

Submission no: 2014/36

20 October 2014

**ASIC:Draft Class Order [CO 14/xxxx] – Disclosure of fees for superannuation trustees  
and managed investment scheme responsible entities**

ASFA has provided a submission in response to ASIC’s draft Class Order [CO 14/xxxx] *Disclosure of fees for superannuation trustees and managed investment scheme responsible entities* (revised version released 9 October 2014) and the accompanying Background Paper: *Proposed Class order: Schedule 10 technical amendments*.

While supportive of ASIC’s efforts to clarify the requirements regarding disclosure of fees and costs in Product Disclosure Statements (PDSs), ASFA’s submission raises a number of general concerns regarding the complexity of the disclosure requirements. ASFA is strongly of the view that the disclosure requirements in the *Corporations Regulations 2001* should themselves be revisited as a matter of urgency, to provide clarity around the distinction between a ‘fee’ and a ‘cost’ and to limit the requirement for trustees to ‘look-through’ interposed vehicles.

In relation to the specific amendments proposed by the draft Class Order, ASFA’s key comments include:

- The requirement for trustees to ‘reasonably estimate’ indirect costs is subjective, and is likely to be applied inconsistently unless clear guidance is provided.
- While the revised definition of ‘indirect costs’ makes it clear that double counting of amounts is not intended, it evinces a confusion between a ‘fee’ that is charged to a member and a ‘cost’ that may be recouped (in whole or in part) by the charging of such a fee. .
- The requirement for trustees to ‘look-through’ all interposed vehicles when identifying and disclosing indirect costs significantly exceeds the look through required for APRA data reporting purposes. This presents a number of practical and legal challenges for trustees and will impose a significant cost and resource burden on trustees, however it has not been demonstrated that it will provide material benefit to consumers.
- There should be consistency between the definitions of ‘indirect cost’ for superannuation products and managed investment products
- Further amendments should be made to the prescribed consumer advisory warning, to enable trustees to provide information that is meaningful and relevant to the product.

In addition, ASFA noted concerns raised by members that the requirement for all PDSs to comply with the modifications by 1 July 2015 will be onerous and costly, and may jeopardise consistent application of the amendments across the industry. ASFA has recommended that the amendments apply only to new PDSs issued on or after 1 July 2015, with all PDSs to be compliant within 12 months after commencement of the Class Order.