



Corporations Amendment Regulations 2004 (No. 6)¹

Statutory Rules 2004 No. 149²

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Corporations Act 2001*.

Dated 24 June 2004

P. M. JEFFERY
Governor-General

By His Excellency's Command

ROSS CAMERON
Parliamentary Secretary to the Treasurer

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1 Name of Regulations

These Regulations are the *Corporations Amendment Regulations 2004 (No. 6)*.

2 Commencement

These Regulations commence as follows:

- (a) on 1 July 2004 — regulations 1 to 3 and Schedule 1;
- (b) on 1 January 2005 — Schedule 2.

3 Amendment of *Corporations Regulations 2001*

Schedules 1 and 2 amend the *Corporations Regulations 2001* as amended by the *Corporations Amendment Regulations 2003 (No. 8)*.

Schedule 1 Amendments commencing on 1 July 2004

(regulation 3)

[1] After regulation 7.7.10

insert

7.7.10A Statements of Advice — requirement to state information as amounts in dollars

- (1) For paragraph 951C (1) (c) of the Act, Part 7.7 of the Act applies as if paragraph 947B (2) (h) of the Act were modified to read as follows:
 - ‘(h) unless in accordance with the regulations and a determination by ASIC, information to be disclosed in accordance with paragraph (d) and subparagraph (e) (i) must be stated as amounts in dollars.’.
- (2) For paragraph 951C (1) (a) of the Act, a providing entity does not have to provide the information mentioned in paragraph 947B (2) (h) of the Act, in the form required by that paragraph, in a Statement of Advice prepared before 1 January 2005.
- (3) For paragraph 951C (1) (c) of the Act, Part 7.7 of the Act applies as if paragraph 947C (2) (i) of the Act were modified to read as follows:
 - ‘(i) unless in accordance with the regulations and a determination by ASIC, information to be disclosed in accordance with paragraph (e) and subparagraph (f) (i) must be stated as amounts in dollars.’.
- (4) For paragraph 951C (1) (a) of the Act, a providing entity does not have to provide the information mentioned in paragraph 947C (2) (i) of the Act, in the form required by that paragraph, in a Statement of Advice prepared before 1 January 2005.

- (5) For paragraph 951C (1) (c) of the Act, Part 7.7 of the Act applies as if paragraph 947D (2) (d) of the Act were modified to read as follows:
- ‘(d) unless in accordance with the regulations and a determination by ASIC, information to be disclosed in accordance with paragraph (a) must be stated as amounts in dollars.’.
- (6) For paragraph 951C (1) (a) of the Act, a providing entity does not have to provide the information mentioned in paragraph 947D (2) (d) of the Act, in the form required by that paragraph, in a Statement of Advice prepared before 1 January 2005.

[2] Subregulations 7.7.11 (2) and (3)

substitute

- (2) For paragraph 947B (2) (h) of the Act, if ASIC determines that, for a compelling reason, it is not possible to state information to be disclosed in accordance with paragraph 947B (2) (d) or subparagraph 947B (2) (e) (i) as an amount in dollars, the information may be set out as a description of the amount as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).
- (3) For paragraph 947B (2) (h) of the Act, if ASIC determines that, for a compelling reason, it is not possible to state information to be disclosed in accordance with paragraph 947B (2) (d) or subparagraph 947B (2) (e) (i) as an amount in dollars, or to describe the amount as a percentage, the information may be set out as a description of the method of calculating the remuneration, benefits or interests (including worked dollar examples, unless that is inappropriate).
- (4) A determination under subregulation (2) or (3) must be:
- (a) in writing; and
- (b) published in the *Gazette*.
- (5) The statements and descriptions must be presented in a manner that is easy for the client to understand.

[3] After regulation 7.7.11A

insert

7.7.11B Statement of Advice — disclosure of dollar amounts

- (1) For paragraph 947B (2) (h) of the Act, if ASIC determines that, for a compelling reason based on the nature of a financial product or service, or the nature of the information, to state the information as an amount in dollars:
 - (a) would impose an unreasonable burden on a providing entity, or a class of providing entities; or
 - (b) would impose an unreasonable burden on a providing entity, or a class of providing entities, within a period specified in the determination; or
 - (c) would not be in the interests of a client, or a class of clients;the information may be set out as a description of the amount as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).
- (2) For paragraph 947B (2) (h) of the Act, if ASIC determines that, for a compelling reason, based on the nature of a financial product or service, or the nature of the information, to state the information as an amount in dollars, or to describe the amount as a percentage:
 - (a) would impose an unreasonable burden on a providing entity, or a class of providing entities; or
 - (b) would impose an unreasonable burden on a providing entity, or a class of providing entities, within a period specified in the determination; or
 - (c) would not be in the interests of a client, or a class of clients;the information may be set out as a description of the method of calculating the remuneration, benefits or interests (including worked dollar examples, unless that is inappropriate).
- (3) A determination under subregulation (1) or (2) must be:
 - (a) in writing; and
 - (b) published in the *Gazette*.

[4] Subregulations 7.7.12 (2) and (3)

substitute

- (2) For paragraph 947C (2) (i) of the Act, if ASIC determines that, for a compelling reason, it is not possible to state information to be disclosed in accordance with paragraph 947C (2) (e) or subparagraph 947C (2) (f) (i) as an amount in dollars, the information may be set out as a description of the amount as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).
- (3) For paragraph 947C (2) (i) of the Act, if ASIC determines that, for a compelling reason, it is not possible to state information to be disclosed in accordance with paragraph 947C (2) (e) or subparagraph 947C (2) (f) (i) as an amount in dollars, or to describe the amount as a percentage, the information may be set out as a description of the method of calculating the remuneration, benefits or interests (including worked dollar examples, unless that is inappropriate).
- (4) A determination under subregulation (1) or (2) must be:
 - (a) in writing; and
 - (b) published in the *Gazette*.
- (5) The statements and descriptions must be presented in a manner that is easy for the client to understand.

[5] After regulation 7.7.12

insert in Division 3

7.7.13 Statement of Advice provided by authorised representative — disclosure of dollar amounts

- (1) For paragraph 947C (2) (i) of the Act, if ASIC determines that, for a compelling reason based on the nature of a financial product or service, or the nature of the information, to state the information as an amount in dollars:
 - (a) would impose an unreasonable burden on a providing entity, or a class of providing entities; or

(b) would impose an unreasonable burden on a providing entity, or a class of providing entities, within a period specified in the determination; or

(c) would not be in the interests of a client, or a class of clients;

the information may be set out as a description of the amount as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).

(2) For paragraph 947C (2) (i) of the Act, if ASIC determines that, for a compelling reason, based on the nature of a financial product or service, or the nature of the information, to state the information as an amount in dollars, or to describe the amount as a percentage:

(a) would impose an unreasonable burden on a providing entity, or a class of providing entities; or

(b) would impose an unreasonable burden on a providing entity, or a class of providing entities, within a period specified in the determination; or

(c) would not be in the interests of a client, or a class of clients;

the information may be set out as a description of the method of calculating the remuneration, benefits or interests (including worked dollar examples, unless that is inappropriate).

(3) A determination under subregulation (1) or (2) must be:

(a) in writing; and

(b) published in the *Gazette*.

7.7.13A Additional information about charges or benefits — disclosure of dollar amounts

(1) For paragraph 947D (2) (d) of the Act, if ASIC determines that, for a compelling reason, it is not possible to state information to be disclosed in accordance with paragraph 947D (2) (a) as an amount in dollars, the information may be set out as a description of the amount as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).

- (2) For paragraph 947D (2) (d) of the Act, if ASIC determines that, for a compelling reason, it is not possible to state information to be disclosed in accordance with paragraph 947D (2) (a) as an amount in dollars, or to describe the amount as a percentage, the information may be set out as a description of the method of calculating the charge or benefit (including worked dollar examples, unless that is inappropriate).
- (3) A determination under subregulation (1) or (2) must be:
 - (a) in writing; and
 - (b) published in the *Gazette*.

7.7.13B Additional information about charges or benefits — disclosure of dollar amounts

- (1) For paragraph 947D (2) (d) of the Act, if ASIC determines that, for a compelling reason based on the nature of a financial product or service, or the nature of the information, to state the information as an amount in dollars:
 - (a) would impose an unreasonable burden on a providing entity, or a class of providing entities; or
 - (b) would impose an unreasonable burden on a providing entity, or a class of providing entities, within a period specified in the determination; or
 - (c) would not be in the interests of a client, or a class of clients;the information may be set out as a description of the amount as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).
- (2) For paragraph 947D (2) (d) of the Act, if ASIC determines that, for a compelling reason, based on the nature of a financial product or service, or the nature of the information, to state the information as an amount in dollars, or to describe the amount as a percentage:
 - (a) would impose an unreasonable burden on a providing entity, or a class of providing entities; or
 - (b) would impose an unreasonable burden on a providing entity, or a class of providing entities, within a period specified in the determination; or

(c) would not be in the interests of a client, or a class of clients;

the information may be set out as a description of the method of calculating the charge or benefit (including worked dollar examples, unless that is inappropriate).

- (3) A determination under subregulation (1) or (2) must be:
- (a) in writing; and
 - (b) published in the *Gazette*.

[6] After regulation 7.9.15

insert

7.9.15A Product Disclosure Statements — requirement to state information as amounts in dollars

- (1) For paragraph 1020G (1) (c) of the Act, Part 7.9 of the Act applies as if paragraph 1013D (1) (m) of the Act were modified to read as follows:
- ‘(m) unless, in accordance with the regulations and a determination by ASIC, information to be disclosed in accordance with paragraphs (b), (d) and (e) must be stated as amounts in dollars.’
- (2) For paragraph 1020G (1) (a) of the Act, an issuer of a financial product does not have to provide the information mentioned in paragraph 1013D (1) (m) of the Act in the form required by that paragraph, in a Product Disclosure Statement prepared before 1 January 2005.

7.9.15B Product Disclosure Statements — disclosure of dollar amounts

- (1) For paragraph 1013D (1) (m) of the Act, if ASIC determines that, for a compelling reason, it is not possible to state information to be disclosed in accordance with paragraph 1013D (1) (b), (d) or (e) as an amount in dollars, the information may be set out as a description of the benefit, cost, amount or payment as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).
- (2) For paragraph 1013D (1) (m) of the Act, if ASIC determines that, for a compelling reason, it is not possible to state information to be disclosed in accordance with paragraph 1013D (1) (b), (d) or (e) as an amount in dollars, or to describe the amount as a percentage, the information may be set out as a description of the method of calculating the benefit, cost, amount or payment (including worked dollar examples, unless that is inappropriate).
- (3) A determination under subregulation (1) or (2) must be:
 - (a) in writing; and
 - (b) published in the *Gazette*.

7.9.15C Product Disclosure Statements — disclosure of dollar amounts

- (1) For paragraph 1013D (1) (m) of the Act, if ASIC determines that, for a compelling reason based on the nature of a financial product or service, or the nature of the information, to state the information as an amount in dollars:
 - (a) would impose an unreasonable burden on a product issuer, or a class of product issuers; or
 - (b) would impose an unreasonable burden on a product issuer, or a class of product issuers, within a period specified in the determination; or

- (c) would not be in the interests of a client, or a class of clients;

the information may be set out as a description of the amount as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).

- (2) For paragraph 1013D (1) (m) of the Act, if ASIC determines that, for a compelling reason, based on the nature of a financial product or service, or the nature of the information, to state the information as an amount in dollars, or to describe the amount as a percentage:

- (a) would impose an unreasonable burden on a product issuer, or a class of product issuers; or

- (b) would impose an unreasonable burden on a product issuer, or a class of product issuers, within a period specified in the determination; or

- (c) would not be in the interests of a client, or a class of clients;

the information may be set out as a description of the method of calculating the charge or benefit (including worked dollar examples, unless that is inappropriate).

- (3) A determination under subregulation (1) or (2) must be:

- (a) in writing; and

- (b) published in the *Gazette*.

[7] Subregulation 7.9.19 (1)

omit

[8] Subregulation 7.9.19 (2)

omit everything before paragraph (a), insert

For paragraph 1017D (5) (g) of the Act, a periodic statement for a superannuation product, given to a member of a superannuation fund (other than a self-managed superannuation fund) or an RSA product given to an RSA holder must include the following details:

[9] Paragraph 7.9.72 (b)*omit*

5.3;

insert

5.3; and

[10] After paragraph 7.9.72 (b)*insert*

- (c) that information has also been provided in accordance with subsection 1017D (5A) of the Act;

[11] After regulation 7.9.74*insert***7.9.74A Periodic statements — requirement to state information as amounts in dollars**

- (1) For paragraph 1020G (1) (c) of the Act, Part 7.9 of the Act applies as if subsection 1017D (5A) were modified to read as follows:
- ‘(5A) Unless in accordance with the regulations and a determination by ASIC:
- (a) information to be disclosed in accordance with paragraphs (5) (a), (b), (c), (d) and (e) must be stated as amounts in dollars; and
 - (b) any other information in relation to amounts paid by the holder of the financial product during the period must be stated as amounts in dollars.’
- (2) For paragraph 1020G (1) (a) of the Act, the issuer of a financial product does not have to provide the information mentioned in subsection 1017D (5A) of the Act in the form required by that subsection, in a periodic statement prepared before 1 January 2005.

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- (3) For subsection 1017D (5A) of the Act, as modified in accordance with subregulation (1), if ASIC determines that, for a compelling reason based on the nature of a financial product or service, or the nature of the information, to state information to be disclosed in accordance with paragraphs 1017D (5) (a), (b), (c), (d) and (e) of the Act as an amount in dollars:
- (a) would impose an unreasonable burden on a product issuer, or a class of product issuers; or
 - (b) would impose an unreasonable burden on a product issuer, or a class of product issuers, within a period specified in the determination; or
 - (c) would not be in the interests of a client, or a class of clients;
- the information may be set out as a description of the amount as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).
- (4) For subsection 1017D (5A) of the Act, as modified in accordance with subregulation (1), if ASIC determines that, for a compelling reason, based on the nature of a financial product or service, or the nature of the information, to state information to be disclosed in accordance with paragraphs 1017D (5) (a), (b), (c), (d) and (e) of the Act as an amount in dollars, or to describe the amount as a percentage:
- (a) would impose an unreasonable burden on a product issuer, or a class of product issuers; or
 - (b) would impose an unreasonable burden on a product issuer, or a class of product issuers, within a period specified in the determination; or
 - (c) would not be in the interests of a client, or a class of clients;
- the information may be set out as a description of the method of calculating the charge or benefit (including worked dollar examples, unless that is inappropriate).
- (5) A determination under subregulation (3) or (4) must be:
- (a) in writing; and
 - (b) published in the *Gazette*.

[12] After subregulation 7.9.75 (2)*insert*

- (3) For paragraph 1017D (5A) (a) of the Act, subregulations (4) and (5) apply in relation to a financial product that has:
 - (a) an opening or closing balance mentioned in paragraph 1017D (5) (a) of the Act; or
 - (b) the termination value mentioned in paragraph 1017D (5) (b) of the Act; or
 - (c) an increase in contributions mentioned in paragraph 1017D (5) (d) of the Act; or
 - (d) a return on investment mentioned in paragraph 1017D (5) (e) of the Act.
- (4) If ASIC determines that, for a compelling reason, it is not possible to state the amount in dollars, the amount may be described as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).
- (5) If ASIC determines that, for a compelling reason, it is not possible to state the amount in dollars, or to describe the amount as a percentage, the periodic statement must include:
 - (a) a statement informing the holder of the product that the amount is applicable; and
 - (b) details of the means by which a product holder is able to gain access to information relating to the amount.
- (6) A determination under subregulation (4) or (5) must be:
 - (a) in writing; and
 - (b) published in the *Gazette*.

[13] After regulation 7.9.75B

insert

7.9.75C Periodic statements — disclosure of amounts

- (1) For paragraph 1017D (5A) (b) of the Act, this regulation applies to a periodic statement prepared on or after 1 January 2005 in relation to an amount mentioned in paragraph 7.9.75 (1) (a) or (b) of these Regulations.
- (2) If ASIC determines that, for a compelling reason, it is not possible to state the amount in dollars the amount may be described as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).
- (3) If ASIC determines that, for a compelling reason, it is not possible to state the amount in dollars, or to describe the amount as a percentage, the periodic statement must include:
 - (a) a statement informing the holder of the product that the amount is applicable; and
 - (b) details of the means by which a product holder is able to gain access to information relating to the amount.
- (4) A determination under subregulation (2) or (3) must be:
 - (a) in writing; and
 - (b) published in the *Gazette*.

7.9.75D Periodic statements — disclosure of amounts

- (1) For paragraph 1017D (5A) (b) of the Act, this regulation applies to a periodic statement prepared on or after 1 January 2005 in relation to an amount mentioned in paragraph 7.9.75 (1) (a) or (b) of these Regulations.
- (2) If ASIC determines that, for a compelling reason based on the nature of a financial product or service, or the nature of the information, to state the amount of the deduction in dollars:
 - (a) would impose an unreasonable burden on a product issuer, or a class of product issuers; or

(b) would impose an unreasonable burden on a product issuer, or a class of product issuers, within a period specified in the determination; or

(c) would not be in the interests of a product holder, or a class of product holders;

the information may be set out as a description of the amount as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).

(3) If ASIC determines that, for a compelling reason, based on the nature of a financial product or service, or the nature of the information, to state the amount of a deduction in dollars, or to describe the amount as a percentage:

(a) would impose an unreasonable burden on a product issuer, or a class of product issuers; or

(b) would impose an unreasonable burden on a product issuer, or a class of product issuers, within a period specified in the determination; or

(c) would not be in the interests of a product holder, or a class of product holders;

the periodic statement must include the information in subregulation (4).

(4) If subregulation (3) applies, the periodic statement must include:

(a) a statement informing the product holder that the amount is applicable; and

(b) details of the means by which a product holder is able to gain access to information relating to the amount.

(5) A determination under subregulation (2) or (3) must be:

(a) in writing; and

(b) published in the *Gazette*.

Schedule 2 Amendments commencing on 1 January 2005

(regulation 3)

[1] Paragraph 7.9.19 (f)

omit

benefits.

insert

benefits;

[2] After paragraph 7.9.19 (f)

insert

- (g) if, in providing details of the amount of the withdrawal benefit at the end of the reporting period, a deduction for fees, charges or expenses has been made or might be made — details of the deduction;
- (h) if relevant, a statement informing the product holder that:
 - (i) the information about the withdrawal benefit for the product holder at the end of the reporting period is based on notional amounts that would have been attributable to the product holder if the product holder had disposed of his or her interest in the product on the date shown in the statement; and
 - (ii) the amounts on which that information is based might change; and
 - (iii) before disposing of that product, the product holder should seek information from the product issuer on the withdrawal benefit at that time;
- (i) a statement informing the product holder that the product issuer is obliged to provide a member with any information that he or she reasonably requires to understand his or her benefit entitlements;

- (j) a statement of the way in which a product holder is able to gain access to information in relation to his or her investment in the financial product.

[3] After regulation 7.9.19

insert

7.9.19A Withdrawal benefit — fees, charges or expenses

- (1) For subsection 1017D (5A) of the Act, in providing details of a deduction for fees, charges or expenses in accordance with paragraph 7.9.19 (g), the amount must be stated in dollars.
- (2) If ASIC determines that, for a compelling reason, it is not possible to state the amount of a deduction in dollars the amount of the deduction may be set out as a description of the fees, charges or expenses as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).
- (3) If ASIC determines that, for a compelling reason, it is not possible to state the amount of a deduction in dollars, or to set out the amount as a percentage, the product issuer may provide:
 - (a) a statement informing the holder of the product that amounts for fees, charges or expenses are applicable; and
 - (b) if information about access to the information about the amount of the deduction is not provided in the statement mentioned in paragraph 7.9.19 (h) — details of the means by which a product holder can gain access to information relating to the amount of the deduction.
- (4) A determination under subregulation (2) or (3) must be:
 - (a) in writing; and
 - (b) published in the *Gazette*.

7.9.19B Withdrawal benefit — fees, charges and expenses

- (1) For subsection 1017D (5A) of the Act, this regulation applies to details of a deduction for fees, charges or expenses in accordance with paragraph 7.9.19 (g).
- (2) If ASIC determines that, for a compelling reason based on the nature of a financial product or service, or the nature of the information, to state the information as an amount in dollars:
 - (a) would impose an unreasonable burden on a product issuer, or a class of product issuers; or
 - (b) would impose an unreasonable burden on a product issuer, or a class of product issuers, within a period specified in the determination; or
 - (c) would not be in the interests of a product holder, or a class of product holders;the information may be set out as a description of the amount as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).
- (3) If ASIC determines that, for a compelling reason, based on the nature of a financial product or service, or the nature of the information, to state the information as an amount in dollars, or to describe the amount as a percentage:
 - (a) would impose an unreasonable burden on a product issuer, or a class of product issuers; or
 - (b) would impose an unreasonable burden on a product issuer, or a class of product issuers, within a period specified in the determination; or
 - (c) would not be in the interests of a product holder, or a class of product holders;the product issuer must provide the information in subregulation (4).

- (4) If subregulation (3) applies, the product issuer must provide:
 - (a) a statement informing the product holder that amounts for fees, charges or expenses are applicable; and
 - (b) if information about access to the information is not provided in the statement mentioned in paragraph 7.9.19 (i) — details of the means by which a product holder can gain access to information relating to the amount of the deduction.
- (5) A determination under subregulation (2) or (3) must be:
 - (a) in writing; and
 - (b) published in the *Gazette*.

[4] After paragraph 7.9.20 (1) (ka)

insert

- (kb) if, in providing details of other significant benefits for a reporting period, a deduction for fees, charges or expenses has been made or might be made — details of the deduction;

[5] After regulation 7.9.20

insert

7.9.20A Details of other significant benefits — disclosure of fees, charges or expenses

- (1) For subsection 1017D (5A) of the Act, in providing details of a deduction for fees, charges or expenses in accordance with paragraph 7.9.20 (1) (kb):
 - (a) the amount must be stated in dollars; or
 - (b) if ASIC determines that, for a compelling reason, it is not possible to state the amount of a deduction in dollars the amount of the deduction may be set out as a description of the fees, charges or expenses as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate); or

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- (c) if ASIC determines that, for a compelling reason, it is not possible to state the amount of a deduction in dollars, or to set out the amount as a percentage, the product issuer may provide:
- (i) a statement informing the holder of the product that amounts for fees, charges or expenses are applicable; and
 - (ii) if information about the deduction is not provided in the statement mentioned in sub-subparagraph 7.9.20 (1) (ka) (ii) (B) — details of the means by which a product holder can gain access to information relating to the amount.
- (2) A determination under paragraph (1) (b) or (c) must be:
- (a) in writing; and
 - (b) published in the *Gazette*.

7.9.20B Other significant benefits — disclosure of fees, charges or expenses

- (1) For subsection 1017D (5A) of the Act, this regulation applies to details of a deduction for fees, charges or expenses mentioned in paragraph 7.9.20 (1) (kb).
- (2) If ASIC determines that, for a compelling reason based on the nature of a financial product or service, or the nature of the information, to state the amount of the deduction in dollars:
- (a) would impose an unreasonable burden on a product issuer, or a class of product issuers; or
 - (b) would impose an unreasonable burden on a product issuer, or a class of product issuers, within a period specified in the determination; or
 - (c) would not be in the interests of a product holder, or a class of product holders;
- the information may be set out as a description of the amount as a percentage of a specified matter (including worked dollar examples, unless that is inappropriate).

- (3) If ASIC determines that, for a compelling reason, based on the nature of a financial product or service, or the nature of the information, to state the amount of a deduction in dollars, or, to describe the amount as a percentage:
- (a) would impose an unreasonable burden on a product issuer, or a class of product issuers; or
 - (b) would impose an unreasonable burden on a product issuer, or a class of product issuers, within a period specified in the determination; or
 - (c) would not be in the interests of a product holder, or a class of product holders;
- the product issuer must provide the information in subregulation (4).
- (4) If subregulation (3) applies, the product issuer must provide:
- (a) a statement informing the product holder that amounts for fees, charges or expenses are applicable; and
 - (b) if information about the deduction is not provided in the statement mentioned in sub-subparagraph 7.9.20 (1) (ka) (ii) (B) — details of the means by which a product holder can gain access to information relating to the amount of the deduction.
- (5) A determination under subregulation (2) or (3) must be:
- (a) in writing; and
 - (b) published in the *Gazette*.

[6] Paragraph 7.9.75 (1) (b)

substitute

- (b) if the amounts paid in respect of the financial product, and the amounts paid in respect of other financial products, are paid into a common fund, and amounts are deducted from the common fund by way of expenses, fees and charges:
 - (i) a proportion of the amount deducted that is actually or notionally attributable to the product holder's interest; and

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- (ii) if applicable — a statement informing the product holder that the notional proportion of the amount may not give an accurate estimate of the effect of the deduction on the product holder's interest; and

[7] Paragraph 7.9.75 (1) (d)

omit

request.

insert

request, and the means by which the product holder can gain access to that information.

[8] Subregulation 7.9.75 (2)

substitute

- (2) For paragraph (1) (a), an amount has been paid in respect of a financial product if:
- (a) the product holder has paid an amount in respect of the product; or
 - (b) an amount has been deducted from:
 - (i) a payment made by the product holder; or
 - (ii) a payment made to the product holder; or
 - (c) the product holder has paid an amount or an amount has been deducted or debited as a fee, expense or charge in relation to the financial product; or
 - (d) an amount is held on the product holder's behalf under the financial product (excluding any amounts referred to in paragraph (1) (b) deducted from a common fund).

Notes

1. These Regulations amend Statutory Rules 2001 No. 193, as amended by 2001 Nos. 208, 318 and 319 (rr 7.9.10 and 7.9.11 were disallowed by the Senate on 16 September 2002); 2002 Nos. 15, 16 (rr 7.9.10, 7.9.11 (1), 7.9.11 (1) (a), 7.9.11 (1) (b) and 7.9.11 (2) were disallowed by the Senate on 16 September 2002), 41, 53, 126, 145, 182, 265 and 282; 2003 Nos. 31, 48, 85, 126, 127, 194, 202, 282 (Sch 3, items [1] to [4], [6], [8] and [9] were disallowed by the Senate on 24 March 2004), 367, 368 and 369; 2004 Nos. 10, 25, 26, 36 and 145.
2. Notified in the *Commonwealth of Australia Gazette* on 25 June 2004.