse – and – Protection of consumer data and privacy.</b></p>	<ul style="list-style-type: none"> <li>• <i>Generic vs personal information</i> As contained in draft RG 221, ASIC guidance must a distinction between the electronic delivery mechanisms for generic and personal information, e.g. significant event notices and member benefit statements.</li> <li>• <i>Emails not to include identification details</i> AIST recommends that this be added to draft RG 221 at point 8 on page 20. AIST notes that sending links via email is an increasing source of phishing and malware risk.</li> </ul>

Figure 2

AIST now turns to specific comments regarding CP 224.



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## 4 Recommendations

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### 4.1 Section A: Options considered

AIST supports option 4 (a combination of options 1-3)

**A1Q1 Do you agree that we should further facilitate electronic disclosure, or take Option 5 (no change)? Please provide reasons.**

AIST strongly supports ASIC furthering the facilitation of electronic disclosure, and supports the implementation of Option 4 (a combination of options 1-3).

The main reasons are:

- Information should meet member needs. Consumer use of the internet has increased and post has decreased (see Figure 2).
- Superannuation funds must be able to communicate with members in ways which are familiar to them (e.g. ways used in banking, comparing products and services). Australians' use of the internet is big and growing:
  - 79% of Australian households have internet access at home<sup>2</sup>.
  - 76% of Australians access the internet via mobile devices, and this has risen 208% since 2010<sup>3</sup>.

This use of the internet supports superannuation funds being able to use e-disclosure (which will frequently refer the consumer back to the internet or underpins consumers use of internet based email systems):

- A considerable percentage of members have email addresses and mobile phone numbers registered with their superannuation fund, meaning that email and SMS communications can be implemented immediately.
- Through the combination of options 1-3, superannuation funds would have the choice of sending disclosures either by electronic means (e.g. email) or through notification that the disclosure is available elsewhere.
- Superannuation funds have witnessed a growth in the number of members registering to access their details online. It is expected this growth would increase as members become even more accustomed to superannuation interacting with members online.
- Improvements in cost, efficiency and timeliness.
- Improvements in consumer engagement, given that e-commerce is now the major form of communication.

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<sup>2</sup> Australian Bureau of Statistics, (2014). *Household internet and computer access*. [online] Australian Bureau of Statistics. Available at: <http://tinyurl.com/nu7ynd5> [Accessed 9 Jan. 2015].

<sup>3</sup> Magna Global, (2013). *Mobile internet access rises by 208% in three years*. [online] Available at: [http://mediabrands.com.au/documents/magna\\_unlocking\\_mobile.pdf](http://mediabrands.com.au/documents/magna_unlocking_mobile.pdf) [Accessed 9 Jan. 2015].

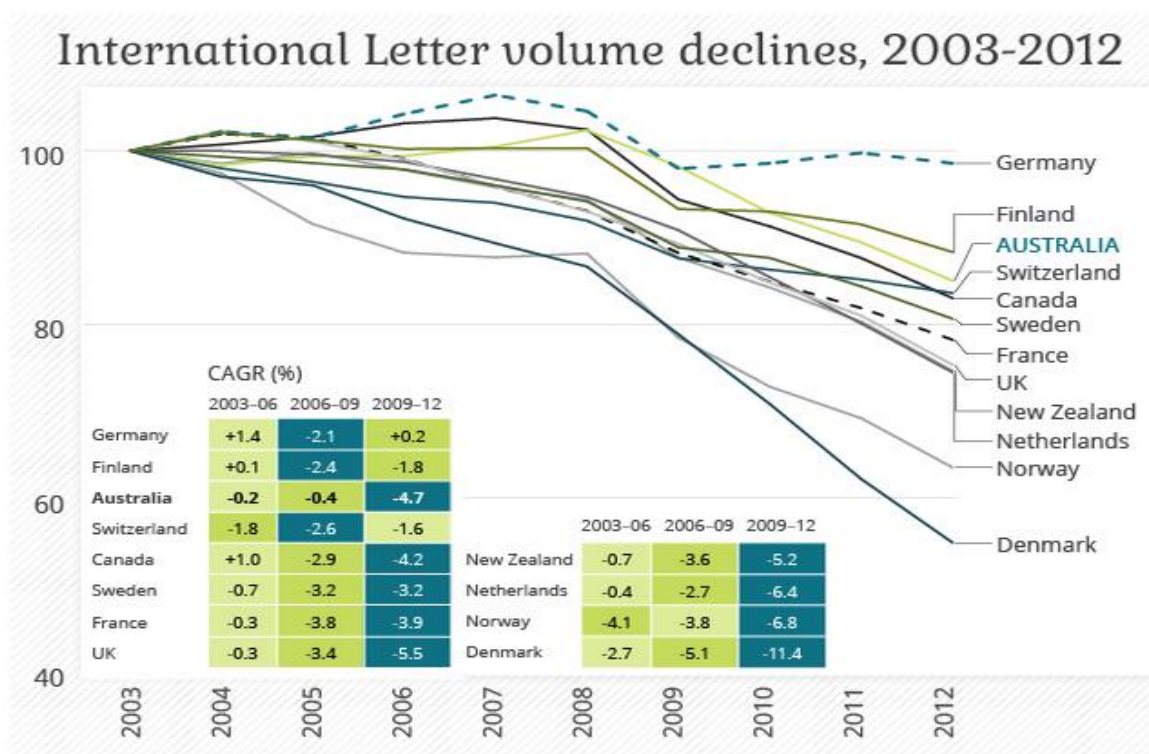


Figure 3

Source: Speech by The Hon. Malcolm Turnbull MP<sup>4</sup>

**A1Q2 What benefits do you consider will result from our proposed approach?**

Based on feedback from a sample of AIST member funds, we estimate that:

- Between 25% to 50% in communication costs may be saved.
- Timeliness of distributing information may improve between 1-4 weeks.
- Based on feedback from a sample of member funds, AIST believes that consumer readership rates and engagement will improve.

**A1Q3 What disadvantages do you consider will result from our proposed approach?**

- *Additional costs regarding security of login websites.* Based on feedback from a sample of member funds, AIST believes that some additional costs will be incurred in updating the security and

<sup>4</sup> Turnbull MP, T. (2015). Speech: Australia Post in the Digital Age. [online] Canberra: The Hon Malcolm Turnbull MP. Available at: <http://tinyurl.com/my36zo8> [Accessed 9 Jan. 2015].

operations of login areas for some funds. Funds have (at this point) have estimated these costs to either be minimal or not yet known.

- *Clarity regarding default modes of communication.* While we believe this is implicit in draft CP 224 and draft RG 221, it should be specifically mentioned that trustees may choose to communicate with consumers in a method other than the default (e.g. by post) from time to time.
- *Clarity regarding what constitutes an ‘e-address’ – are there any limitations?* AIST recommends that this issue be included within the scope of a Working Group.
- *Ensuring key information is highlighted.* AIST notes and supports the comments in draft RG 221 that all PDSs should follow the Good Disclosure Principles. While funds should have flexibility to deliver innovative PDSs, ASIC should maintain a watching brief to ensure that the prioritisation of information in, for example, innovative PDSs is not deflecting consumers from key information.
- *Data storage and retrieval issues.* The issue of data storage and retrieval becomes heightened. APRA Prudential Practice Guides should be reviewed to ensure that these risks are covered and guidance is given. AIST would be pleased to form part of any consultation process, and believes a Working Group should be established to review these and other issues mentioned in this submission.
- *Receipt of information.* While draft RG 221 outlines relief for funds from being satisfied that the consumer has received the email or printed document, more guidance is needed in draft RG 221 regarding:
  - Proving consumers have been sent the notification or e-disclosure document. Can, for example, funds deem consumers to have received certain information by electronic means if certain procedures have been undertaken (e.g. no email bounce back has been received – similar to posted letters being deemed to have been received).
  - Handling of bounced emails.
  - SMSs not being delivered.
  - What happens to determining whether the member contact details are ‘lost’ (fund responsibility should not exceed requirements regarding posted materials).

AIST recommends that these issues also be part of a Working Group’s scope.

While draft RG 221 goes some way to addressing these issues, more detail is needed.

- *Easy identification of the disclosure document.* Hyperlinks should link to the exact disclosure document (where the document does not contain personal information), to a discrete landing page which leads to the document or to the consumer login page (where the document does contain personal information). Currently, consumers receive via post the relevant PDS. It would be too confusing for consumers to determine (even though they may be given the name of the relevant PDS) to be given a hyperlink to a page which may contain many PDSs. Although AIST notes that draft RG 221 requires that websites include instructions where to find the document, AIST recommends that access should not take up to three clicks and that the ASIC guidance be amended accordingly.
- *Risk of fraud.* AIST notes that draft RG 221 includes appropriate guidance regarding ensuring that personal information is not included in emails, SMS, etc.
- *Legal discovery.* Guidance should be included either within draft RG 221 or ensuring any legal discovery guidelines cover any matters arising from the proposed approach.

- *Appropriate safeguards should be put in place for those who lack access to electronic communications.* AIST notes that draft RG 221 requires that documents are provided by hyperlink or reference to a web address, funds should make it clear that consumers may request a print copy at no cost.

**A1Q4 Are there any other options we should consider to meet our regulatory objective of further facilitating electronic disclosures and encouraging the use of more innovative PDSs, while ensuring that consumer choice about the method by which they receive disclosures is not removed?**

AIST recommends that this issue be re-examined sometime after RG 221 has been issued. All stakeholders will then be able to gauge the impact of the changes on issues such as:

- Printing and compliance costs associated with having both interactive and static PDSs.
- Consumer and other stakeholder demand for static PDSs.

## 4.2 Section B: Enabling electronic disclosure to be the default method

**B1Q1 Do you agree with this proposal? Please give reasons for your answer**

AIST agrees with this proposal and welcomes this proposal's clarity. If the superannuation fund has an email address, the fund should not reasonably need consent to use that address to deliver disclosures. Our reasons are as stated above – meeting consumer needs, and cost and timeliness improvements.

While AIST believes this is implicit in draft CP224 and draft RG221, it should be specifically mentioned that trustees have the option to communicate with consumers in a method other than the default (e.g. by post) from time to time.

**B1Q2 Are there other barriers to using email addresses for delivery of disclosures?**

AIST believes that CP224 addresses the main barriers.

**B1Q3 What are the consequences of making this change? For example, are there significant numbers of clients who have supplied email addresses and who currently do not have disclosures delivered to those email addresses but who would be able to under this proposal?**

AIST notes that many superannuation funds have substantial percentages of their memberships with recorded email addresses. Owing to the lack of clarity to date, funds have not been supplying items such as significant event notices or member benefit statements without members specifically agreeing within the website login area to receiving these disclosures electronically. Based on a sample of AIST member funds, AIST believes that there is between 15-70% of fund membership which will now be able to receive such disclosures electronically.

**B1Q4 Do you agree that the provision of an email address means a client or potential client is comfortable with all forms of disclosure being delivered to that email address? If yes, are there any consumers or groups of consumers for whom this might not be the case?**

AIST agrees with this statement. The main methods for gaining a consumer's email address include on an application form, a consumer's 'contact details' form, via campaigns on the superannuation fund's website, via contact centres asking for consumer's emails so that the fund may contact them electronically, via specific print campaigns requesting email addresses, financial planning contacts, and via the website login area.

## **B1Q5 When a provider is seeking an address from a client or potential client, should there be any information, warnings or advice given about the ways the address might be used?**

AIST believes that such information should be included – and guidance within draft RG221 would assist.

Additional guidance is also needed where the e-contact address is given via a financial planning contact. Some financial planners may be employees of the superannuation fund, but others may be employed by subsidiary or outsourced or completely separate entities to the superannuation fund. AIST recommends that RG 221 make it clear that, provided suitable warnings are given, financial planners – howsoever associated with the consumer's superannuation fund – be able to pass the consumer's email address onto the superannuation fund.

## **B1Q6 Are there any particular kinds of disclosure for which consumers might be more or less likely to prefer electronic delivery?**

AIST believes that CP224 addresses the main barriers.

## **B1Q7 Does it matter to whom the consumer provided the email address?**

No, provided that suitable information, warnings or advice are included. Guidance within draft RG221 is needed.

Additional guidance is also needed where the e-contact address is given via a financial planning contact. Some financial planners may be employees of the superannuation fund, but others may be employed by subsidiary or outsourced or completely separate entities to the superannuation fund.

## **B1Q8 Do you have comments or views on our example in draft updated RG 221: see Example 1 at RG221.35?**

While Example 1 is clear, AIST believes that particular examples become less relevant if suitable information, warnings or advice are included.

## **B1Q9 For providers, how do you currently determine that an address (postal or email) has been nominated for the purposes of delivery of disclosures such as PDSs and Financial Services Guides (FSGs)?**

The main methods for gaining a consumer's email address include on an application form (for consumers joining the Personal Division of the Fund), a consumer's 'contact details' form, via campaigns on the superannuation fund's website, via contact centres asking for consumer's emails so that the fund may contact them electronically, via specific print campaigns requesting email addresses, financial planning contacts, and via the website login area where the consumer records their distribution preferences.

**B1Q10 Do you think that emailed disclosures are more or less likely to be lost (e.g. through changes to email addresses or misdelivery) than posted disclosures? Please provide supporting evidence if possible.**

AIST contends that emailed disclosures are less likely to be lost than posted disclosures. Based on feedback from a sample of AIST member funds:

- Postal mail return rates range between 5% - 10%.
- Email bounce rates range between 3% - 6%.

According to Vision<sup>5</sup>, overall email bounce rates for insurance and superannuation between January to June 2013 are estimated to be 4.42%. Australia Post has stated that the management of returned mail is one of its loss cost centres.

**B1Q11 Do you think that there is an issue with frequency of change of email addresses? Do you have any data to show frequency of change to email address?**

Please see answer to B1Q10.

**B1Q12 Are there any particular contexts in which the current requirement for a client to 'nominate' an address would provide a barrier to efficient electronic disclosure – for example, obtaining an address for clients who acquire products through a third party such as an employer or other agent?**

No, provided that suitable information, warnings and advice are provided.

**B1Q13 Where there is a provision allowing a disclosure to be notified, sent, given, provided or delivered electronically, do you need any further guidance on whether you can use an email address that you hold to satisfy such a requirement?**

No, AIST believes that draft RG221 covers these issues.

**B1Q14 Is there any other guidance or relief required to facilitate the delivery of disclosures by email to clients?**

AIST believes that additional guidance (over and above that included in draft RG 221) would be useful regarding the following matters:

- APRA Prudential Practice Guides on managing data risk should be reviewed to ensure that new risks arising from e-disclosure, with particular reference to storage and retrieval, are reflected. Notifications of disclosures being available sent by link should also be stored.
- There is a need to ensure that legal discovery of documents (including innovative PDSs) is covered within existing e-disclosure discovery guidelines.
- *Disclosure and receipt of information*  
While draft RG 221 outlines relief for funds from being satisfied that the consumer has received the email or printed document, more guidance is needed in draft RG 221 regarding:

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<sup>5</sup> Vision, (2013). Bounce rates by industry. [online] Available at: <http://tinyurl.com/let6arr> [Accessed 9 Jan. 2015].



- Proving consumers have been sent the notification or e-disclosure document. Can, for example, funds deem consumers to have received certain information by electronic means if certain procedures have been undertaken (e.g. no email bounce back has been received – similar to posted letters being deemed to have been received).
- Handling of bounced emails.
- SMSs not being delivered.
- What happens to determining whether the member contact details are ‘lost’ (fund responsibility should not exceed requirements regarding posted materials).

While draft RG 221 goes some way to addressing these issues, more detail is needed. These issues could be included within the scope of a Working Group.

- While draft RG 221 outlines relief for funds from being satisfied that the consumer has received the email or printed document, more guidance is needed in draft RG 221 regarding proving consumers have been sent the notification or e-disclosure document, handling of bounced emails, SMS not being delivered, and what happens to determining whether the member contact details are ‘lost’. While draft RG 221 goes some way to addressing these issues, more detail is needed. AIST believes that
- Additionally, RG221.30 outlines relief being provided regarding the consumer accessing of PDSs, FSGs and SOAs electronically under the ‘publish and notify’ method outlined at RG 221.24. AIST notes that draft RG221.24 deals only with relief for the provision of PDSs, FSGs, and SOAs by making them available on a website or other electronic facility and notifying consumers. AIST believes that further guidance/relief is needed in RG 221 regarding sending PDSs and FSGs (and not SOAs, which do not contain personal information) as attachments in emails.
- Hyperlinks should link to the exact disclosure document (where the document does not contain personal information), or to a discrete landing page which leads to the specific document, or to the consumer login page (where the document does contain personal information). Currently, consumers receive via post the relevant PDS. It would be too confusing for consumers to determine (even though they may be given the name of the relevant PDS) to be given a hyperlink to a page which may contain many PDSs. Although AIST notes that draft RG 221 requires that websites include instructions where to find the document, AIST recommends that access should not take up to three clicks and that the ASIC guidance be amended accordingly.
- *Emails not to include identification details*  
AIST recommends that this be added to draft RG 221 at point 8 on page 20.

## **B1Q15 Please estimate any cost savings your business would expect to realise from this change**

Based on feedback from a sample of AIST member funds, AIST estimates that:

- Between 25% to 50% in postage costs may be saved.
- Timeliness of distributing information may improve between 1-4 weeks.
- Based on feedback from a sample of member funds, AIST believes that consumer readership rates and engagement will improve.

## **B1Q16 Please estimate any additional costs that consumers might be expected to incur as a result of this change**

Based on feedback from a sample of AIST member funds, AIST believes that those consumers who have provided consent to receiving e-disclosure are not frequently printing out e-documents.

AIST notes that draft RG221 requires funds to provide printed copies of documents free of cost to the consumer.

### 4.3 Section B: Provision of disclosures on a website or other electronic facility

**B12Q1 Do you support this additional method of disclosure? Please give reasons for your answer.**

AIST agrees with this proposal as it will assist with the delivery of cost efficiencies. As previously outlined, funds have between 15-70% of membership with registered email addresses. The ability for superannuation funds to be able to post (or by other means) notification of a document being available on a website or app will assist with reducing costs. Such forms of disclosure should also assist with increasing the number of consumers providing registered email or mobile phone contact details.

**B12Q2 Should clients be notified each time (via their existing method of communication) of the availability of the disclosure on a website or other electronic facility?**

As occurs now and as is reflected in draft RG221 (RG221.26), AIST strongly agrees that notification should occur each time.

**B12Q3 What are acceptable means of notification (e.g. letter, email, SMS, voice call, or other)?**

AIST believes that superannuation funds should be able to use any form of notification, provided that the notification details are capable of being stored and retrieved.

**B12Q4 How should notifications be made? Are there any design considerations you would suggest in the notice to help ensure clients do not miss the opportunity to access their disclosures? What guidance should ASIC give on this issue?**

In addition to AIST believing that superannuation funds should be able to use any form of notification, provided that the notification details are capable of being stored and retrieved:

- AIST notes and supports the comments in draft RG 221 that all PDSs should follow the Good Disclosure Principles. While funds should have flexibility to deliver innovative PDSs, ASIC should maintain a watching brief to ensure that the prioritisation of information in, for example, innovative PDSs is not deflecting consumers from key information.
- AIST believes that draft RG221 should include that funds highlight the importance of the e-document being mentioned.

**B12Q5 Do you have any data on the likelihood of clients printing their own copies of relevant disclosures when they are made available online?**

Based on feedback from a sample of AIST member funds, AIST believes that those consumers who have provided consent to receiving e-disclosure are not frequently printing out e-documents.



AIST notes that draft RG221 requires funds to provide printed copies of documents free of cost to the consumer.

## **B12Q6 Do you think we should restrict the use of hyperlinks in notifications?**

While AIST believes that there should not be any restrictions on the use of hyperlinks, as is contained in draft RG 221, ASIC guidance must distinguish between the electronic delivery mechanisms for generic and personal information, e.g., significant event notices and member benefit statements. Clearly, personal information which would assist accessing logins (e.g. member number) must not be distributed via insecure means. AIST recommends that this be added to draft RG 221 at point 8 on page 20. We note that this caution arises from the growing volume of phishing and malware risk arising from providing links via email.

Hyperlinks should link to the exact disclosure document (where the document does not contain personal information), or to a discrete landing page leading to the exact document or to the consumer login page (where the document does contain personal information). Currently, consumers receive via post the relevant PDS. It would be too confusing for consumers to determine (even though they may be given the name of the relevant PDS) to be given a hyperlink to a page which may contain many PDSs. Although AIST notes that draft RG 221 requires that websites include instructions where to find the document, AIST recommends that access should not take up to three clicks and that the ASIC guidance be amended accordingly.

## **B12Q7 Please provide feedback on the costs to your business of:**

- (a) developing or modifying an electronic facility**
- (b) printing and mailing disclosures (including, where possible, volumes and expected changes in volumes based on the proposal), and**
- (c) any savings you would expect to make were this proposal implemented.**

For these members, feedback to AIST indicates that approximately 30-50% in postage and communication costs may be achieved. Feedback indicates either minimal or as yet unknown implementation costs.

## **B12Q8 Please estimate any costs that consumers might be expected to incur as a result of the change**

Based on feedback from a sample of AIST member funds, AIST believes that few consumers will print out e-disclosures. While it is difficult to estimate, we believe that for those members who receive e.g., a letter advising that e-disclosure is available, there will be few calls requesting free printed copies of the disclosure document. This is based on a similar instance where – owing to previous relief – superannuation funds were able to place their annual reports online and notify the consumers about the online availability by post.

## **4.4 Section C: Facilitating the use of more innovative PDSs**

### **C1Q1 Do you have any comments on our proposals for relief in proposal C1(a) regarding copies of the PDS?**

AIST strongly supports the provision of flexibility for superannuation funds to produce interactive and static PDSs. Feedback from member AIST funds indicates that there may be considerable expense in maintaining

two PDS formats – however, this is a decision for each fund. AIST notes and supports the comments in draft RG221 that funds can choose to send the ‘cheaper’ format PDS to a consumer who requests a copy.

### **C1Q2 Do you have any comments on the relief from the shorter PDS regime in proposal C1(b)? Do you have any other suggestions as to how this might be achieved? Do you think communicating ‘the same information’ is an appropriate limitation on a more innovative PDS?**

Consumers should receive ‘the same information’ in an innovative PDS. PDSs are meant to contain comparable, important and transparent information.

AIST recommends that consideration should be given to how interactive information can be reduced to a static form in a way that satisfies the disclosure requirements.

### **C1Q3 Do you think our proposed requirement in proposal C1(c) that the mandated language be included ‘at or near the front of the PDs’ will accommodate more innovative PDSs?**

AIST concurs with this proposal.

### **C1Q4 Are there any further legislative barriers to your use of more innovative PDSs, including interactive PDSs?**

No, but AIST recommends that there should be a review once RG221 has been issued and in place for a period of time. AIST would be pleased to gather information from member funds following the implementation of RG221.

### **C1Q5 Do you think any of our proposed relief should be extended to other types of disclosure, such as FSGs and SOAs?**

AIST believes the relief should be so extended, provided:

- That the e-communication highlights the importance of the document being provided.
- That personal information is only provided within secure website login areas.
- Greater guidance is given regarding the storage, retrieval and searchability of documents.
- Clarity is provided regarding provision of storage of SOAs to the consumer’s superannuation fund, where the financial planner is not an employee of the superannuation fund.

### **C2Q1 Do you agree with this proposal? Please give reasons.**

AIST supports this proposal as it covers what happens where a consumer requests a copy of a printed PDS since it may be expensive to provide a copy of a more innovative PDS.

### **C2Q2 Do you consider that there are any other areas where a lack of clarity of our view would prevent or discourage you from producing a more innovative PDS?**

As mentioned above, AIST believes that greater use of e-disclosure will naturally lead to a greater desire for consumer e-interactivity. AIST therefore recommends that there is a need to enable consumers to be able to make applications to join a superannuation fund via dynamic links to e-PDSs.

### **C2Q3 Are there any other risks to consumers that may be more apparent in the electronic environment?**

*Retrieval and storage risks*

AIST submits that APRA Prudential Practice Guides on managing data risk should be reviewed to ensure that new risks arising from e-disclosure, with particular reference to storage and retrieval, are reflected. This is needed to protect consumers, particularly in the case of complaints and disputes. PDSs are usually updated at least once a year, and (of course) more frequently with changing legislative requirements. Version control and retrieval of the various versions is important.

**C2Q4 Do you think, where it does not already, any of our proposed updated guidance should be extended to other types of disclosures, such as FSGs and SOAs?**

As mentioned above, AIST believes the relief should be so extended, provided:

- That the e-communication highlights the importance of the document being provided.
- That personal information is only provided within secure website login areas.
- Greater guidance is given regarding the storage, retrieval and searchability of documents.
- Clarity is provided regarding provision of storage of SOAs to the consumer's superannuation fund, where the financial planner is not an employee of the superannuation fund.

**C2Q5 Do you agree with our updated good practice guidance in Section D of draft updated RG221??**

Yes, AIST believes that these reflect the principles we have outlined above.

**C2Q6 Do you think complying with our updated good practice guidance would be too onerous?**

No, this guidance is necessary to ensure adherence to the principles we have outlined above.

**C2Q7 Is there anything else you think would be usefully covered in our good practice guidance?**

As mentioned above, AIST believes that greater use of e-disclosure will naturally lead to a greater desire for consumer e-interactivity. AIST therefore recommends that there is a need to enable consumers to be able to make applications to join a superannuation fund via dynamic links to e-PDSs.

## 4.5 Section D: Electronic delivery of credit disclosures

AIST will not be making comments in regard to section D.

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