



**ASIC**

Australian Securities & Investments Commission

## REGULATORY GUIDE 182

# Dollar disclosure

June 2008

### **About this guide**

This is a guide for providing entities (i.e. Australian financial services (AFS) licensees and authorised representatives) and product issuers.

This guide sets out how we will administer the dollar disclosure provisions under the *Corporations Act 2001* (Corporations Act), the class order relief we have granted from these provisions and our policy on granting relief from them.

The dollar disclosure provisions (as described in the 'Key terms') require various costs, fees, charges, expenses, benefits and interests to be stated as amounts in dollars in Statements of Advice (SOAs), Product Disclosure Statements (PDSs) and periodic statements (including exit statements), except where ASIC has granted relief.

## About ASIC regulatory documents

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

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

**Regulatory guides:** give guidance to regulated entities by:

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

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

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

## Document history

This version was issued on 19 June 2008 and is based on legislation and regulations as at 19 June 2008.

This document can also be referred to as Policy Statement 182 Dollar disclosure (PS 182).

Previous versions:

- Superseded Policy Statement 182, issued 15 December 2004, updated 28 May 2007, rebadged as a regulatory guide 5 July 2007.

## Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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## A Overview

### Key points

The dollar disclosure provisions require various costs, fees, charges, expenses, benefits and interests to be disclosed in SOAs, PDSs and periodic statements (including exit statements), except where ASIC has provided relief: see Section B.

We have used our determination powers and general exemption and modification powers under the Corporations Act to provide certain relief from the dollar disclosure provisions: see Section C.

We will consider applications for further relief from the dollar disclosure provisions in accordance with the criteria explained in Section D.

### The dollar disclosure provisions

- RG 182.1 The dollar disclosure provisions require various costs, fees, charges, expenses, benefits and interests to be stated as amounts in dollars in SOAs, PDSs and periodic statements (including exit statements), except where we have provided relief.

Note: The dollar disclosure provisions commenced on 1 January 2005.

- RG 182.2 The dollar disclosure provisions are designed to help consumers better understand information about costs, fees, charges, expenses, benefits and interests by expressly requiring certain information to be presented in dollar terms. The dollar disclosure regime is described in more detail in Section B.

### Our relief from dollar disclosure obligations

- RG 182.3 Our relief does not affect your substantive obligation to provide disclosure about that information. Relief only affects the required mode of presentation of the information.
- RG 182.4 We have used our determination powers and general exemption and modification powers under the Corporations Act to provide certain class order relief from the dollar disclosure provisions, as explained in Section C.
- RG 182.5 We will consider applications for further relief from the dollar disclosure provisions in accordance with the criteria explained in Section D.

## What this guide covers

RG 182.6 This guide considers the extent to which required disclosure must be presented in dollar terms. It does not consider your substantive disclosure obligations.

RG 182.7 In particular, neither this guide nor the dollar disclosure provisions apply to:

- (a) Financial Services Guides (FSGs); or
- (b) investor directed portfolio services (IDPS) guides.

RG 182.8 However, certain existing requirements to disclose remuneration, commission and other benefits in FSGs continue to apply: see s942B(2)(e) and 942C(2)(f) and reg 7.7.04 and 7.7.07. Those regulations generally require dollar disclosure if a dollar amount can be ascertained at the time an FSG is given to a client.

Note: For our policy on FSG disclosure requirements, see Regulatory Guide 175 *Licensing: Financial product advisers—Conduct and disclosure* at RG 175.37–RG 175.41 and RG 175.50–RG 175.55. For our policy on IDPS guides, see Regulatory Guide 148 *Investor directed portfolio services* at RG 148.43–RG 148.49 and RG 148.75–RG 148.77.

RG 182.9 This guide should be read in conjunction with other guidance we have issued on disclosure obligations including:

- (a) Regulatory Guide 168 *Disclosure: Product Disclosure Statements (and other disclosure obligations)* (RG 168); and
- (b) Regulatory Guide 175 *Licensing: Financial product advisers—Conduct and disclosure* (RG 175).

Note: This guide prevails to the extent of any inconsistency.

RG 182.10 We will monitor and review disclosure documents across all industry sectors to determine whether the policy objectives of the dollar disclosure provisions are being met and whether further ASIC policy or guidance is required on any matter (e.g. on the form of worked dollar examples). We may rely on various sources of information including:

- (a) monitoring consumer complaints;
- (b) further consultation with industry and consumer representatives; and
- (c) further consumer research or projects with industry or consumer representatives.

## B Dollar disclosure: complying and getting relief

### Key points

The dollar disclosure provisions require various costs, fees, charges, expenses, benefits and interests to be stated as amounts in dollars in SOAs, PDSs and periodic statements (including exit statements).

We may use our determination powers to give relief from the need to use the required mode of presentation of information under the dollar disclosure provisions.

### What does ‘dollar disclosure’ apply to?

RG 182.11 The following information about various costs, fees, charges, expenses, benefits and interests must be disclosed as amounts in dollars (except where ASIC has provided relief or otherwise provided for in the regulations):

**Table 1: Where the dollar disclosure provisions apply**

<b>SOAs</b>	prepared by licensees—the information required by s942B(2)(d), 942B(2)(e)(i) and 947D(2)(a)
	prepared by authorised representatives—the information required by s942B(2)(d), 942B(2)(e)(i) and 947D(2)(a)
	verbal information provided under s946C(2)—to the same extent as if the information had been included in an SOA
<b>PDSs</b>	the information required by s1013D(1)(b), 1013D(1)(d) and 1013D(1)(e)
	verbal information provided under s1012G(3)—to the same extent as if the information had been included in a PDS
	updated information provided otherwise than in a PDS under Class Order (CO 03/237) <i>Updated information in product disclosure statements</i> same extent as if the information had been included in a PDS
<b>Combined FSG and PDS under s942DA and 1013M</b>	as if the information had been in a PDS
<b>Periodic statements (including exit statements)</b>	the information required by s1017D(5)(a)–(e) and reg 7.9.19(g), 7.9.20(1)(kb) and 7.9.75(1)(a)–(b)

## Exceptions to the dollar disclosure provisions

- RG 182.12 Where an item must be disclosed only by virtue of a provision not listed above, the dollar disclosure provisions do not apply to that item. For example, the dollar disclosure provisions do not apply to product cost information included in a licensee's SOA merely to satisfy s947B(2)(a)–(b), which deal with the obligation to disclose the advice and its basis.
- RG 182.13 The dollar disclosure provisions do not apply where no disclosure obligation arises in relation to an item. For example, where an interest is not required to be disclosed at all in an SOA under s947B(2)(d) or 947B(2)(e)(i), the dollar disclosure provisions do not apply to that interest. Similarly, the dollar disclosure provisions do not apply to any paragraph of s1017D(5) that is not relevant to the financial product to which the periodic statement relates.

## Complying with the 'amount in dollars' requirement

- RG 182.14 Where we have not provided relief you must comply with the 'amount in dollars' requirement. This will also be the case where information is specifically subject to an 'amount in dollars' disclosure.
- Note: Disclosure in 'dollars' means disclosure in Australian currency.
- RG 182.15 We consider that an item has been disclosed as an amount in dollars where a single dollar amount (expressed either in digits or words) has been clearly ascribed to that item.
- RG 182.16 In relation to costs, fees, charges and expenses borne by the client, we accept that the requirement to disclose information as an amount in dollars is generally satisfied by stating a single amount in dollars (being the maximum amount that is payable), even if that amount is liable to be reduced in some cases.

**Table 2: Examples of acceptable 'amount in dollars' disclosure**

Example situation:	Acceptable disclosure could include:
Where a transaction fee of \$100 applies	'Transaction fee: \$100' or 'Transaction fee: one hundred dollars'
Where an annual fee of \$50 applies to members of a fund	'Annual fee: \$50' or 'You pay a fifty dollar fee each year you are in the fund'.
Where a benefit is payable on the happening of an event	'We will pay you \$100 per day for up to 7 days to cover the cost to you of hiring a car while your car is being repaired'.  Note: it is acceptable to disclose the benefit as an amount in dollars by reference to the event.
Where establishment fee to be borne by the client is liable to be reduced	'Establishment fee: \$1000, subject to negotiation'.

**Table 3: Examples of disclosure as an ‘amount in dollars’ that is not acceptable**

Disclosure is not acceptable when give as:	Examples of unacceptable disclosure:
<b>A range of amounts</b>	‘Commission payable: \$200–\$400’
<b>A percentage</b>	‘Annual fee: 4% of your investment balance’
<b>A rate</b>	‘Commission payable: \$4 for every \$1000 you invest’ Note: This is a description of the method of calculation of the commission. Together with worked dollar examples, this may be acceptable disclosure where you are relying on Class Order (CO 04/1430) Dollar disclosure: Unknown facts or circumstances: see RG 182.33–RG 182.36.
<b>An estimate</b>	‘If an adviser meets his/her quota for this financial product, they will receive a holiday to the value of approximately \$2000’. Note: This may be acceptable disclosure where you are relying on Class Order (CO 04/1433) Dollar disclosure: Non-monetary benefits and interests: see RG 182.49–RG 182.52.
<b>A mere narrative description</b>	‘The cost of buying the product depends on a range of factors, including your age and state of health’.

RG 182.17 Where the amount applicable to a disclosure item is nil, we will accept the following disclosures:

- (a) ‘nil’ or ‘zero’ or ‘0’; or
- (b) ‘not applicable’ (where it would not be misleading to use that expression).

Note: This paragraph applies only where a disclosure obligation arises under the dollar disclosure provisions: see RG 182.13.

## Our power to grant relief

RG 182.18 We may give relief from the need to use the required *mode of presentation* of information under the dollar disclosure provisions: see Table 4.

Note: Our determination powers are contained in reg 7.7.11, 7.7.11B–7.7.13B, 7.9.15B–7.9.15C, 7.9.19A–7.9.19B, 7.9.20A–7.9.20B, 7.9.74A–7.9.75 and 7.9.75C–7.9.75D.

RG 182.19 We can issue a determination for relief where to require disclosure in dollars (or as a percentage) would, for compelling reasons, be impossible, unreasonably burdensome (including within a specified period) or not in the interests of clients. Relief may be granted on a class or case-by-case basis.

RG 182.20 We can also provide relief from the dollar disclosure provisions by exercising our general exemption and modification powers under s951B and 1020F. We intend to use our general exemption and modification powers to provide relief from specified dollar disclosure provisions only where, for



compelling reasons, to require compliance with those provisions would be impossible, unreasonably burdensome (including within a specified period) or not in the interests of clients.

**Table 4: Relief we may grant and how it will affect you**

We may grant you relief from:	What do you will need to do if we grant this relief:
<p><b>The obligation to disclose information as an amount in dollars</b></p>	<p>Generally you will need to:</p> <ul style="list-style-type: none"> <li>• describe the amount in the SOA, PDS or periodic statement (as the case may be) as a <i>percentage</i> of a specified matter; and</li> <li>• give worked dollar examples, unless that would be inappropriate</li> </ul>
<p><b>The obligation to disclose information as an amount in dollars or as a percentage</b></p>	<p>Generally you will need to:</p> <ul style="list-style-type: none"> <li>• describe the method of calculating the amount in the SOA, PDS or periodic statement (as the case may be); and</li> <li>• give worked dollar examples, unless that would be inappropriate.</li> </ul> <p>Where the relief applies to certain information in a periodic statement, you <i>must</i> include:</p> <ul style="list-style-type: none"> <li>• a statement telling the product holder that amounts are applicable; and</li> <li>• details of the means by which the product holder can gain access to information about those amounts,</li> </ul> <p>instead of a description of the means by which the amounts can be calculated.</p> <p style="text-align: center;">See reg 7.9.19A–7.9.19B, 7.9.20A–7.9.20B, 7.9.75 and 7.9.75C–7.9.75D.</p>

RG 182.21 If we do give you relief you will need to comply with the conditions applying to your relief. You will also need to meet your general disclosure obligations:

- (a) the obligation to present information in a clear, concise and effective manner;
- (b) the obligation to ensure that a disclosure document is not misleading;
- (c) the obligation to comply with provisions that are not subject to our determination powers including (but not limited to) s1013E and 1017D(4); and
- (d) the ability to include additional information (i.e. s947B(5)(b), 947C(5)(b) and 1013C(1)(b)(i)), provided the above obligations are satisfied.

Note: For example, generally, there will be nothing to prevent an amount being disclosed both as an amount in dollars and as a percentage.

## Complying with the ‘worked dollar examples’ requirement

RG 182.22 If you are relying on a determination, you must include worked dollar examples in the disclosure document unless that would be inappropriate.

Note: This does not apply in the case described in RG 182.12.

RG 182.23 Worked dollar examples are intended to help consumers understand how the costs, fees, charges, expenses, benefits and interests that are subject to the dollar disclosure provisions operate in practice, by referring to realistic factual scenarios. We will administer the dollar disclosure provisions in light of this regulatory purpose.

Note: If you are relying on relief granted under our general exemption or modification powers, you will generally not need to provide worked dollar examples.

RG 182.24 In administering the law, we will take the view that it will rarely be inappropriate to include worked dollar examples where you are relying on a determination, except to the extent that including them would be highly likely to confuse or mislead consumers. We expect worked dollar examples will almost always be required to illustrate benefits obtained by providing entities and to illustrate the costs, fees, charges or expenses payable (directly or indirectly) by the consumer.

RG 182.25 We expect that product issuers and providing entities can generally avoid confusing or misleading consumers by ensuring that worked dollar examples are accompanied by warnings that make clear the nature and limitations of the examples (e.g. that they are illustrative only).

RG 182.26 It would be highly desirable if common or standard formats for worked dollar examples were developed by industry to ensure the policy objectives of the law are met through clear, concise and effective disclosure. We may decide to mandate the required form of worked dollar examples if industry does not develop appropriate standards in this area.

## Record-keeping

RG 182.27 We expect that providing entities and product issuers will keep records to demonstrate that they are complying with their obligations under the dollar disclosure provisions (as affected by ASIC relief).

RG 182.28 Providing entities and product issuers relying on ASIC relief should keep records demonstrating that:

- (a) they are entitled to rely on the relief; and
- (b) they are complying with the conditions applying to that relief.

## C Class order relief we have granted

### Key points

We have granted conditional class order relief for a variety of situations listed in Table 5 below.

Special rules apply to general insurance products where the dollar value of a significant benefit can only be determined after levels of insurance have been nominated or when the risk has been assessed—see RG 182.40–RG 182.42.

### Relief from the obligation to disclose amounts in dollars

- RG 182.29 We have granted conditional class order relief from the obligation to disclose amounts in dollars: see Table 5.
- RG 182.30 We provided this relief because we are satisfied that, for compelling reasons, compliance would be impossible, unreasonably burdensome (including within a specified period) or not in the interests of clients in certain circumstances.

**Table 5: Class order relief we have given**

Class order relief	Documents affected	Relevant powers
Unknown facts or circumstances: CO 04/1430 See: RG 182.31–RG 182.39	SOAs and PDSs	reg 7.7.11, 7.7.12, 7.7.13A, 7.9.15B and 7.9.15C
Costs of derivatives, foreign exchange contracts general insurance products and life risk insurance products: CO 04/1431 See: RG 182.43–RG 182.50	PDSs	s1020F
Interest payable on deposit products: CO 04/1432 See: RG 182.51–RG 182.53	PDSs	reg 7.9.15B
Non-monetary benefits and interests: CO 04/1433 See: RG 182.54–RG 182.59	SOAs and PDSs	s951B and 1020F
Amounts denominated in a foreign currency: CO 04/1435 See: RG 182.60–RG 182.61	SOAs, PDSs and periodic statements	s951B and 1020F

## Unknown facts or circumstances: CO 04/1430

- RG 182.31 Class Order (CO 04/1430) *Dollar disclosure: Unknown facts or circumstances* grants relief from the obligation for information to be disclosed as an amount in dollars in a PDS or SOA where the amount depends, in whole or in part, on a fact or circumstance that:
- (a) is not known to the providing entity or responsible person (as the case may be) by the time the preparation of the document is completed; and
  - (b) could not have been found out by that person.
- RG 182.32 Examples of items envisaged by CO 04/1430 are:
- (a) prices of managed investment products (where the price is dependent on future performance of the scheme);
  - (b) annual management fees applying to managed investment products or superannuation products (where the amount of such fees is dependent on the future size of the fund);
  - (c) trailing commissions or volume bonuses where the amount is dependent on unknown future matters; and
  - (d) benefits that may be paid under a risk insurance policy where the amount of the benefit payable in a given event is dependent on unknown future matters.
- RG 182.33 If you are relying on CO 04/1430, you must either:
- (a) describe the item as a percentage of a specified matter; or
  - (b) if the item is not calculated by reference to a percentage of one or more matters—provide a description of the method you will use to calculate the amount. (We consider that a description of the method of calculating a cost, fee, charge or expense borne by the client will generally be satisfactory provided it enables the maximum amount payable to be ascertained.)
- RG 182.34 In either case (a) or (b) above, you must provide worked dollar examples. The only exception is where it would be inappropriate to provide worked dollar examples. We consider that it will rarely be inappropriate to include worked dollar examples, except to the extent that including them would be highly likely to confuse or mislead consumers.
- RG 182.35 For example, under CO 04/1430, a PDS for a managed investment product would not need to disclose the amount in dollars of its annual management fee if the amount of that fee was dependent, at least in part, on the future (unknown) size of the fund. The PDS would, however, have to disclose the fee as a percentage of a specified matter or, if that is not possible, a description of the method of calculation of the fee would need to be disclosed, together with worked dollar examples.

- RG 182.36 Where information is not disclosed in dollar terms in an SOA, we consider that the actual dollar amount information should be provided to the client in accordance with RG 175 at RG 175.145.
- RG 182.37 CO 04/1430 applies to oral personal advice given without an SOA and gives relief from the obligation for information to be disclosed as an amount in dollars. The dollar disclosure information must be disclosed verbally as a percentage of a specified matter or as a description of the method of calculating the amount. In order for this class order to apply, it must not be possible to state the required information as an amount in dollars because the quantum of the amount depends, in whole or part, on a fact or circumstance that at the relevant time is not known the relevant person (e.g. the adviser) and could not have been found out by that person. The oral disclosure must be accompanied by a worked dollar example unless that would be inappropriate (for example, in a telephone advice situation where an oral worked dollar example would confuse the client).
- RG 182.38 We have granted this relief under our determination powers in reg 7.7.11, 7.7.12, 7.7.13A and 7.9.15B (i.e. where, for compelling reasons, it is not possible to disclose an amount in dollars).
- RG 182.39 CO 04/1430 does not apply to:
- (a) costs of derivatives, foreign exchange contracts, general insurance products and life risk insurance products (see RG 182.43–RG 182.50);
  - (b) interest payable on deposit products (see RG 182.51–RG 182.53); and
  - (c) non-monetary benefits or interests (see RG 182.54–RG 182.59).

### **‘Tailored’ rules for general insurance**

- RG 182.40 A ‘tailored’ dollar disclosure regime applies to general insurance products. Where the dollar value of a significant benefit or cost can only be determined after the responsible person assesses the risk of the client or after the client has nominated desired levels of insurance cover, the information can be stated in the PDS in at least one of the following formats:
- (a) as a range of amounts in dollars;
  - (b) as a percentage of a matter that is mentioned in the statement;
  - (c) as a description;
- providing the client is then given a document stating the dollar amount of the cost or benefit within 5 business days of the product being issued (Sub-regulations 7.9.15C(4)&(5)).

Note: This regime commenced on 1 July 2008.

- RG 182.41 The client must be advised of the information in dollar terms not later than 5 business days after the general insurance product is issued. We would

generally expect the client to be told the cost of the product before it is issued.

- RG 182.42 The guidance and relief described elsewhere in this guide continues to apply to costs and benefits where the amount cannot be stated for the client within 5 business days (ie where it is still unknown).

## **Costs of derivatives, foreign exchange contracts, general insurance products and life risk insurance products: CO 04/1431**

- RG 182.43 Class Order (CO 04/1431) grants relief under s1020F from the dollar disclosure provisions that apply to PDSs for costs associated with acquiring derivatives, foreign exchange contracts, general insurance products and life risk insurance products.
- RG 182.44 We have granted this relief under our determination powers in reg 7.7.11, 7.7.12, 7.7.13A and 7.9.15B (i.e. where, for compelling reasons, it is not possible to disclose an amount in dollars).
- RG 182.45 This relief does not apply to information about any excess or deductible (however described) that applies in relation to an insurance claim—any such excess or deductible should be stated as an amount in dollars.
- RG 182.46 If you are relying on CO 04/1431 you must include in the PDS:
- (a) a description of any significant factors that will affect the cost of acquiring the financial product; and
  - (b) an explanation of the impact of each of those factors on the cost of acquiring the financial product.
- RG 182.47 However, you are not required to include the ‘method of calculation’ of the product cost or to include worked dollar examples in your PDS.
- RG 182.48 While this relief applies to all risk insurance products (i.e. general insurance products and life risk insurance products), we expect that information about risk insurance product costs will continue to be provided in PDSs in dollar terms for certain product types where to do so is consistent with current industry practice (e.g. we would expect travel insurance PDSs and certain life insurance PDSs to continue to include tables setting out premiums in dollar terms for certain types of cover).
- RG 182.49 We have granted relief under CO 04/1431 because we are satisfied that, for compelling reasons, it would be unreasonably burdensome and not in the interests of clients to require PDSs for derivatives, foreign exchange contracts, general insurance products and life risk insurance products to comply with the dollar disclosure provisions given that the cost of these

products is typically dependent on numerous variables that change over time or relate to the particular characteristics of individual clients.

- RG 182.50 Under this class order, we have retained the power to notify a person that, from a date specified in a notice, they are no longer entitled to rely on the class order. This is to ensure that we are able to respond effectively if situations arise where persons inappropriately seek to rely on this class order to avoid disclosing information as amounts in dollars.

## Interest payable on deposit products: CO 04/1432

- RG 182.51 Class Order (CO 04/1432) *Dollar disclosure: Interest payable on deposit products* grants relief from the obligation to disclose in a PDS as an amount in dollars a benefit that is the amount of interest payable to a holder of a deposit product and that amount is to be worked out by applying a percentage to the amount standing to the credit of the facility that is the deposit product from time to time.

Note: As a result of amendments to the Corporations Act, a PDS is not required for basic deposit products: see reg 7.9.07FA.

- RG 182.52 If you are relying on CO 04/1432, you must:
- (a) disclose the benefit as a percentage of a specified matter; and
  - (b) include worked dollar examples in the PDS. The only exception is where it would be inappropriate to provide worked dollar examples. We consider that it will rarely be inappropriate to include worked dollar examples, except to the extent that including them would be highly likely to confuse or mislead consumers: see RG 182.25.
- RG 182.53 We have granted this relief under our determination powers in reg 7.9.15B (i.e. where, for compelling reasons, it would be impossible to require the benefit to be disclosed as an amount in dollars).

## Non-monetary benefits and interests: CO 04/1433

- RG 182.54 Class Order (CO 04/1433) *Dollar disclosure: Non-monetary benefits and interests* grants relief under s951B (for SOAs) and 1020F (for PDSs) from the dollar disclosure provisions for information about:
- (a) non-monetary benefits and non-monetary interests required to be disclosed in an SOA; and
  - (b) non-monetary benefits required to be disclosed in a PDS.
- RG 182.55 Non-monetary benefits are benefits that have been or may be received by a client or providing entity in a form other than money. Examples include

certain ‘soft dollar’ benefits received by providing entities and certain incidental benefits that may arise from holding certain products. For deposit products, this would include the product’s ease of use, accessibility or security, as well as the opportunity it affords to join a loyalty program. For motor vehicle insurance, it may include the provision of emergency breakdown services or access to a 24-hour emergency hotline. Non-monetary interests may include, for example, shares or options held by a providing entity.

- RG 182.56 If you are relying on CO 04/1433, you must disclose in the PDS or SOA:
- (a) the nature and extent of the non-monetary benefit or non-monetary interest;
  - (b) for non-monetary benefits or non-monetary interests that may be provided or that may arise in the future, the circumstances in which the non-monetary benefit or non-monetary interest may be provided or may arise; and
  - (c) the estimated value of the non-monetary benefit or non-monetary interest (expressed as an amount in dollars or a range of amounts in dollars) where a retail client would reasonably require such an estimated value for the purposes of deciding whether to acquire the financial product (in the case of a PDS) or to act on the advice provided (in the case of an SOA).
- RG 182.57 We do not require PDSs or SOAs to include a ‘method of calculation’ of the non-monetary benefit or non-monetary interest or to include worked dollar examples as a condition of this relief.
- RG 182.58 We have granted this relief because we are satisfied that, for compelling reasons, it would be impossible to comply with the dollar disclosure provisions for non-monetary benefits and non-monetary interests.
- RG 182.59 Under this class order, we have retained the power to notify a person that, from a date specified in a notice, they are no longer entitled to rely on the class order. This is to ensure that we are able to respond effectively if situations arise where persons inappropriately seek to rely on this class order to avoid disclosing information as amounts in dollars.

## Amounts denominated in a foreign currency: CO 04/1435

- RG 182.60 Class Order (CO 04/1435) *Dollar disclosure: Amounts denominated in a foreign currency* grants relief under s951B and 1020F from the obligation to disclose as an amount in dollars (i.e. in Australian currency) any amount that is denominated in a foreign currency. This relief applies to SOAs, PDSs and periodic statements.



- RG 182.61 We have granted this relief to facilitate effective disclosure of amounts that are denominated in a foreign currency.
- RG 182.62 If you are relying on CO 04/1435 you must disclose the amount in the applicable foreign currency. We do not require you to provide an Australian dollar conversion of the foreign currency amount as a condition of this relief. You should, however, ensure that consumers understand from the document that the amount is denominated in a foreign currency and not Australian currency (i.e. Australian dollars).

## D Our policy on granting further relief and how to apply

### Key points

We will consider applications for relief where we are satisfied, for compelling reasons:

- compliance with the dollar disclosure provisions is not possible (see RG 182.65–RG 182.68); or
- compliance with the dollar disclosure provisions would be unreasonably burdensome (including within a specified period), or not in the interests of a client or class of clients (see RG 182.69–RG 182.71).

In the case of periodic statements prepared by product issuers of legacy products, we will take into account additional specific considerations (see RG 182.72–RG 182.75).

### When we will consider relief

RG 182.63 In order to grant relief, we must have compelling reasons (based on the nature of the financial product or service or the nature of the information) that compliance with the dollar disclosure provisions would be impossible, unreasonably burdensome (including within a specified period), or not in the interests of a client or class of clients.

RG 182.64 If you are applying for relief, you should present to us cogent evidence and arguments that clearly demonstrate that in your situation dollar disclosure is not possible, unreasonably burdensome (including within a specified period), or not in the interests of a client or class of clients in your particular case.

### Compliance is not possible

RG 182.65 We envisage that very few applications will be made on the basis that compliance with the dollar disclosure provisions is not possible.

RG 182.66 We also expect that applications for relief made on the ‘not possible’ basis will generally seek class order relief. If disclosure is impossible in one case, it is likely to be impossible in other similar cases. Generally, individual circumstances will not be enough to make dollar disclosure impossible and we anticipate that applications will be lodged by industry associations.

RG 182.67 Any application needs to set out compelling reasons as to why compliance would not be possible.

RG 182.68 While providing entities and product issuers may be required to undertake systems changes and incur costs for compliance purposes, we do not consider that such circumstances provide compelling reasons for disclosure not being possible. This is because implementing dollar disclosure in these circumstances would be possible, even if it gives rise to difficulties or costs.

Note: This approach is supported in the Explanatory Statement to the Corporations Amendment Regulations 2004 (No. 6).

### **Compliance is unreasonably burdensome or not in the interests of clients**

RG 182.69 In considering applications for relief on the basis that compliance with the dollar disclosure provisions is unreasonably burdensome or not in the interests of clients, we will take into account:

(a) the test set out in *Incat Australia Pty Ltd v Australian Securities and Investments Commission* (1999) 33 ACSR 132 (AAT); (2000) 33 ACSR 462 (Federal Court):

*‘while a burden that is overwhelming is an unreasonable one the converse is not necessarily true. Whether a burden may be fairly described as unreasonable is a question of fact requiring an evaluation of the evidence, having regard to the nature of the requirement to be performed, and keeping in mind the policy objective’;*

(b) the policy objective of the dollar disclosure provisions, which is to facilitate informed decision-making by consumers of financial products and services by requiring relevant information to be disclosed in dollar terms (research indicates that consumers understand information better when it is presented in dollar terms);

(c) our view that demonstrating that compliance with the dollar disclosure provisions will involve significant cost (while relevant) is not of itself sufficient to establish that compliance would impose an unreasonable burden; and

(d) our view that circumstances will rarely arise where compliance with the dollar disclosure provisions is not in the interests of a client or class of clients.

RG 182.70 The Explanatory Statement to the Corporations Amendment Regulations 2004 (No. 6) suggests that we should consider

*‘a range of compliance issues and costs associated with the provision of information in dollar terms [under the “unreasonably burdensome” power]. For example, the extent to which a matter constitutes an unreasonable burden may include consideration of the necessary systems changes required to collate the information’.*

RG 182.71 We expect that applications on the basis that compliance will be ‘unreasonably burdensome’ (including within a specified period) or ‘not in

the interests of clients' will be made by individual providing entities or product issuers (or groups thereof), rather than industry associations.

### Periodic statements for legacy products

RG 182.72 We recognise that there may be circumstances where it will be unreasonably burdensome or not in the interests of clients to require compliance with the dollar disclosure provisions for legacy products (i.e. products that are no longer issued to new members where such products continue to be supported by systems that are now outmoded).

RG 182.73 In assessing applications for relief from the dollar disclosure provisions for periodic statements prepared by product issuers of legacy products, we will take the matters set out at RG 182.69 into account. We will also consider the matters listed in Table 6.

**Table 6: Extra matters for consideration in determining unreasonable burden in preparing periodic statements for legacy products**

<b>Burden on product issuer's systems</b>	the extent to which the product issuer's systems need to be upgraded so that the issuer can comply with the dollar disclosure obligations
	the cost of the required systems upgrade (e.g. as a percentage of total legacy funds under management)
<b>The funds involved</b>	the number of legacy funds for which the product issuer is required to prepare periodic statements
	the total funds under management in the relevant legacy funds
	the size of new inflows into the product issuer's legacy funds
	the period of 'run-off' for each of the product issuer's legacy funds (i.e. the number of years prior to termination of the fund)
	the average account balance
<b>The clients involved</b>	the number of active and inactive members/policyholders in each of the product issuer's legacy funds

RG 182.74 We have granted transitional relief for certain legacy superannuation products in Class Order [CO 06/602] *Transitional periodic statement relief for legacy superannuation products* in July 2006.

RG 182.75 We do not envisage cases arising where it would be appropriate to grant relief from the dollar disclosure provisions for all disclosure items in a periodic statement.

## Applying for relief

RG 182.76 Applications for relief should address all relevant considerations and include all relevant information. To apply for relief, lodge your application electronically.

RG 182.77 The quickest way to have your application considered, and our preferred method of lodgement, is to email a copy of the application and any attachments to [applications@asic.gov.au](mailto:applications@asic.gov.au). Then send the paper copy and the fee to:

Manager—Applications  
Australian Securities & Investments Commission  
GPO Box 9827 in your capital city.

Alternatively, send your written application and cheque to us at the above address.

Make sure the application:

- (i) addresses all the considerations in Section D of this guide;
  - (ii) complies with Regulatory Guide 51 *Applications for relief* (RG 51); and
  - (iii) is accompanied by the prescribed fee.
- (b) Make sure the application is appropriately signed.

You can also contact ASIC Infoline on 1300 300 630 for information and assistance.

## Key terms

Term	Meaning in this document
ASIC	Australian Securities and Investments Commission
authorised representative	The meaning set out in s761A
basic deposit product	The meaning set out in s 761A
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of the Corporations Act
Corporations Regulations	Corporations Regulations 2001
deposit product	The meaning set out in s761A
determination	A determination made by ASIC under reg 7.7.11–7.7.13B, 7.9.15B–7.9.15C, 7.9.19A–7.9.20B and 7.9.74A–7.9.75D
disclosure documents	Statements of Advice, Product Disclosure Statements and periodic statements
disclosure item	A matter (such as a cost, fee, charge, expense, benefit or interest) required to be disclosed in dollars under the dollar disclosure provisions, unless ASIC grants relief
dollar disclosure provisions	The provisions of the Corporations Act and Corporations Regulations that require various costs, fees, charges, expenses, benefits and interests to be stated as amounts in dollars unless ASIC grants relief: see s947B(2)(h), 947C(2)(i), 947D(2)(d), 1013D(1)(m), 1017D(5A) and reg 7.7.10A–7.7.11, 7.7.11B–7.7.13B, 7.9.15A–7.9.15C, 7.9.19A–7.9.19B, 7.9.20A–7.9.20B, 7.9.74A–7.9.75 and 7.9.75C–7.9.75D
dollar disclosure regime	The dollar disclosure provisions as affected by relevant ASIC class orders
financial product	The meaning set out in s763A
financial service	The meaning set out in s766A
FSG	Financial Services Guide—A document that must be given to a retail client in relation to the provision of a financial service in accordance with Div 2 of Part 7.7
general insurance product	The meaning set out in s761A
issuer	The meaning set out in s761E

Term	Meaning in this document
licensee	A person who holds an Australian financial services licence Note: This is a definition contained in s761A.
life risk insurance product	The meaning set out in s761A
managed investment product	The meaning set out in s761A
Part 7.9 (for example)	A part of the Corporations Act (in this example numbered 7.9)
periodic statement	A document that must be given to a retail client in relation to the offer or issue of certain financial products in accordance with Div 3 of Part 7.9, and includes an exit statement
PDS	Product Disclosure Statement—A document that must be given to a retail client in relation to the offer or issue of certain financial products in accordance with Div 2 of Part 7.9
providing entity	A licensee or an authorised representative
reg 7.7.10A (for example)	A regulation of the Corporations Regulations (in this example numbered 7.7.10A)
representative	The meaning set out in s910A
responsible person	The meaning set out in s1013A
retail client	The meaning set out in s761G
RG 168 (for example)	A regulatory guide (in this example numbered 168)
s760A (for example)	A section of the Corporations Act (in this example numbered 760A)
SOA	Statement of AdviceA document that must be given to a retail client in relation to the provision of personal advice in accordance with Div 3C and 3D of Part 7.7
superannuation product	The meaning set out in s761A

## Related information

### Headnotes

amount in dollars, worked dollar examples, compelling reasons, not possible, unreasonably burdensome, not in the interests of clients, unknown facts or circumstances, derivatives, foreign exchange contracts, general insurance products, life risk insurance products, deposit products, non-monetary benefits and non-monetary interests, amounts denominated in a foreign currency

### Class orders

CO 03/237 *Updated information in product disclosure statements*

CO 04/1430 *Dollar disclosure: Unknown facts or circumstances*

CO 04/1431 *Dollar disclosure: Costs of derivatives, foreign exchange contacts, general insurance products and life risk insurance products*

CO 04/1432 *Dollar disclosure: Interest payable on deposit products*

CO 04/1433 *Dollar disclosure: Non-monetary benefits and interests*

CO 04/1435 *Dollar disclosure: Amounts denominated in a foreign currency*

CO 05/681 *Transitional relief for deposit product providers - PDSs and periodic statements*

CO 05/683 *Dollar disclosure: Further transitional relief*

### Regulatory guides

RG 148 *Investor directed portfolio services*

RG 168 *Disclosure: Product Disclosure Statements (and other disclosure obligations)*

RG 175 *Licensing: Financial product advisers—Conduct and disclosure*

### Legislation

*Corporations Act 2001*, s947B(2)(h), 947C(2)(i), 947D(2)(d), 1013D(1)(m), 1017D(5A) and reg 7.7.10A–7.7.11, 7.7.11B–7.7.13B, 7.9.15A–7.9.15C, 7.9.19A–7.9.19B, 7.9.20A–7.9.20B, 7.9.74A–7.9.75 and 7.9.75C–7.9.75D



## **Cases**

*Incat Australia Pty Ltd v Australian Securities and Investments Commission*  
(1999) 33 ACSR 132 (AAT); (2000) 33 ACSR 462

## **Consultation papers and reports**

CP 52 *Dollar disclosure* (August 2004)

REP 23 *A model for fee disclosure in product disclosure statements for investment products*

## **Information releases**

IR 04-27 *Next steps on dollar disclosure* (25 June 2004)

IR 04-39 *ASIC consults on dollar disclosure* (10 August 2004)

IR 04-50 *ASIC announces transitional position on dollar disclosure*  
(7 August 2004)

IR 04-67 *ASIC issues dollar disclosure policy* (15 December 2004)