ASIC WEBSITE PREVIEW

Product Disclosure Statements: Disclosure and other obligations

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> ### This regulatory guide is for issuers or sellers of financial products
>
> Product issuers, Australian financial services (AFS) licensees and authorised representatives must comply with Product Disclosure Statement (PDS) requirements.

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A product issuer or seller must give a PDS to a retail client before recommending or offering to issue or sell a financial product

The purpose of a PDS is to provide clients with information to make informed decisions about acquiring a financial product.

A PDS must be given to a client at or before the time you make a recommendation or offer for a financial product. However, in some circumstances a PDS is not required — for example, where the client has already received the PDS or equivalent disclosures. See Section B of RG 168 for more information.

For certain managed investment products and CCIV securities, product issuers must lodge their PDSs with ASIC. See Section F of RG 168 for more information.

The PDS must include certain information about the product and its issuer

This includes information like:

- name and contact details of the issuer and seller
- any fees payable
- significant risks and benefits, and
- dispute resolution procedures available if there is a complaint.

Certain financial products have different PDS requirements. For example, PDSs for investment products must disclose how labour standards or environmental, social or ethical considerations are taken into account in selecting, retaining or realising an investment.

The information provided in PDSs must be easy to read and understand.

For more information, see Section B of RG 168.

The law requires the use of shorter PDSs for some financial products

This includes:

- standard margin lending facilities
- superannuation products
- simple managed investment schemes, and
- simple sub-fund products.

ASIC has given temporary relief so that superannuation platforms, multifunds and hedge funds may elect to be exempt from the shorter PDS regime.

The shorter PDS regime removes some content requirements, substitutes new requirements, and prescribes a maximum page limit.

If certain conditions are met, the law also permits the use of:

- Short-Form PDSs for certain financial products
- modified PDSs for general insurance products, and
- transaction-specific PDSs for continuously quoted securities.

For more information, see Section C and Appendix 2 of RG 168.

We expect product issuers to carefully manage the compliance risks associated with PDSs

Common risks include:

- making statements about any future matter without reasonable grounds
- making statements about past performance that may be misleading or deceptive, and
- making comparisons against a benchmark or competitor that are misleading or deceptive.

ASIC may take enforcement action when product issuers do not comply with the PDS requirements. We may also issue a stop order to prevent offers being made under a PDS in certain situations – for example, when we consider the PDS to be defective or not worded and presented in a clear, concise and effective manner.

Product issuers must take remedial action if they become aware of PDS that has become defective.

For more information, see Section D of RG 168.

We have developed six Good Disclosure Principles setting out ASIC's expectations when preparing a PDS

1. Disclosure should be timely
2. Disclosure should be relevant and complete
3. Disclosure should promote product understanding
4. Disclosure should promote product comparison
5. Disclosure should highlight important information, and
6. Disclosure should have regard to the clients' needs.

For more information, see Section E of RG 168.

Where to find more information

- Regulatory Guide 98 *ASIC's powers to suspend, cancel and vary AFS licences and make banning orders* (RG 98)
- Regulatory Guide 104 *AFS licensing: Meeting the general obligations* (RG 104)
- Regulatory Guide 105 *AFS licensing: Organisational competence* (RG 105)

Important notice

Please note that the above overview is intended to give you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional legal advice. We encourage you to seek your own professional advice to find out how the applicable laws apply to you, as it is your responsibility to determine your obligations.