Australian Institute of Superannuation Trustees

RG97 - Disclosing Fees and Costs

December 2016

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CONFIDENTIALITY & INTELLECTUAL PROPERTY

1. Executive Summary

RG97 (November 2015) is a Regulatory Guide for product issuers (which applies to superannuation products other than Self-Managed Superannuation Funds ("SMSFs"), risk-only products, annuities (except market-linked) and superannuation pensions) outlining the requirements for disclosing fees and costs, specifically when the products are available to individual investors.

The disclosure of fees is potentially highly complicated and we question the complexity inherent within the new disclosure regime. In particular, we believe the definitions of interposed vehicles and the three tests are unnecessarily complex and do not provide a corresponding level of meaningful information to prospective and current members.

Perhaps the most important objective is to ensure that superannuation products remain comparable in terms of the broad range of disclosures provided to members, employers, regulators and other participants in the superannuation industry to enable the measurement of efficiency of the system as a whole and the individual products that comprise the system. We believe the introduction of RG97 supports this overall objective and presents a framework within which to measure competition and efficiency, however we believe that further clarity, consistency and comparability could be achieved.

We believe each of the following requires further consideration to support the drive towards greater comparability:

- There are some key areas in which superannuation funds are able to utilise their discretion to determine what may or may not be included within the calculations of fees and costs, which will continue to challenge comparability;
- SuperRatings maintains the view that for consistency purposes, the carve-out for platforms and Managed Investment Schemes should be re-considered, to ensure members can readily compare products;
- The different disclosure requirements associated with a direct investment in comparison to a listed investment requires further consideration as the comparability of the two underlying asset holdings is near impossible and unfairly discriminates against funds that invests directly;
- SuperRatings would prefer to see ASIC introduce a template approach to provide consistent guidance for the way in which funds should disclose prospective performance fees, rather than the potential for estimates being used.
- The election of treatment of certain fees as indirect costs is too subjective and will allow for inconsistent treatment, thus reducing comparability.

Based on our analysis, it is clear that the asset classes that will be impacted the most by RG97 are Unlisted Property and Alternatives. For both asset classes, we estimate a higher impact on disclosed fees across the NFP sector given the NFP sector is more heavily invested in direct assets, which will result in higher "look through" costs. The overall estimated impact on the NFP funds is circa 0.20% on a MySuper investment option whereas the overall estimated impact on the RMT MySuper investment option is 0.07%.

SuperRatings remain supportive of fully prescriptive disclosure of fees and costs through templates, such as the use of the "representative member", which utilises a $50,000 example for members to gauge the fees and costs they will pay. SuperRatings also believes that prescriptive disclosure is required from regulators in terms of any assumptions or estimates that should be made regarding fees and costs and that this is an area that has resulted in fund's making subjective judgements of disclosure requirements, which has made comparability of fees and costs very difficult.

In addition to SuperRatings views on transparency of fee disclosure, we remain firm believers in the transparent disclosure of investment returns that reflect the actual returns that superannuation funds provide to their members. On this basis, SuperRatings have long provided benchmarking and ratings on the investment return achieved by a superannuation fund net of all implicit fees (which incorporates all asset based administration fees, investment management fees, expense recoveries and any other fees that are deducted from the investment return) and associated tax.

As noted throughout this report, SuperRatings remains concerned where there are areas of subjectivity introduced into what should be a highly objective and prescriptive approach to fee disclosure. We do not believe it is appropriate for trustees to estimate items, without a specific framework within which this should occur being outlined by the regulator.

2. Introduction

SuperRatings has been engaged by the Australian Institute of Superannuation Trustees (“AIST”) to undertake research on Regulatory Guide 97 – Disclosing fees and costs in PDSs and periodic statements (“RG97”), which was issued by the Australian Securities & Investments Commission (“ASIC”) in November 2015. Specifically, AIST is interested in gaining independent insights into how RG97 will impact the superannuation industry, with a particular focus on the differences between the Not for Profit (“NFP”) sector and the For Profit sector, commonly referred to as the Retail Master Trust (“RMT”) sector.

Specifically, this report and its associated analysis and commentary will address the following areas:

1. Provide commentary as to how RG97 addresses the key objectives of providing consumer protection, assessing the efficiency of the system and facilitating Trustee governance as well as where RG97 falls short in these areas;
2. Review the impact of RG97 guidelines for disclosing fees and costs on the NFP sector, including consideration of the differences in asset allocations between the NFP and the RMT sector and the resultant impact of disclosure on the industry, noting that members investing in retail platforms are individually advised;
3. Provide commentary around the specific items raised in RG97 in relation to Trustees having to reasonably estimate fees and costs disclosed to members (in particular the indirect costs relating to managed investment schemes), including the level of information required to reasonably undertake benchmarking exercises and the respective roles of Trustees;
4. Discuss SuperRatings viewpoints on best practice measures around fees and costs disclosures, including key reporting required by funds to assist with greater transparency; and
5. Provide commentary in relation to the impact of Trustees being able to elect what is treated as indirect costs and the impact of possible interpretations of indirect cost items.

The asset allocation and fee data utilised within the report represents the latest available information, which is all Product Disclosure Statement updates held by SuperRatings to 31 October 2016.

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The remainder of this report summarises the findings of our analysis.

3. Objectives of RG97

Fees and costs are disclosed to investors both in the Product Disclosure Statement ("PDS") at the time of purchase, and on an ongoing basis in member statements, which include periodic statements and exit statements. There is also ongoing disclosure through the publication of return figures and the use of calculators and other tools on superannuation fund websites.

In addition, the product dashboard currently provided to members for MySuper products (which will also apply to Choice products from 1 July 2017) provides a Statement of Fees and Costs, which includes Investment Fees (including buy/sell spreads and activity fees), Administration Fees (including option level buy/sell spreads and switching fees), an Indirect Cost Ratio (incorporating additional investment and administration costs not included within either of these fees), other administration costs and advice costs.

RG97 (November 2015) is a Regulatory Guide for product issuers (which applies to superannuation products other than Self-Managed Superannuation Funds ("SMSFs"), risk-only, annuities (except market-linked) and superannuation pensions) outlining the requirements for disclosing fees and costs, specifically when the products are available to individual investors. The commencement date has recently been extended to 30 September 2017 subsequent to industry feedback for product issuers who inform ASIC prior to 31 January 2017 (and provide certain information to ASIC), otherwise the commencement date is 1 February 2017. Generally, periodic statements must be updated to reflect the changes by 1 January 2018.

The main implications of the new disclosure regime for superannuation funds are mainly:

- **Investment fees** – the definition of investment fee with respect to superannuation funds now "carves-out" indirect costs that are not paid out of the fund, if the Trustee has elected in writing to treat them as indirect costs and not fees.
- **Indirect costs** – the definition of indirect costs under the original ASIC Class Order [CO 14/1252] has been changed, as we will explore throughout this report
- **Interposed vehicles** – ASIC has attempted to simplify the definitions of interposed vehicles, by introducing three tests, an "Assets test", a "PDS test" and a "Platform test".
- **Transactional and Operational Costs and Management Costs -** Under the previous regime, management costs were separate to transactional and operational costs. In simple terms the enhanced disclosure results in management costs together with transactional and operational costs being included in the ICR.
    - Transactional and operational costs are defined in clause 103, Schedule 10 of the Corporations Act to be brokerage, buy/sell spread, settlement costs (including custody costs), clearing costs, stamp duty on an investment transaction. Costs incurred in hedging are also to be included as a transactional or operational cost.

To this end, we believe it is imperative for disclosure to be consistent and that both ASIC and APRA work closely together to ensure that all information provided to (and reported by) each regulator is completed on the same basis, facilitating a level playing field for funds as well as fund members.

3.1. The Key Objectives

SuperRatings believes that true disclosure provides detail to a client to enable them to understand and measure the net return achieved after fees, therefore, any fee impact should be included when measuring returns. It is therefore essential that industry participants, trustees and members share a common understanding of how a fee is to be calculated and disclosed to achieve best practice fee disclosure.

SuperRatings is also supportive of a value concept when it comes to assessing fees, which involves allowing for the benefit of active investment management and enhanced returns, however, we believe that clear disclosure of fees is necessary to enable the value measure to be accurately assessed.

In addition, whilst the superannuation environment is becoming more competitive, we believe there should be a level playing field in terms of disclosure, particularly across NFP and RMT, and ultimately products with similar objectives should be readily comparable.

The disclosure of fees is potentially highly complicated and we question the complexity inherent within the new disclosure regime. In particular, we believe the definitions of interposed vehicles and the three tests are unnecessarily complex and do not provide a corresponding level of meaningful information to prospective and current members. Treating assets, for example AREITs, differently depending on the purpose of the investor under the assets test may potentially lead to inconsistencies and errors.

We do not believe there should be a materiality test applied as it creates the potential for inconsistent disclosure.

3.1.1. Consumer Protection

The compulsory nature of superannuation in Australia has resulted in many Australians adopting a relaxed attitude towards their superannuation. This level of disengagement, coupled with the large amount of money in the superannuation system, has created an environment where member research and adequate disclosure have taken a back seat, particularly where products are owned by "for profit" entities with a duty to shareholders, while the distribution effort is undertaken by a tied or owned financial advice network (vertical integration).

SuperRatings believes there should be consistency in the PDS and ongoing reporting, both in terms of layout and format and in calculation methodologies. Where historical data has been used, this should be clearly indicated along with a disclaimer that this does not represent actual fees, particularly in the area of performance fees.

In this context, it is therefore essential that fee disclosure is:

- Clear and concise;
- Readily comparable between products; and
- Easily measurable for individual circumstances – consumers should be able to understand what they will pay, or are paying given their current situation and who fees and costs are paid to.

There are several opportunities for members to determine the level of fees they are paying:

- At entry by reading a Product Disclosure Statement;
- Ad-hoc by utilising online facilities such as member-centric sites and publicly available calculators; and
- At least annually by virtue of a periodic statement.

When disclosing information to members it is also essential to differentiate between:

Fees – what the member pays; and

Costs – what the Trustee pays a provider or intermediary.

The key disclosures from a member point of view are:

- The fees and disclosures template, incorporating the $50K investment example (recognising that some providers choose to give more examples with higher average account balances driven by tiered fee structures);
- Cost of investment management based on either a specific asset allocation or investment option selection; and
- Costs of transacting.

While we believe that the actual fees paid by the member are adequately disclosed across the industry to the extent that they are visible to members (deducted from member account balances on a regular basis), SuperRatings have been concerned for many years that a number of costs that should be included in this category are actually deducted from investment returns or through some other means.

Under RG97, we note that “Indirect Costs” are now defined as any amount that the issuer knows, or ought to know, will reduce the return or value of the product or option or the “Interposed vehicle”. Such costs are only indirect costs to the extent they are attributable to the product (therefore shared services should be apportioned appropriately), and specifically exclude amounts charged as a fee, as defined by clause 209A of the Corporations Regulations.

The Indirect Cost Ratio (“ICR”) can then be calculated by applying the indirect costs to the value of the product or option, and a member should be able to add the ICR to the disclosed administration and investment fees in order to arrive at an accurate representation as to the competitiveness of the product.

In summary, we support the disclosure of the ICR in PDSs on a forward looking basis, and in member statements on an actual basis as outlined in RG97. We believe a member can obtain an understanding of what they will pay, however, believe there are some shortcomings with RG97 (which are outlined within Section 5 of this document) that will continue to allow subjectivity by superannuation funds, and may impact transparency and therefore, comparability of fees across products.

3.1.2. Efficiency of the system

In terms of efficiency of the system, we note that the Productivity Commission (“PC”) has undertaken a large amount of work in order to commence the measurement of the efficiency of the superannuation system. The PC have specifically outlined the following objectives in forming their review:

Five system-level objectives have been proposed, against which the assessment criteria have been developed to ultimately guide the final assessment:

1. The superannuation system contributes to retirement incomes by maximising long-term net returns on member contributions and balances over the member’s lifetime, taking risk into account.
2. The superannuation system meets member needs in relation to information, products and risk management, over the member’s lifetime.
3. The efficiency of the superannuation system improves over time.
4. The superannuation system provides value for money insurance cover without unduly eroding member balances.
5. Competition in the superannuation system should drive efficient outcomes for members.

Relevant principles for designing a model for a competitive process should include:

- Best interests: ensure incentive compatibility with meeting the best interests of members, encourage long-term investing, and encourage a focus on expected after-fee returns based on asset allocation and investment strategy.
- Competition: drive pressure on funds to be innovative and efficient, diversify asset allocation and optimise long-term after-fee returns by rewarding best performers. Facilitate new superannuation fund entrants to the market.
- Credibility and transparency: make relevant information public; avoid room for gaming the process; and ensure metrics are clear, simple, difficult to dispute and difficult to manipulate.

Inherent within these objectives are the need to ensure the system meets member needs in relation to the provision of information. Perhaps the most important pillar of this is to ensure that superannuation products remain comparable in terms of the broad range of disclosures provided to members, employers, regulators and other participants in the superannuation industry to enable the measurement of efficiency of the system as a whole and the individual products that comprise the system. To this end, we believe the introduction of RG97 supports this overall objective and presents a framework within which to measure competition and efficiency, however we believe that further clarity, consistency and comparability could be achieved by removing the carve-outs for MIS and platform disclosure.

3.1.3. Trustee Governance

In SuperRatings view, RG97 provides a strong platform for trustees to demonstrate strong levels of transparency and facilitate the support of the objectives of clear disclosures of fees and costs to their current and prospective members, therefore supporting strong governance principles across the industry.

Trustees are the issuers of superannuation products and, as a result, maintain full responsibility for the transparency of their fund's disclosure of fees and costs. We believe RG97 provides a framework for this to occur, however, we remain concerned that there are still areas where a Trustee can opt not to disclose a fee or cost in a particular way, disclose via incorporation by reference or provide estimates to determine indirect costs.

Specifically, SuperRatings believes that the use of terms such as reasonably, estimates and determinations of materiality creates levels of subjectivity, which may result in less consistent transparency of outcomes for fund members in terms of fee disclosures. Furthermore, the lack of consistency in approach to benchmarking and reasonably estimating fees will impact the use of consistent data for Trustee's internal decision-making. Therefore, a consistent approach is required in the treatment of fees across disclosure documents and in particular through published returns.

This is outlined in Section 5 of this report in respect of some of the areas where we believe improvements to RG97 may be considered, to further support high levels of trustee governance and disclosure across the industry.

4. Estimated impact of RG97 on the NFP sector

Based upon our initial analysis of the impact of RG97 disclosures on the superannuation industry, we believe that the impact on the NFP sector is likely to be greater than the RMT sector for a number of reasons, as follows:

- Funds within the NFP sector are typically invested in a broader range of asset classes and maintain larger unlisted investments, many of which are operated through a variety of interposed vehicles. Funds within the RMT sector on the other hand, tend to maintain lower allocations to unlisted asset classes (given their often greater need for liquidity); and
- Many RMT providers operate their investments through platforms and managed investment schemes, much of which will not be subject to the detailed disclosure requirements of RG97, due to the specific exclusions in respect of these investments.

4.1. Asset Allocation implications

The following table provides a high level analysis of the possible impact of RG97 disclosure on the NFP and RMT sectors purely on the basis of the composition of assets and underlying asset allocations of each sector. The table presents the average asset allocation of the MySuper investment option (utilising a Balanced-style investment option, which maintains an allocation to growth assets of between 61% and 76%) across the NFP and RMT sectors and examines the impact on each sector:

Asset Class	NFP Average Allocation (%)	RMT Average Allocation (%)	Estimated fee uplift	Estimated NFP Impact	Estimated RMT Impact
Australian Shares	26	28	0.02%	0.01%	0.01%
International Shares	26	28	0.01%	0.00%	0.00%
Listed Property	2	8	0.01%	0.00%	0.00%
Unlisted Property	8	0	0.60%	0.06%	0.00%
Alternative	19	8	0.70%	0.13%	0.06%
Fixed Interest	15	21	0.00%	0.00%	0.00%
Cash	4	7	0.00%	0.00%	0.00%
Overall Weighted Impact				**0.20%**	**0.07%**

Based on the table above, it is clear that the asset classes that will be impacted the most by RG97 are Unlisted Property and Alternatives. For both asset classes, we estimate a higher impact on disclosed fees across the NFP sector given the NFP sector is more heavily invested in direct assets, which will result in higher “look through” costs. The overall estimated impact on the NFP funds is circa 0.20% on a MySuper investment option whereas the overall estimated impact on the RMT MySuper investment option is 0.07%. The analysis presented in the table above does not consider the impact of the use of Over-The-Counter (OTC) Derivatives (as this is extremely difficult to estimate), which is likely to contribute to a further increase in disclosed costs.

4.2. Platform and MIS exemptions

Given that assets invested through platforms (which are more prevalent within the RMT sector) are excluded under RG97 and investments in certain MIS are also excluded, there are a number of RMT that will experience little to no increase subsequent to the introduction of RG97.

As noted earlier in this report, SuperRatings believes that, to ensure clarity and comparability between products and providers, platforms and MIS should be subject to the requirements of RG97, regardless of the manner in which these are structured, given that members will regularly compare superannuation products to these types of investments.

5. Our key concerns with areas of RG97

SuperRatings believes that true disclosure provides information to a client to enable them to easily understand and compare superannuation products against each other, in terms of both the fees and costs that would be payable by an individual should they purchase a product as well as the investment returns that have been achieved by members within the product in the past (albeit we recognise that past performance is not an indicator of future performance).

Whilst there will also be other considerations (such as insurance, administration functionality and member servicing capabilities), where these two items are appropriately disclosed, we believe members are then armed with the required information to enable them to efficiently compare products.

Whilst the release of RG97 (and subsequent related guidance) does improve the playing field in terms of transparency and comparability somewhat, we concur with a number of industry participants that the requirements should go further to ensure that all market participants should be required to meet the broad range of disclosure obligations that RG97 would place upon superannuation trustees and that the specific exemptions provided to some Managed Investment Schemes ("MIS") and platforms do little to ensure broad comparability across segments of the market that members will often compare to superannuation products.

We believe each of the following requires further consideration and provide some recommendations for AIST to support the drive towards greater comparability:

- Lack of prescription within RG97;
- Effective carve-outs for MIS and platform disclosure;
- The different disclosure requirements associated with a direct investment in comparison to a listed investment;
- The manner in which performance fees are calculated or estimates are undertaken; and
- The election of treatment of certain fees as indirect costs.

In addition to the above, whilst SuperRatings recognises that the clear disclosure of fees is imperative and potentially complicated, we remain concerned that there is significant complexity inherent within the disclosure regime proposed under RG97. Ironically, the level of disclosure required under RG97 appears so complex in some areas that funds will be likely to incur substantial costs in order to fully comply with the proposed requirements, which seems counter-intuitive given the subject matter.

5.1. Lack of prescription within RG97

Whilst we are supportive of much of the content within RG97, SuperRatings continues to believe that a more prescriptive approach should be taken by ASIC (potentially with the support of legislative requirements) outlining the exact manner in which funds are required to disclose fees and costs.

SuperRatings notes that there still remains a reasonable degree of subjectivity that can be adopted by superannuation funds in relation to the manner in which they disclose fees and costs, such as within the area of performance fee estimations, reasonable estimates of the indirect costs and OTC derivative costs. We also note that ASIC confirms that providers are able to take into account materiality in terms of the impact of certain items on fees and cost disclosure, which introduces opportunity for subjectivity in terms of a fund's fee disclosure.

Whilst most of RG97 is reasonably prescriptive, there are some key areas in which superannuation funds are able to utilise their discretion to determine what may or may not be included within the calculations of fees and costs, specifically in the areas of indirect costs generally, indirect costs relating to the cumulative effect through platforms, indirect costs through interposed vehicles and indirect costs from OTC derivatives. Please refer to our comments within Sections 5.5 and 7 below. SuperRatings notes that, in the absence of prescriptive requirements or changes to the Corporations Regulations mandating the key aspects of enhanced fee disclosure, challenges will still exist in fee comparisons as transparency will still not be achieved.

5.2. Effective carve-outs for MIS and platform disclosure

SuperRatings notes the current discrepancy between the disclosure of transaction costs in respect of superannuation funds and MIS', whereby RG97 requires the inclusion of these amounts in the indirect cost category for superannuation fund disclosure, but excludes these for MIS. Similar to our comments above, we believe that disclosure should be transparent and consistent across all products that consumers are likely to undertake comparisons between.

To this end, SuperRatings believes that transaction costs incurred within an MIS should be incorporated into the fee disclosures in respect of products to ensure consistency and comparability between products.

Similar to the above, we note that the current drafting of RG97 excludes superannuation platforms from the enhanced fee disclosure. Given that consumers compare superannuation fund disclosure documents to those of investments managed on superannuation platforms, SuperRatings maintains the view that for consistency purposes, the carve-out for platforms should be re-considered, to ensure members can readily compare products.

5.3. Direct investment in comparison to investment in a listed equity security

In discussions with a number of superannuation funds, SuperRatings notes that the current RG97 requirements provide a substantial advantage in relation to funds that invest in a listed security as opposed to a very similar security that might be held directly.

An example of this is where a superannuation fund may invest directly into an infrastructure investment, rather than investing into a listed security that provides infrastructure investments, such as a Sydney Airport, Transurban or the APA Group. Based upon SuperRatings understanding of the current RG97 requirements, the following table outlines the difference in the manner in which costs would be captured under each scenario:

	Direct Infrastructure Investment	Fee included?	Listed Infrastructure Security	Fee included?
Investment Amount	$100,000,000		$100,000,000	
Brokerage cost	-	N	$60,000	Y
Bid costs	$150,000	Y	$150,000	N
Success fee	$300,000	Y	$300,000	N
Annual Management Fee	$500,000	Y	$500,000	N
Annual Administration Costs	$50,000	Y	$50,000	N
Repairs and maintenance	$300,000	Y	$300,000	N
Legal costs	$50,000	Y	$50,000	N
Total Fee	**$1,350,000 (or 1.35%)**		**$60,000 (or 0.06%)**	

As is evident from the above table, there is a substantial difference in the overall fees/costs that must be disclosed if a superannuation fund maintains a direct infrastructure investment in comparison to simply purchasing a listed equity that may give the fund a similar exposure. This is due to the fact that, in spite of the listed infrastructure security being likely to incur the majority of the same costs as those that would be evident within the direct portfolio, there is no requirement to disclose the fees and costs pertaining to the listed infrastructure security under RG97.

SuperRatings believes that whilst the disclosure of costs is more transparent, the comparability of the two underlying asset holdings is near impossible and unfairly discriminates against a fund that invests directly.

5.4. Performance fee calculations

SuperRatings recognises that disclosure of performance fees has traditionally been problematic for the industry due to complicated formulae, uncertainty over market direction and differing methodologies in terms of either estimating future likely performance fees or utilising a historical estimate to inform members of the likely fee for the coming year.

We note that the updated RG97 guidance requires superannuation funds to include an estimate of performance fees based upon previous financial years, albeit provides trustees with the ability to undertake alternative estimates if it believes the existing estimate may no longer be relevant over the year.

SuperRatings remains concerned that the guidance within RG97 allows trustee discretion to amend the way in which performance fees can be disclosed to members in future years, such that there may be little consistency in the practices adopted by superannuation funds.

SuperRatings would prefer to see ASIC introduce a template approach to provide consistent guidance for the way in which funds should disclose prospective performance fees. This may take the form of an underlying consistent estimate of returns for individual asset classes against which superannuation funds may compare their current managers to provide a consistent basis upon which all funds disclose performance fees going forward.

5.5. Election of treatment of certain fees as indirect costs

SuperRatings also remains concerned with RG97 facilitating discretion for trustees to treat certain fees as indirect costs within their disclosure documents. RG97.27 allows trustees to treat costs that are not payable out of the superannuation entity but would generally be considered to be investment or administration fees (such as costs paid through an interposed vehicle) to be treated as indirect costs, provided the trustee makes a formal election to do so.

In line with our comments in 5.1 and 5.3 above, SuperRatings is concerned with the ability for trustees to apply subjectivity to decisions surrounding the treatment of fees and costs within a superannuation fund, particularly where this may allow trustees to create an uneven playing field, whereby investment and administration fees may appear artificially lower than competitors, due to the fact that the trustee has elected to treat an amount as an indirect cost.

SuperRatings believes that guidance should be prescriptive and rigid so as to reduce the ability for subjectivity and believes that such an election should be removed from RG97, such that all trustees are required to treat costs in the same way, rather than making an election for an alternative treatment.

6. Best Practice Disclosure

6.1. Fees and costs

SuperRatings believes RG97 has introduced some worthwhile concepts to clarify disclosure of the broad range of fees and costs and, subject to our comments and potential improvements within Section 5 of this report, remain broadly supportive of the outcomes that RG97 will introduce, once implemented.

SuperRatings remain supportive of fully prescriptive disclosure of fees and costs through templates, such as the use of the "representative member", which utilises a $50,000 example for members to gauge the fees and costs they will pay.

SuperRatings also believe that prescriptive disclosure is required from regulators in terms of any assumptions or estimates that should be made in terms of fees and costs and that this is an area that has resulted in fund's making subjective judgements of disclosure requirements, which has made comparability of fees and costs very difficult. To this end, we believe that RG97 may be improved and supported by legislative amendment to ensure subjectivity is removed from calculations to ensure consistency of assumptions and outcomes by all trustees.

SuperRatings have also taken the view for many years that fee disclosure should ensure that certain fee types should be disclosed separately (similar to that outlined within RG97) and that fee bundling does very little to assist in transparency of disclosure.

6.2. Investment returns

In addition to SuperRatings views on transparency of fee disclosure, we remain firm believers in the transparent disclosure of investment returns that reflect the actual returns that superannuation funds provide to their members. On this basis, SuperRatings have long provided benchmarking and ratings on the investment return achieved by a superannuation fund net of all implicit fees (which incorporates all asset based administration fees, investment management fees, expense recoveries and any other fees that are deducted from the investment return) and associated tax.

Pleasingly, the vast majority of superannuation funds report to members on the same basis and it is SuperRatings view that this provides the most transparent disclosure of member outcomes, as the net of all fees and tax return reflects the actual return that is achieved by the member over the period.

We continue to remain concerned that other industry participants disclose returns on other bases, such as net of only investment fees and tax, which inflates the overall investment return (as no deduction is made for administration fees, advice fees or expense recoveries), does not reflect the final return provided to members and can result in substantial differences between the return report and that actually delivered to a member. The following table provides an overview of the impact of the different methodologies:

	%	SuperRatings methodology	Other methodology
Gross investment return	10.0%		
Tax rate	10.0%	9.0%	9.0%
Investment fee	0.8%	8.2%	8.2%
Administration fee	0.4%	7.8%	8.2%
Expense Recovery fee	0.2%	7.6%	8.2%
Disclosed net investment return		*7.6%*	*8.2%*
Actual $ amount credited to member account ($100k opening balance)		$760.00	$760.00

As is evident from the table above, under SuperRatings' methodology, the net investment return correlates precisely with the actual amount credited to the member account, as the SuperRatings return accounts for all implicit fees and costs incorporated into the investment return achieved by the member.

The second methodology does not connect the disclosed investment return of 8.2% to the actual amount credited to the member account ($760), reflecting the fact that not all fees have been taken into account. Therefore effectively overstating the return achieved, thus leading to inconsistency and greater confusion for the member. We do not believe that this is an ideal outcome for the industry or for the member, especially from a comparability perspective.

SuperRatings is pleased to note that APRA utilise the most transparent methodology in their quarterly disclosure of MySuper data, basing the returns achieved on a net of all implicit fees basis, akin to SuperRatings methodology. With greater transparency being introduced in relation to the disclosure of fees and costs via RG97, SuperRatings would be supportive of a similar regime of transparency for the reporting of investment returns across the industry. This will ensure comparability as well as a consistent disclosure regime for members based upon a net of all implicit investment and administration fees and tax.

7. Trustee election of fee and cost treatment and estimation of fees and costs

As discussed in Sections 5.1 and 5.5 of this report, SuperRatings remains concerned at the level of subjectivity that may be applied by superannuation trustees and their advisers in relation to the disclosure of fees and costs as outlined within RG97.

Specifically, we note that trustees are required to reasonably estimate any amount that reduces the rate of return (or is paid from) an option or an interposed vehicle. RG97 states that the costs are those directly attributable to the option or product. The trustee may elect in writing to treat certain costs as indirect costs. If the cost is not known, the trustee may be required to reasonably estimate this cost.

Some examples of when trustees need to make estimates or decisions are:

- If the costs are not known, or could not reasonably be known;
- If there is an amount the trustee knows, or reasonably ought to know, will reduce the returns on a particular option or product;
- If the product is a new product (i.e. not offered at least 11-months prior to the end of the previous financial year), the trustee must estimate the costs for the current financial year. If the product is a product offered in the current financial year, the trustee is to make an estimate by adjusting the year's costs to reflect a full year;
- To determine if there are reasonable grounds to believe greater than 70% of the assets of an entity are invested in financial products; and
- Whether an investment vehicle is the means to an investment or the end investment.

As noted throughout this report, SuperRatings remains concerned where there are areas of subjectivity introduced into what should be a highly objective and prescriptive approach to fee disclosure. We do not believe it is appropriate for trustees to estimate items, without a specific framework within which this should occur being outlined by the regulator.

We also do not believe it is appropriate in any situation for a trustee to be able to elect where a fee or cost should be disclosed based upon their own subjective judgement. To allow this will only serve to diminish the strength of RG97 and reduce the transparency and comparability of fee disclosure across the superannuation industry.