



**ASIC Review of Regulatory Guide 97 –
Disclosing fees and costs in PDSs and
periodic statements**

27 February 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 welcomes ASIC's review of RG 97 and strongly supports ASIC's work on improving disclosure of fees and costs. We recommend that RG 97b could be further improved through clarifying interposed vehicles, disclosing actual performance fees, not carving out listed vehicles, prescribing calculation methodologies and aligning with APRA reporting requirements. AIST also supports better disclosure of related party payments and a separate review of insurance disclosure.

AIST strongly supports ASIC's work to ensure greater disclosure of fees and costs. AIST believes that RG97 could be further strengthened through:

- Providing clarity regarding the definition of 'interposed vehicle'.
- Requiring disclosure of actual rather than prospective performance fees.
- Not carving-out listed vehicles.
- Prescribing fee and cost calculation methodologies.
- Aligning with APRA reporting requirements.

AIST strongly supports disclosure of fees and costs paid to related parties.

AIST queries the variance between OTC derivatives treatment in super and managed investment products.

AIST believes that there is need for a separate insurance disclosure review.

2 Introduction

AIST wishes to thank ASIC for seeking feedback on its Review of Regulatory Guide 97 – *Disclosing fees and costs in PDSs and period statements (Review of RG 97)*, together with draft Regulatory Guide 97. This follows on from the substantial work undertaken in Report 398 *Fee and cost disclosure: Superannuation and managed investment products* July 2014 and Class Order 14/1252.

As ASIC would be aware, the Financial System Inquiry Final Report drew attention to what it believes are the high level of superannuation fees in Australia. While AIST has noted that MySuper has already brought about a reduction in fees¹, this point nonetheless highlights the need for greater fee and cost disclosure to aide fee comparability by both consumers and the industry itself, and thereby facilitating greater competition.

AIST welcomes the further strengthening of fee disclosure to ensure consistency, comparability, certainty, and transparency afforded by both the Class Order and draft RG97. Such further strengthening is needed to assist meeting the objectives of protecting the retirement savings of Australians, and ensuring greater efficiency and competition within the Australian superannuation system.

In particular, AIST strongly appreciates the inclusion of the following in draft RG97:

- ‘Interposed vehicles’ - Inclusion of ‘interposed vehicles’, to ensure that fees and costs which reduce members’ returns are disclosed.
- ‘Indirect costs’ - Guidance concerning the calculation of ‘indirect costs’.
- Disclosure of costs paid by a promoter or other related party (draft RG97.82-84).
- Examples to aide clarity.
- Encouragement to include additional information regarding break-up of fees (draft RG97.66).
- A good ‘balancing’ of the requirements for a standardised fees and cost template and the need at times to tailor these requirements (as is outlined in draft RG97.63).

¹ Australian Institute of Superannuation Trustees, (2014). *Response to the Financial System Inquiry Interim Report* 26 August 2014. Australian Institute of Superannuation Trustees.

In general, we believe that RG97 could even further deliver the objectives of consistency, comparability, certainty and transparency if:

- **More clarity in defining ‘interposed vehicle’ to ensure all delivery mechanisms are captured.** The definition of ‘interposed vehicle’ should be broadened to enable any vehicles (even ones which may currently not exist) to be captured.
- **More prescription regarding calculation methodologies** to ensure consistency, comparability, certainty, and transparency.
- **Carve-outs for listed assets should be removed** (examples 6 and 8 in draft RG97).
- **Performance fees should be disclosed as actual.** Discussions with AIST member funds highlight that there would be practical problems if performance fees are disclosed as anything other than ‘actual’.
- **Further examples and possibly flowcharts** to provide further guidance.
- **Alignment with APRA reporting requirements.**
- **Insurance disclosure review:** A separate review to assist standardise insurance disclosure requirements is much needed. AIST understands that ASIC has commenced such a review.
- **Consistency between superannuation and managed investments.** AIST realises that this would require a further review of Class Order 14/1252.

AIST recommends that a review take place in say 12 months time to gauge industry feedback as to implementing these changes. Additionally, AIST strongly believes that ongoing ASIC reviews are necessary to ensure no slippage of disclosure requirements through, for example, fee-sharing arrangements.

3 Principles which should underpin disclosure

Before turning to examining the questions in the Review of RG97, AIST wishes to outline the principles which it believes should underpin any disclosure. AIST will refer to these principles when addressing the questions raised in the Review of RG97.

3.1 High level principles

AIST refers to (and obviously supports) the OECD’s *G20 High Level Principles on Financial Consumer Protection*². As far as fee disclosure is concerned, these principles may be summarised as follows:

- Standardisation, comparability, and consumer testing are desirable.
- A level playing field across financial services is to be encouraged.
- Furthering responsible business conduct is important, eg. ensuring that remuneration practices and conflicts are not detracting from proper disclosure.
- Remuneration and conflicts of interests should be disclosed where conflicts cannot be avoided.
- Disclosure should help consumers distinguish between what is essential and what’s less important.

3.2 Operational principles

In its submission to the Financial Services Inquiry Interim Report³, AIST recommended that the following ‘operational guidelines’ would further strengthen the *G20 High-Level Principles on Consumer Protection*. AIST applauds ASIC for its work in strengthening superannuation system efficiency and consumer protection when drafting RG97:

Operational principle	Whether reflected in draft RG97
Costs and fees should not be obscured through the use of intermediaries.	<ul style="list-style-type: none"> • This is reflected in draft RG97 through the concept of ‘interposed vehicles’ as well as draft RG97.82-84 requiring the disclosure of promoter and related party costs, including fee-sharing arrangements.

² Organisation for Economic Co-Operation and Development, (2011), *G20 High-Level Principles on Financial Consumer Protection*, Geneva: Organisation for Economic Co-operation and Development. (Endorsed by G20 Finance Ministers & Central Bank Governors 14-15 Oct 2011) Available at: <http://www.oecd.org/daf/fin/financial-markets/48892010.pdf>

³ Australian Institute of Superannuation Trustees, (2014). *Response to the Financial System Inquiry Interim Report 26 August 2014*. [online] Australian Institute of Superannuation Trustees. Available at: <http://tinyurl.com/n4ozc4> [Accessed 18 Feb. 2015].

<p>Disclose fees arising from the separation of ownership of assets from those who manage the assets</p>	<ul style="list-style-type: none"> • This is reflected through the concept of ‘interposed vehicles’.
<p>Calculation methodologies should be set, eg. through Regulatory Guides, whenever outcomes affecting members benefits need to be disclosed.</p>	<ul style="list-style-type: none"> • Draft RG97 does provide examples but greater guidance would be appreciated through more prescription regarding calculation methodologies and the inclusion of more examples and flowcharts.
<p>The whole picture as disclosed should not be misleading through omission even if the component parts comply (eg. rolling up of group service charges)</p>	<ul style="list-style-type: none"> • Draft RG97 goes a long way way towards meeting this. • AIST is concerned that the various carve-outs and double-negatives within regulation 101 (eg. definition of ‘interposed vehicle’), Class Order 14/1252 and draft RG97 add to complexity and the possibility of a lack of consistency of application. At a high level summary, the issues are: <ul style="list-style-type: none"> ○ The cumulative effect of the negatives in the drafting of section 1013C. ○ Clarity regarding the interaction of 1013C(2) with the definition of ‘indirect cost’ contained within Class Order 14/1252. ○ Reasoning behind the carve-out of indirect costs of a managed investment product or an investment option of a managed investment scheme regarding buy-sell spreads and any other costs associated with the acquisition or disposal of a derivative as contained in regulation 101A(4). <p>Further guidance within RG97 would be useful. AIST addresses this point within this submission.</p> • AIST appreciates that the issue of the whole picture needing to be disclosed where it’s misleading even though the various components are compliant is outside the scope of this review. For example, AIST believes that there should be disclosure of apportionment methodology where fees and costs are across platforms. AIST will address this issue in a

	separate submission.
Disclose costing methodologies where they vary across a default investment option.	<ul style="list-style-type: none"> • Draft RG97 does not include this – this matter is dealt with in this submission.
Disclose payment and utilisation of contractual benefits (eg. group insurance profit sharing).	<ul style="list-style-type: none"> • AIST raises the need to disclose rebates and profit sharing disclosure within this submission.
Key terms in disclosure documents need to be consistently labelled and defined.	<ul style="list-style-type: none"> • AIST recommends that this issue be examined separately, but should form part of further regulatory guidance.

These issues will be examined in more depth later within this submission.

4 Recommendations

AIST now turns to addressing the questions raised in the Review of RG97.

4.1 Interposed Vehicle

B1Q1 Do you consider the guidance provided on the interposed vehicles to be sufficient to properly explain when a body, trust, partnership or other structure would be an interposed vehicle?

AIST strongly endorses that any indirect cost that the trustee knows or reasonably ought to know or may reasonably estimate will directly or indirectly reduce the return should be included. AIST makes the following recommendations which we believe will provide greater clarity – and therefore consistency in application:

Plain English definition of ‘interposed vehicle’ needed in draft RG97:

- Clarity regarding the definition of ‘interposed vehicle’ is needed in RG97.
- Draft RG97 should include a ‘plain English’ explanation of the definition of ‘interposed vehicle’ within clause 101 of Schedule 10 to the *Corporations Regulations 2001*.
- Clarify the cumulative effect of the requirements. For example:
 - The definition of ‘interposed vehicle’ refers to certain products (eg. MySuper product) and then refers to ‘other than a MySuper product...’, and then refers to a ‘body, trust or partnership other than a body, trust or partnership to which either of the following applies’. It would be useful for draft RG97 to provide guidance regarding the cumulative effect of the subsequent paragraphs.
 - A similar situation arises from excluding bodies, trusts or partnerships in the definition of ‘interposed vehicle’ and citing these exclusions in clauses (a)(i) and (ii), and then having a general catch-all in paragraph (b). This is difficult to interpret, given the carve-outs followed by a general catch all in paragraph (b).
- Clarity regarding ‘predominantly carrying on a business of investment’. For example:
 - How is clause 101 (a)(i) to be interpreted as far as the superannuation fund is concerned in determining whether the body, trust or partnership ‘does not predominantly carry on a business of investment in securities or other financial products’.
 - Is draft RG97.26 the only test (given the wording of clause 101(a)(ii)(B), it would appear that this is not the case)?
 - A similar example may be found in the USA Investment Company Act where terms such as ‘carrying on a business of investing in securities’ is used. This has raised questions of what is *not* the business of investing in securities. For example, is the test

one of the predominant source of income generated for the business (eg. property or investing in securities).

Strengthen guidance to ensure any ‘interposed vehicle’ is covered:

- Draft RG97 should include that any direct or indirect reduction on return on underlying assets that relate to the investment of the member be disclosed. While Class Order 14/1252 refers to where the trustee knows or reasonably ought to know or may reasonably estimate that an indirect cost will directly or indirectly reduce the return, AIST believes that that the concept of ‘relating to’ produces a greater capture rate which better reflects the policy behind including interposed vehicles.
- While certain vehicles are mentioned in draft RG97 – and that ‘interposed vehicles’ include those – a stronger statement should be included to the effect that the list is not exhaustive.

Examples of ‘interposed vehicles’ could be strengthened:

- Each example should include a reason for ASIC’s views.
- Each example should include a diagram which depicts where the fund sits within the example.
- Example 2 – what is meant by ‘negatively correlated’? Greater guidance would be appreciated.
- Example 5 appears to contain several typographical errors.
- AIST recommends that additional examples be included for clarity, eg. a tiered investment strategy, funds investing in life policies, investment use of swaps and derivatives.
- RG97 should include that the size of the interposed vehicle is irrelevant.
- A review of these requirements in comparison with APRA reporting requirements is needed to ensure consistency. For example:
 - Item 2 of APRA form SRF 703.0 collects information on the indirect cost ratio.
 - The instructions on this form provide that this should be reported on a look-through basis.
 - SRF 703.0 defines ‘look through basis’ as ‘fees and costs being reported that relate to service providers that are not directly engaged by the RSE licensee, but are engaged by other service providers.’
 - Funds have advised that this definition needs greater clarity and therefore, funds examine other instructions within the APRA forms to gain this certainty. The instructions in APRA form SRF 533.0 provide ‘when reporting the relevant asset class of investments on a look through basis, an RSE licensee must seek information about the actual holdings of the first non-associated entity and identify the asset class(es) of these holdings.’ Hence, the further guidance suggests that you can stop as soon as you reach the first non-associated entity and do not need to look further. However, this is not consistent with the definition of ‘interposed entity.’

Listed investments should not be treated as carve-outs

- AIST is concerned that listed investments have been treated as carve-outs, and this issue needs to be reviewed in terms of the definition of ‘interposed vehicle’.
- Examples 6 and 8 appear to favour listed investments as carve-outs. AIST strongly believes that listed investments should not be treated as carve-outs (e.g., A-REITS are viewed as financial investments). Additionally, more guidance is needed regarding what to include in the PDS.
- As an example, an illiquid style member investment choice could be invested in 5 property trusts and 5 infrastructure trusts. These ten vehicles could be listed but ‘look through’ would not be used to examine the fees and costs of the underlying assets.

AIST believes that ‘look through’ to the second investment vehicle is insufficient

- AIST is concerned that ‘look through’ to the first non-associated entity may be insufficient, given that the intent is to ensure that fees and costs which impact on net returns are disclosed.

B1Q2 Are there additional examples that you consider should be included in RG97 which would assist in clarifying or explaining the interposed vehicle definition and its application?

AIST recommends that additional examples be included for clarity, eg:

- A tiered investment strategy,
- Funds investing in life policies,
- Investment use of swaps and derivatives.

B1Q3 The application of interposed vehicles and indirect cost varies between superannuation and managed investment products. Do you consider the proposed RG sufficiently explains these differences?

AIST is concerned that there are differences between the application of interposed vehicles and indirect costs between superannuation and managed investment products. For example, Class Order 14/1252 (clause 101 (4)) allows managed investment products (but not superannuation products) to exclude certain costs of derivatives.

AIST accordingly recommends that draft RG97 provide guidance and reasoning behind the following:

- Why superannuation products are treated differently to managed investment products so far as certain costs (including buy-sell spreads and any other costs associated with the acquisition or disposal of the derivative) of derivatives are concerned. AIST notes that draft RG97.46 requires superannuation funds to include buy-sell spreads for a derivative that is not traded on

a financial market. AIST is concerned that this different treatment provides a competitive edge to managed investment products.

- Clarity regarding the interaction of 1013C(2) with the definition of ‘indirect cost’ contained within Class Order 14/1252. Class Order 14/1252 specifically includes within the definition of ‘indirect costs’ the carve out ‘Despite subsection 1013C(2) of the Act...’.
- Perhaps an example showing the inclusion of the buy-sell spread for the derivative and any other costs associated with the acquisition or disposal of the derivative would be useful to gauge the impact of not including these costs.

4.2 Requirement to reasonably estimate costs that are known

B1Q4 Do you consider the guidance provided on the requirement to reasonably estimate indirect costs would assist you in complying with this requirement?

Calculation methodologies

AIST has viewed draft RG97 regarding estimation of indirect costs through the lens of whether draft RG97 provides consistency and transparency of calculation methodologies. AIST strongly believes that prescriptive guidance is needed to ensure consistency as well as furthering consumer protection and system efficiency. Given this, AIST does not believe that development of industry guidelines is the best method, and supports prescription.

AIST recommends that the following additional guidance should be included in draft RG97 to further meet the goals of consistency and transparency:

- Both superannuation and managed investment products should have documented internal calculation methodologies, which are subject to both external audit as well as being available to members on request (this is similar to unit pricing policies):
 - Draft RG97.36 could include what – as a minimum – these internal documents need to contain.
 - Inclusion of the estimate being within a range would assist – this requirement should form part of the documented internal calculation methodologies.
 - Guidance regarding how the calculation methodology document needs to outline the steps which the trustee or responsible entity knew or ought to reasonably have known the estimated costs would aide consistency.
 - Inclusion of examples would assist, particularly with respect to the number of layers the trustee or responsible entity is to drill down in order to gain the estimates.
 - Guidance needs to be given regarding the use of prospective and/or retrospective calculation methodologies and how they are to be documented. Regulation 101A is unclear in this respect since it mentions indirect costs which ‘will directly or indirectly reduce the return’.

- Does this mean that costs are to be calculated retrospectively or prospectively?
- The mention of Regulatory Guide 170 *Prospective financial information* within draft RG97.37 provides further uncertainty, as it seems to assume that prospective information will be used, but without giving guidance.
- AIST notes that different methodologies are used within draft RG97. For example, draft RG97.37 is unclear, while draft RG97.109 (performance fees) definitely requires a prospective calculation. AIST recommends that draft RG97 be reviewed with an eye to determining a consistent application of prospective/retrospective calculation methodologies.
- Depending on the methodology used (prospective/retrospective), further guidance is needed regarding whether accrued or unaccrued costs are included. AIST notes that there can be misalignment of reporting periods and funds receiving information from investment managers.
- That being said, AIST recommends that calculations be retrospectively based on the past 12 months. This methodology would provide consistency, take into account actual experiences, not take into account figures which are too long past (as these may represent asset allocations which have substantially changed), and provide consistency of approach. This aspect of the calculation methodology should be outlined in draft RG97.
 - Guidance is needed to confirm that fees (investment and administration) do not have to include or disclose amounts which were included in ‘indirect costs’.
- AIST recommends that there should be no bundling of costs – either for administration or investment costs (AIST notes that this may require a change to the law). This unbundling is important to help understand where the fee and cost drivers are coming from. In this regard, AIST draws attention to an APRA⁴, where (based on survey responses to APRA) it became evident that Investment fees and administration fees paid to related parties vary between not-for-profit superannuation funds and retail funds – and that there were significant variances between administration and investment fees and costs.
- Guidance is needed regarding protections afforded to the trustee or responsible entity where, for example, some costs are not reported to the trustee or responsible entity.

⁴ APRA, (2010). *Working Paper Australian superannuation outsourcing - fees, related parties and concentrated markets*. APRA.

Updating disclosure materials

Draft RG97.35 states that the ‘product issuer may need to consider updating the indirect costs disclosed once the actual indirect costs become known if they differ from the disclosed estimate of the indirect costs. It would be reasonable to update the disclosure of indirect costs using the known costs if these known costs are considered to be a better estimate of what will be payable in the future.’

AIST believes that this requirement is unduly onerous, and would substantially impact on PDS production and updating. AIST recommends that such updating should only be required where the difference is *material*. AIST recommends that this also be reflected in draft RG97.82.

B1Q5 Do you agree that it would be a matter of good practice for trustees and responsible entities to document their procedures for making reasonable estimates as a means of enhancing consistency?

AIST has viewed draft RG97 regarding estimation of indirect costs through the lens of whether draft RG97 provides consistency and transparency of calculation methodologies. AIST strongly believes that prescriptive guidance is needed to ensure consistency as well as furthering consumer protection and system efficiency. Given this, AIST does not believe that development of industry guidelines is the best method, and supports prescription. See our answer to B1Q4 for AIST’s recommendations regarding matters which it believes should be included within draft RG97.

4.3 Over the counter derivatives costs

B1Q6 Do you consider the guidance and examples sufficient to understand the appropriate treatment of buy/sell spreads of OTC derivatives for superannuation and managed investment products?

As noted in our answer to B1Q3, AIST is concerned that there is a variance between the treatment of buy-sell spreads for superannuation and managed investment products, while recognising that any alignment would require a change to Class Order 14/1252.

AIST recommends that draft RG97 include an explanation for the different treatment, as well as an example displaying the impact of including and excluding the buy-sell spread for managed investment products.

AIST believes that such costs should be included within the transaction costs, and that draft RG97 should reflect this. Inclusion of these costs in ‘indirect costs’ may result in double counting at unit price level.

AIST recommends that an example be included regarding use of synthetic investments and how the costs of these are to be disclosed and calculated.

B1Q7 Is the guidance provided sufficient to apply the definition of buy/sell spread of OTC derivatives when used for hedging purposes by a responsible entity of a managed investment product?

AIST believes that the guidance is clear in this respect.

4.4 Inclusion of additional voluntary information

B1Q8 Do you consider this guidance to be appropriate?

Balancing recognition of tailoring and need to ensure consistency

AIST supports the approach taken in draft RG97.62 in that there is recognition that there are instances where tailoring of the fees and costs template ‘may be appropriate’ – this is a greater recognition of the need to tailor than the existing RG97 provides. That being said, AIST also appreciates that control over what voluntary information may be included is needed, in order to ensure consistency of approach.

Need to ensure voluntary information ties up with APRA requirements and product dashboard

AIST recommends that a review be conducted of the ASIC and APRA requirements to help alignment.

Information regarding break-up of fees and costs

AIST strongly supports the underlying policy of disclosing additional information to describe the break-up of fees and costs contained in draft RG97.66. Such disclosure is needed to assist greater fee efficiency and competitiveness within the Australian superannuation system. AIST recommends that the need to produce this information be more strongly stated within draft RG97.66.

AIST recommends that greater guidance be included regarding how disclosure of the break-up of fees and costs paid to related parties should be included within the issuer’s conflicts of interest management policy.

Apportionment of fee categories to each MySuper or Choice product

AIST seeks clarification of what is meant by apportionment in draft RG97.121 and seeks the inclusion of further guidance on how ASIC wants funds to conduct this apportionment.

Need to define ‘related party’

The term ‘related party’ is used in draft RG97.66, as well as draft RG97.82-.84. This term needs defining.

Inclusion of requirements to disclose promoter or other related party costs

AIST is extremely welcoming of the underlying policy contained in draft RG97.82-.84. It is simply misleading to Australian consumers to promote lower fees and costs (or, in some instances, a no fee product) when in fact those fees and costs are being paid by a promoter or other related party of the product issuer.

AIST holds the strong view that if draft RG97.82-.84 are not included, then it would be open for entities to examine avoidance measures such as fee-sharing arrangements.

AIST strongly advocates against such behaviour as such non-disclosure:

- Is misleading to Australian consumers.
- Prevents comparable fees and costs data.
- Makes it difficult to assess the outcome of legislative reforms such as MySuper.
- Hides the impact of vertical integration's structural impact on fees and costs.

AIST recommends that the disclosure of rebates between issuers and promoters or other related parties also be included in draft RG97.82-.84.

4.5 Performance fees

B1Q9 Do you consider this guidance to be appropriate?

In our response to B1Q4, AIST noted that different methodologies are used within draft RG97. For example, draft RG97.37 is unclear, while draft RG97.109 (performance fees) definitely requires a prospective calculation. AIST recommends that draft RG97 be reviewed with an eye to determining a consistent application of prospective/retrospective calculation methodologies.

That being said, AIST recommends that in the case of performance fees, it would be both simpler and more accurate to disclose actual performance fees. It may take up to 6 months to gain actual information. If funds are reporting anything other than actual amounts (eg. 'estimate based on reasonable grounds'), then funds would be including some actual fees as well as an estimate of unknown fees. AIST notes that performance fees are related to events arising at a point in time and are not an accounting issue which can be tied to specific accounting reporting periods.

Greater guidance is also needed regarding what is meant in draft RG97.109 regarding how to handle carried interest from private equity investments.

While AIST recommends that actual rather than prospective fees, if prospective fees are required, then how to:

- Include sale of assets and managers who have been included through only part of the period in question.
- How to manage new funds without any fee history.
- Determine the cost, depending on timing (eg. at sale point of the asset).

B1Q10 Are there scenarios that you consider it would be appropriate to give further guidance on?

See our answer for B1Q9.

4.6 Insurance disclosure

B1Q11 Do you consider this guidance to be appropriate?

AIST notes that insurance disclosure was not a key feature of Report 398. AIST acknowledges that disclosure practices for superannuation funds offering insurances vary significantly. There are a considerable number of members covered by insurance, as well as the cost of insurance (approximately \$4.6billion in premiums paid each year).

Given this, AIST – while acknowledging the intent of draft RG97.110 - .114 – strongly recommends that a separate review of insurance disclosure be conducted. AIST understands from the workshop held on 11 February 2015 that ASIC is conducting a separate review. AIST would be very happy to be part of any consultation process.

In the meantime, AIST makes the following comments:

- Draft RG97 does not include whether the premium is to be disclosed net or gross of tax.
- Draft RG97 does not give guidance regarding determination of ‘age’ for cover purposes.
- Draft RG97 does not mention how/whether profit-sharing rebates are to be disclosed.
- Consideration should be given to requiring an insurance disclosure template.
- Examination of any insurance disclosure requirements should include an impact assessment on behaviours, eg. payment of commissions for insurance products.

B1Q12 Do you recommend any other guidance that should be included to further assist industry in this area?

Please see AIST’s response to B1Q11.

4.7 Disclosing fees and costs for a stapled security

B1Q13 Do you consider this guidance to be appropriate?

AIST has no comment on this aspect.

B1Q14 Do you consider that it would be more appropriate for PDS prepared for stapled securities to be prepared on the basis of combining the fees and costs for the managed investment scheme and body corporate security components, in a similar manner as required for periodic statements for listed and quoted stapled securities under Class Order 13/1200? If so, do you consider it appropriate for ASIC to give effect to this requirement by way of a class order?

AIST holds the general view that fees and costs should not be combined.

B1Q15 If PDS need to be prepared on the basis of combining the fees and costs for the management investment scheme interest and body corporate security components, do you consider it would still be useful and necessary to disclose the fees and costs on a separate basis as well?

AIST believes it would be useful to disclose the fees and costs on a separate basis as well as this gives greater strength to meeting the objective of transparency.

4.8 Disclosing start-up and initial one-off fees or costs

B1Q16 Do you consider this guidance to be appropriate?

AIST recommends that examples would assist identify what should be included, eg. a lump sum in the year incurred or should it be amortised over the life of the investment.

B1Q17 What examples do you consider useful for responsible entities to include in the PDS for investors to understand start-up and other initial one-off fees?

See AIST's response to B1Q16.

4.9 Other issues not raised in the Review of Regulatory Guide 97

While these issues have not been specifically raised in the Review of RG97, AIST believes the following should also be included in draft RG97:

- Whether transaction costs should be included in indirect costs. Specific issues regarding disclosure of unitised investment fees within periodic statements have been raised. AIST believes that further guidance is needed.

5 Future work

While AIST acknowledges that the following is outside the scope of this consultation, AIST recommends that these matters also require review to help aid consistency, comparability and transparency:

- Standardisation of labelling (eg. 'growth', 'defensive').
- Furthering the objective of having level playing fields across products and sectors where fees and costs are not properly disclosed. For example, a default investment option is a primary investment vehicle for many consumers. MySuper requires funds to have an investment strategy that is tailored to the membership. The advent of MySuper has seen further development in single default and lifecycle. Lifecycle can be split into 'switch' and 'cohort' styles. This has led to a lessening of comparability and different ways of disclosing fees and costs. Eg. Some retail funds with a 'cohort' style approach (also known as glidepath) have a common investment fee across all cohorts.

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