



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 221

Facilitating online financial services disclosures

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About this guide

This is a guide for financial services providers that use (or plan to use) technology, including email and the internet, to deliver financial services disclosures to clients.

This guide:

- explains how ASIC interprets the online disclosure provisions under Pts 7.6–7.9 of the *Corporations Act 2001* (Corporations Act);
- describes the relief available under Class Order [CO 10/1219] *Facilitating online delivery of PDSs, FSGs and SOAs*; and
- sets out our good practice guidance on online disclosure.

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 13 December 2010 and is based on legislation and regulations as at 13 December 2010.

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

ASIC aims to facilitate the online delivery of financial services disclosures.

To facilitate the use of online disclosure, we have:

- explained how delivery methods can be used relying on the online disclosure provisions under Pts 7.6–7.9 of the *Corporations Act 2001* (Corporations Act);
- given class order relief in Class Order [CO 10/1219] for Product Disclosure Statements (PDSs), Financial Services Guides (FSGs) and Statements of Advice (SOAs); and
- explained whether a provider is required to obtain a client's express consent before delivering disclosures online (see Section B).

We have also given good practice guidance on online disclosure to ensure that clients continue to receive clear, concise and effective information where disclosures are delivered online: see Section C.

The appendix summarises how different types of financial services disclosures can be delivered online under the law.

Facilitating online disclosure

RG 221.1 Financial services disclosures are often lengthy paper-based documents that many clients find difficult to understand and engage with. We think that one way to make disclosure more user-friendly is by encouraging and facilitating the use of online disclosure. An advantage of online disclosure for clients is that it can incorporate more engaging forms of media and can be interactive. This can make the information more attractive and easier to read and understand for clients.

RG 221.2 Online disclosure also has advantages for providers in reducing the costs of printing and mailing.

Our guidance and relief

RG 221.3 While the Corporations Act expressly permits the online delivery of financial services disclosures, we understand that some providers have been discouraged from doing so because of uncertainty about what specific practices the law allows.

RG 221.4 To facilitate the use of online disclosure, we have:

- (a) explained how delivery methods can be used relying on the online disclosure provisions under Pts 7.6–7.9 of the Corporations Act;
- (b) given relief in [CO 10/1219] *Facilitating online delivery of PDSs, FSGs and SOAs* to facilitate the delivery of PDSs and FSGs through hyperlinks, and PDSs, FSGs and SOAs through references to website addresses; and
- (c) explained whether a provider is required to obtain a client’s express consent before delivering disclosures online: see Section B.

Our good practice guidance

RG 221.5 We have also given good practice guidance to ensure that clients continue to receive clear, concise and effective information where disclosures are delivered online: see Section C.

Summary of the law including ASIC relief

RG 221.6 The appendix to this guide summarises how different types of financial services disclosures can be delivered online under the law.

B Guidance and relief for online disclosure

Key points

This section sets out:

- how delivery methods can be used to deliver disclosures online (see RG 221.15–RG 221.27);
- our relief in [CO 10/1219] for PDSs, FSGs and SOAs (see RG 221.21–RG 221.25); and
- whether a provider is required to obtain a client’s express consent before delivering disclosures online (see RG 221.28–RG 221.31).

Our approach to online disclosure

- RG 221.7 This section contains guidance on our interpretation of the online disclosure provisions under Pts 7.6–7.9 of the Corporations Act and explains the relief we have given in [CO 10/1219] in relation to PDSs, FSGs and SOAs to facilitate the use of online disclosure.
- RG 221.8 We take a technologically neutral approach to financial services disclosure and do not mandate the delivery of financial services disclosures online. Providers need to determine which method of delivering financial services disclosures best suits their clients and will not expose those clients to undue risk of scams and fraud. For example, a margin-lending product might work well online because clients are likely to be monitoring their investments online. However, other clients (e.g. clients without ready access to the internet or who, while they have access to the internet, do not use it regularly or feel comfortable with online communication) might be better suited to receiving paper disclosures.

Online disclosure under the Corporations Act

- RG 221.9 Parts 7.6–7.9 of the Corporations Act permit a wide range of financial services disclosures to be delivered online. The provisions that enable disclosures to be delivered online differ depending on the type of disclosure.
- RG 221.10 FSGs, SOAs and PDSs can be ‘given’ if they are sent to an electronic address or fax number ‘nominated’ by the client or the client’s agent: s940C(1)(a)(ii) and 1015C(1)(a)(ii).
- RG 221.11 The following disclosures may be notified or given to a client either in ‘electronic’ form or may be sent ‘electronically’:

- (a) ongoing disclosure (s1017B(3)(b));
- (b) periodic statements (s1017D(6)(b));
- (c) annual superannuation information (s1017DA(3) and reg 7.9.75A(3)(b));
- (d) confirmations of transactions (s1017F(6)(a)(ii));
- (e) additional information provided by a superannuation trustee (s1017DA(3) and reg 7.9.75A(3)(b)); and
- (f) unsolicited offers to purchase financial products off-market (s1019E(1), 1019G(3) and 1019J(2)).

RG 221.12 The following disclosures may be ‘made available in any way agreed to’ by a client or their agent, including electronically:

- (a) FSGs and SOAs (s940C(1)(a)(iii));
- (b) PDSs (reg 7.9.02A);
- (c) ongoing disclosure (reg 7.9.75A(1));
- (d) periodic statements (reg 7.9.75A(2));
- (e) annual superannuation information and additional information provided by a superannuation trustee (reg 7.9.75A(3)(c) and (d)); and
- (f) additional information on request (s1017A(4)(b)).

RG 221.13 Annual superannuation information can also be provided to members of a regulated superannuation fund by ‘making [it] available on a website that is maintained by or on behalf of the trustee’ in accordance with reg 7.9.75BA. Confirmations of transactions can be provided ‘by means of a standing facility’ in accordance with s1017F(5)(b) and 1017F(5A).

RG 221.14 Table 2 in the appendix summarises the different disclosure delivery provisions—both paper and electronic—that apply to different types of financial services disclosures.

How providers can deliver disclosures online

Delivery methods

RG 221.15 We believe that, under the Corporations Act, most financial services disclosures can be delivered online using a variety of delivery methods, including via the delivery methods outlined below. We strongly encourage providers to take into consideration our good practice guidance when delivering disclosures online: see Section C.

Email

- RG 221.16 We believe that all of the provisions in RG 221.10–RG 221.12 allow a provider to send disclosures as text in an email or an attachment to an email.

Hyperlinks and reference to a website

- RG 221.17 We believe that the provisions mentioned in RG 221.12 also allow a provider to deliver most disclosures by sending clients:
- (a) an email with a hyperlink to the disclosure; or
 - (b) a written (paper or electronic) notification that the disclosure is available from a website.

However, in practice, the specific requirements for PDSs, FSGs and SOAs make it difficult for providers to deliver these disclosures in this way.

- RG 221.18 A provider wishing to deliver annual superannuation information by making this available on a website can also do so in accordance with reg 7.9.75BA. A provider wishing to deliver confirmations of transactions by making these available via a standing facility can do so in accordance with s1017F(5)(b) and 1017F(5A): see RG 221.13.
- RG 221.19 There is uncertainty about whether the requirement in regs 7.7.01, 7.9.02B, 7.9.63I and 7.9.75B to allow the client to ‘have ready access to [the disclosure] in the future’ restricts the use of hyperlinks and references to website addresses to deliver disclosures because the disclosure might not be accessible via the link for an indefinite period.
- RG 221.20 However, we believe that the requirement in regs 7.7.01, 7.9.02B, 7.9.63I and 7.9.75B does not prevent the use of hyperlinks and references to website addresses in delivering disclosures. We think that this requirement is a general principle of delivering disclosures. It is up to providers to assess what is an appropriate form of delivery that allows a client to have access to the disclosure in the future. This could include the ability to save, download or print the disclosure.

Relief for PDSs, FSGs and SOAs

- RG 221.21 We think that, under the Corporations Act, it is difficult from a practical perspective for providers to deliver PDSs, FSGs and SOAs through hyperlinks or references to website addresses.
- RG 221.22 Although, like other financial services disclosures, it is possible for PDSs, FSGs and SOAs to be made available to a client or their agent as agreed between the client or agent and the provider (s940C(1)(a)(iii), 940C(2)(b)(iii) and reg 7.9.02A(1)), the Corporations Regulations 2001 (Corporations Regulations) additionally require that PDSs, FSGs and SOAs

be delivered in a way that allows the provider to be satisfied, on reasonable grounds, that the client or the client's agent has received the disclosure: regs 7.7.01(2) and 7.9.02A(1).

RG 221.23 This could mean that a provider wishing to deliver a PDS, FSG or SOA via hyperlinks or references to website addresses must have a mechanism to track whether a client has accessed the disclosure on the website. It may not be sufficient that the provider merely be satisfied that the client has received an email or a paper notification of the availability of the disclosure. This may present practical difficulties for providers and discourage them from delivering PDSs, FSGs and SOAs online.

RG 221.24 To promote greater confidence in delivering PDSs, FSGs and SOAs online, we have given relief in [CO 10/1219] to enable providers to deliver:

- (a) PDSs, FSGs and SOAs by sending a written (paper or electronic) notice with a reference to a website address where the disclosure can be found; and
- (b) PDSs and FSGs by sending an email with a hyperlink to the disclosure.

The client or the client's agent must agree to receive the disclosure in this way for the relief to apply.

RG 221.25 We consider there is a greater risk that clients will be exposed to security risks, such as phishing, where SOAs are delivered via hyperlinks. Unlike PDSs and FSGs, SOAs are private disclosures, which clients would normally expect to access online by providing their personal details. Therefore, we have not given relief in [CO 10/1219] to enable SOAs to be delivered via hyperlinks.

Other delivery methods

RG 221.26 The methods of delivery listed above relate to specific areas where industry participants have sought clarification. By providing these examples of how online disclosures can be delivered, we do not intend to restrict the ways in which disclosures can be delivered. We recognise that there will be other methods of delivery that are also possible under the law. We intend to review our guidance in light of industry desire to use emerging technologies.

Industry codes and other legal obligations

RG 221.27 Notwithstanding our guidance and relief above, providers need to consider whether industry codes (e.g. the Electronic Funds Transfer Code of Conduct) prohibit them from delivering disclosures via hyperlinks. Providers also need to consider their other legal obligations when delivering disclosures online (e.g. providers should ensure that they comply with privacy laws when delivering disclosures online).

Client consent to online disclosure

RG 221.28 We believe that, generally, unless the law provides otherwise, a provider must obtain a client's express agreement before delivering financial services disclosures online. A client's consent can be verbal or in writing.

Note: Some disclosures can be delivered online without first obtaining client consent. For example, reg 7.9.75BA allows regulated superannuation funds to deliver annual superannuation information to members by putting it on a website, without having to obtain the consent of their members first, as long as they provide members with paper copies if they want them. Also, s1017F(5)(b) and 1017F(5A)(b) allow providers to deliver a confirmation of a transaction to a client by means of a standing facility, without having to obtain the consent of the client first, as long as the client is informed about the availability of the facility and does not object to the information being delivered in this way.

RG 221.29 We think that when a provider wishes to deliver a disclosure under a provision enabling disclosures to be sent to an electronic address 'nominated' by the client or the client's agent (e.g. s940C(1)(a)(ii) and 1015C(1)(a)(ii)), they will need to ensure that the client or agent has expressly agreed to receive the disclosure via the relevant method of delivery. This is because the word 'nominated' means that the electronic address must have been identified by the client or the client's agent as the address for sending disclosures. Therefore, it is necessary for the provider to make the client clearly aware that when the client provides their electronic address, disclosures will be delivered online.

RG 221.30 When a provider wishes to supply a financial services disclosure online under a provision enabling disclosures to be made available as agreed between a client or their agent and the provider (e.g. s940C(1)(a)(iii)), they will also need to ensure that the client or agent has expressly agreed to receive the disclosure via the relevant method of delivery.

RG 221.31 Accordingly, providers are generally required to deliver paper disclosures to clients unless a client actively decides to receive financial services disclosures online (i.e. paper disclosure is the default method of delivering disclosures). Unless the law expressly provides otherwise, paper disclosures must be sent to those clients who have not nominated how they wish to receive disclosures.

C Good practice guidance

Key points

We have set out good practice guidance for the delivery of financial services disclosures online: see Table 1.

We encourage providers to apply our good practice guidance when delivering disclosures online. In some cases, our good practice guidance reflects regulatory requirements for delivering certain financial services disclosures.

- RG 221.32 Our good practice guidance for online disclosures is set out in Table 1. It applies to any method of delivering financial services disclosures online.
- RG 221.33 We have given good practice guidance to ensure that clients continue to receive clear, concise and effective information where disclosures are delivered online.
- RG 221.34 We encourage providers to apply our good practice guidance when delivering financial services disclosures online. In some cases, our good practice guidance reflects regulatory requirements for delivering certain financial services disclosures.

Table 1: Good practice guidance

Guidance	Explanation
1 Disclosure documents should be easy to retrieve and read	<p>This is currently required by law for some types of online disclosure, including where delivering annual superannuation information by making it available on a website.</p> <p>The disclosure should be easy to find on the website. The generic website address or specific document address should be provided. It is up to the provider to determine which address is more appropriate for the client to easily access the disclosure.</p> <p>If a generic website address or a hyperlink that does not take a client directly to the disclosure is given, clear instructions should be provided on how to access the disclosure online (e.g. in a document notifying a client of the availability of the disclosure, such as a letter, or on the website). The instructions should be clear and easy to understand, and should take the client directly to the disclosure or to a webpage with a direct link to the disclosure. Where possible, providers should ensure that clients can access a disclosure placed on a website with no more than three clicks.</p> <p>If a specific document address or a hyperlink that takes a client directly to the disclosure is given, the address or the hyperlink must take a client to the first page of the disclosure, and not to a subsidiary page (e.g. the hyperlink should not take the client straight to an application form).</p>

Guidance	Explanation
<p>2 Clients should be able to identify the disclosure</p>	<p>For many types of disclosures the law requires that an electronic document is clearly identified as part of a specified disclosure document. This includes FSGs, SOAs, PDSs, annual superannuation information, confirmations of transactions and periodic statements.</p>
<p>3 Providers should use their reasonable efforts to ensure that the client or their agent receives a copy of the disclosure</p>	<p>When a client has agreed to receive disclosures online, or has not opted out of receiving disclosures online where the law permits default online disclosure, a provider should:</p> <ul style="list-style-type: none"> • deliver the disclosure to an electronic address provided by the client; or • when a disclosure is delivered by making it available on a website, send a paper or electronic notice to an address provided by the client notifying the client that the disclosure is available online and how it can be accessed. <p>If a provider becomes aware that a client has not received the disclosure (e.g. they receive an undeliverable email notice or the post is returned to sender) they should make reasonable attempts to contact the client by other means to give them the disclosure (e.g. by sending the disclosure to an alternative electronic address of the client if one has been provided or by sending a hard copy of the disclosure to the client).</p>
<p>4 Clients should be able to keep a copy so that they can access the disclosure in the future</p>	<p>This is required by law for many types of disclosures, including FSGs, SOAs, PDSs, annual superannuation information, confirmations of transactions and periodic statements.</p> <p>This could include the ability to save an electronic copy.</p> <p>When the disclosure is provided through a hyperlink or a reference to a website address or electronic facility, a provider should direct clients to take an electronic or, where practical, a printed copy of the disclosure. So that clients can keep a copy of the disclosure, the provider should also ensure the disclosure continues to be accessible from the link, at the website address or through the electronic facility, for a period that the provider considers is reasonable for that information.</p> <p>We think that a period of two years would be reasonable for most disclosures, unless the disclosures have been superseded or updated sooner or have become out of date (e.g. because the product or service is no longer available and there are no longer any clients affected by it). If it is not possible to continue to make the disclosure available from the specified link, website address or electronic facility throughout that period, the provider should make it easy for clients to request an electronic copy of the disclosure at no cost to the client (e.g. by providing a toll-free telephone number or an electronic address or request button clients can use to request a copy).</p>
<p>5 Clients should be able to prove which version of the disclosure they relied upon</p>	<p>The provider must retain a copy of all versions of the disclosure and use technology, where possible, to maintain records of when each version was available. As a matter of good practice, these records should be kept for a period of at least seven years (or as required by law).</p> <p>When the disclosure is provided through a hyperlink or a reference to a website address or electronic facility, the provider should make it clear to clients that they can request a copy of the disclosure at no cost to the client during this period.</p>

Guidance	Explanation
<p>6 Clients should be able to change their mind about receiving disclosures online at any time and at no cost</p>	<p>Except for fully online products, providers must make it easy for clients to unsubscribe from receiving disclosures online and to request paper copies of the disclosures at no cost to themselves.</p> <p>Although a client may initially consent to receiving disclosures online, they may subsequently discover that they have difficulties in accessing or reading disclosures online (e.g. because they do not have broadband internet access).</p> <p>Where a disclosure is sent to a client's electronic address, the message should include a clear statement to the effect that the client may use an electronic address set out in the message to send an unsubscribe message to the provider.</p>
<p>7 Disclosure documents should be delivered in a way that does not unreasonably expose clients to security risks (e.g. phishing)</p>	<p>When a provider delivers disclosures via email, it is preferable that the provider gives clients a reference to the website address where the disclosure can be found, along with instructions on how to access it, rather than a hyperlink to the disclosure. However, when a provider delivers a disclosure via an email with a hyperlink to the disclosure, the email should state that the client will not be asked to provide their personal details online (e.g. in order to access the disclosure).</p> <p>Providers should continue efforts to educate clients about internet scams and other security risks and may wish to direct clients to www.staysmartonline.gov.au.</p>

Appendix: Summary of how providers can use online disclosure

Table 2: Summary of how different types of disclosures can be delivered online under Pts 7.6–7.9

Type of disclosure	Disclosure delivery rules that apply	Guidance on how it can be delivered
FSGs	<p><i>s940C and reg 7.7.01</i></p> <p>The FSG can be in printed or electronic form.</p> <ul style="list-style-type: none"> • <i>Personal delivery</i>: Can give to the client or their agent personally. • <i>Delivery to an address</i>: Can send to the client or their agent at an address, electronic address or fax number nominated by the client or their agent if the envelope or container in which it is sent or the message that accompanies it is addressed to the client. • <i>In any way that is agreed</i>: Can make it available to the client or their agent as agreed with the client or their agent in any way that allows the provider to be satisfied on reasonable grounds that the client or their agent has received it. <p>It must be delivered in a way that:</p> <ul style="list-style-type: none"> • as far as practicable allows the client to keep a copy and access it in the future; and • clearly identifies the information that is part of the document. 	<p>An FSG can be delivered online, including by sending it as text in an email or an attachment to an email, or by sending an email with a hyperlink to the FSG or a written (paper or electronic) notice with a reference to a website address where the FSG can be found: see RG 221.16 and RG 221.21–RG 221.27.</p> <p>Client consent</p> <p>A provider must obtain a client's express agreement before delivering an FSG online. A client's consent can be verbal or in writing: see RG 221.28–RG 221.31.</p>
SOAs	<p><i>s940C and reg 7.7.01</i></p> <p>The SOA can be in printed or electronic form.</p> <ul style="list-style-type: none"> • <i>Personal delivery</i>: Can give to the client or their agent personally. • <i>Delivery to an address</i>: Can send to the client or their agent at an address, electronic address or fax number nominated by the client or their agent if the envelope or container in which it is sent or the message that accompanies it is addressed to the client. • <i>In any way that is agreed</i>: Can make it available to the client or their agent as agreed with the client or their agent in any way that allows the provider to be satisfied on reasonable grounds that the client or their 	<p>An SOA can be delivered online, including by sending it as text in an email or an attachment to an email, or by sending a written (paper or electronic) notice with a reference to a website address where the SOA can be found: see RG 221.16 and RG 221.21–RG 221.27.</p> <p>Client consent</p> <p>A provider must obtain a client's express agreement before delivering an SOA online. A client's consent can be verbal or in writing: see RG 221.28–RG 221.31.</p>
SOAs (cont.)	<p>provider to be satisfied on reasonable grounds that the client or their</p>	

Type of disclosure	Disclosure delivery rules that apply	Guidance on how it can be delivered
	<p>agent has received it.</p> <p>It must be delivered in a way that:</p> <ul style="list-style-type: none"> • as far as practicable allows the client to keep a copy and access it in the future; and • clearly identifies the information that is part of the document. 	
<p>PDSs</p>	<p><i>s1015C and regs 7.9.02A and 7.9.02B</i></p> <p>The PDS can be in printed or electronic form.</p> <ul style="list-style-type: none"> • <i>Personal delivery</i>: Can give to the client or their agent personally. • <i>Delivery to an address</i>: Can send to the client or their agent at an address, electronic address or fax number nominated by the client or their agent if the envelope or container in which it is sent or the message that accompanies it is addressed to the client. • <i>In any way that is agreed</i>: Can make it available to the client or their agent as agreed with the client or their agent in any way that allows the provider to be satisfied on reasonable grounds that the client or their agent has received it. <p>It must be delivered in a way that:</p> <ul style="list-style-type: none"> • as far as practicable allows the client to keep a copy and access it in the future; and • clearly identifies the information that is part of the document. 	<p>A PDS can be delivered online, including by sending it as text in an email or an attachment to an email, or by sending an email with a hyperlink to the PDS or a written (paper or electronic) notice with a reference to a website address where the PDS can be found: see RG 221.16 and RG 221.21–RG 221.27.</p> <p>Client consent</p> <p>A provider must obtain a client's express agreement before delivering a PDS online. A client's consent can be verbal or in writing: see RG 221.28–RG 221.31.</p>

Type of disclosure	Disclosure delivery rules that apply	Guidance on how it can be delivered
Annual superannuation information	<p><i>s1017DA(3) and regs 7.9.75A(3), 7.9.75B and 7.9.75BA</i></p> <p>The disclosure can be given in writing or electronically. It can also be:</p> <ul style="list-style-type: none"> • <i>Made available on a website</i>: Can make it available on a website that is maintained by or on behalf of the provider in accordance with reg 7.9.75BA. • <i>Given in any way that is agreed</i>: Can make it available to the client or their agent in any way as agreed with the client or their agent. <p>It must be delivered in a way that:</p> <ul style="list-style-type: none"> • as far as practicable allows the client to keep a copy and access it in the future; and • clearly identifies the information that is part of the document. 	<p>Annual superannuation information can be delivered online, including by sending it as text in an email or an attachment to an email, or by making it available on a website that is maintained by or on behalf of the provider in accordance with reg 7.9.75BA: see RG 221.16, RG 221.18 and RG 221.26–RG 221.27.</p> <p>Client consent</p> <p>Generally, a provider must obtain a client's express agreement before delivering annual superannuation information online. A client's consent can be verbal or in writing: see RG 221.28–RG 221.31.</p> <p>However, a provider can deliver annual superannuation information to clients by making it available on a website in accordance with reg 7.9.75BA without first obtaining client consent, as long as they provide clients with a paper copy or an electronic copy (where available) free of charge if requested.</p>
Periodic statements	<p><i>s1017D(6)(b) and regs 7.9.75A(2) and 7.9.75B</i></p> <p>The disclosure can be given in writing or electronically. It can also be given:</p> <ul style="list-style-type: none"> • <i>In any way that is agreed</i>: Can make it available to the client or their agent in any way as agreed with the client or their agent. <p>It must be delivered in a way that:</p> <ul style="list-style-type: none"> • as far as practicable allows the client to keep a copy and access it in the future; and • clearly identifies the information that is part of the document. 	<p>A periodic statement can be delivered online, including by sending it as text in an email or an attachment to an email, or by sending an email with a hyperlink to the periodic statement or a written (paper or electronic) notice with a reference to a website address where the periodic statement can be found: see RG 221.16–RG 221.20 and RG 221.26–RG 221.27.</p> <p>Client consent</p> <p>Generally, a provider must obtain a client's express agreement before delivering a periodic statement online. A client's consent can be verbal or in writing: see RG 221.28–RG 221.31.</p>
Ongoing disclosure of material changes and significant events	<p><i>s1017B(3)(b) and (c) and regs 7.9.75A(1)(a) and 7.9.75B(1)(a)</i></p> <p>The disclosure can be given in writing or electronically. It can also be given:</p> <ul style="list-style-type: none"> • <i>In any way that is agreed</i>: Can make it available to the client or their agent in any way as agreed with the client or their agent. 	<p>The disclosure can be delivered online, including by sending it as text in an email or an attachment to an email, or by sending an email with a hyperlink to the disclosure or a written (paper or electronic) notice with a reference to a website address where the disclosure can be found: see RG 221.16–RG 221.20 and RG 221.26–RG 221.27.</p>

Type of disclosure	Disclosure delivery rules that apply	Guidance on how it can be delivered
Ongoing disclosure of material changes and significant events (cont.)	<p>It must be delivered in a way that:</p> <ul style="list-style-type: none"> • as far as practicable allows the client to keep a copy and access it in the future; and • clearly identifies the information that is part of the document. 	<p>Client consent</p> <p>Generally, a provider must obtain a client's express agreement before delivering the disclosure online. A client's consent can be verbal or in writing: see RG 221.28–RG 221.31.</p>
Confirmation of transactions	<p><i>s1017F(6)(a)(ii) and reg 7.9.63I</i></p> <p>The disclosure can be given in writing or electronically. It can also be given:</p> <ul style="list-style-type: none"> • <i>By means of a standing facility</i>: Can provide the client with access to a facility through which they can, for themselves, get a confirmation of a transaction in accordance with s1017F(5)(b) and 1017F(5A). <p>It must be delivered in a way that:</p> <ul style="list-style-type: none"> • as far as practicable allows the client to keep a copy and access it in the future; and • clearly identifies the information that is part of the document. 	<p>A confirmation of transaction can be delivered electronically, including by sending the information as text in an email or an attachment to an email. It can also be delivered by making it available by means of a standing facility in accordance with s1017F(5)(b) and 1017F(5A): RG 221.16, RG 221.18 and RG 221.26–RG 221.27.</p> <p>Client consent</p> <p>Generally, a provider must obtain a client's express agreement before delivering a confirmation of transaction online. A client's consent can be verbal or in writing: see RG 221.28–RG 221.31.</p> <p>However, a provider can deliver a confirmation of transaction to clients by means of a standing facility in accordance with s1017F(5)(b) and 1017F(5A)(b) without first obtaining client consent, as long as clients are informed about the availability of the facility and have not advised the provider that they do not wish to receive confirmations in this way.</p>
Additional information on request	<p><i>s1017A(4)</i></p> <ul style="list-style-type: none"> • <i>By inspection</i>: Can make the information available for inspection by the client at a suitable place during business hours. • <i>In any way that is agreed</i>: Can make the information available in any way that is agreed with the client. 	<p>The information can be delivered online, including by sending it as text in an email or an attachment to an email, or by sending an email with a hyperlink to the information or a written (paper or electronic) notice with a reference to a website address where the information can be found: see RG 221.16–RG 221.20 and RG 221.26–RG 221.27.</p> <p>Client consent</p> <p>A provider must obtain a client's express agreement before delivering the information online. A client's consent can be verbal or in writing: see RG 221.28–RG 221.31.</p>

Type of disclosure	Disclosure delivery rules that apply	Guidance on how it can be delivered
Additional information provided by super trustees	<p><i>s1017DA, reg 7.9.75A(3) and 7.9.75B(1)(c)</i></p> <p>The disclosure can be given in writing or electronically. It can also be given:</p> <ul style="list-style-type: none"> • <i>In any way that is agreed</i>: Can make the information available in any way that is agreed with the client or their agent. <p>It must be delivered in a way that:</p> <ul style="list-style-type: none"> • as far as practicable allows the client to keep a copy and access it in the future; and • clearly identifies the information that is part of the document. 	<p>The information can be delivered online, including by sending it as text in an email or an attachment to an email, or by sending an email with a hyperlink to the information or a written (paper or electronic) notice with a reference to a website address where the information can be found: see RG 221.16–RG 221.20 and RG 221.26–RG 221.27.</p> <p>Client consent</p> <p>Generally, a provider must obtain a client's express agreement before delivering the information online. A client's consent can be verbal or in writing: see RG 221.28–RG 221.31.</p>
Unsolicited offers to purchase financial products off-market (offer documents, supplementary offer documents and withdrawal documents)	<p><i>s1019E(1), 1019J(2), 1019G(3)</i></p> <p>The disclosure can be in printed or electronic form.</p> <ul style="list-style-type: none"> • <i>Printed or electronic delivery</i>: Can give it in printed or electronic form to the offeree at an address or electronic address if the envelope or container in which it was sent or the message that accompanies it is addressed to the offeree. 	<p>The disclosure can be delivered online, including by sending it as text in an email or an attachment to an email, or by sending an email with a hyperlink to the disclosure or a written (paper or electronic) notice with a reference to a website address where the disclosure can be found: see RG 221.16–RG 221.20 and RG 221.26–RG 221.27.</p> <p>Client consent</p> <p>Generally, a provider must obtain a client's express agreement before delivering the disclosure online. A client's consent can be verbal or in writing: see RG 221.28–RG 221.31.</p>

Key terms

Term	Meaning in this document
annual superannuation information	Information that a trustee of a superannuation entity is required to provide under s1017DA (does not include private disclosures)
ASIC	Australian Securities and Investments Commission
[CO 10/1219] (for example)	An ASIC class order (in this example numbered 10/1219)
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
default online disclosure	A method of disclosure whereby a provider can deliver a disclosure online without obtaining the prior consent of a client, provided that the client can still elect to receive a hard copy of the disclosure
electronic facility	An electronic medium for accessing or sending information
financial services disclosure	A disclosure required under Pts 7.6–7.9
Financial Services Guide (FSG)	A document required by s941A or 941B to be given in accordance with Div 2 of Pt 7.7 Note: This is a definition contained in s761A.
fully online product	A financial services product that is sold on the basis that it is fully online (i.e. that clients will read disclosures, apply for the product and monitor their investments completely online)
private disclosure	A disclosure that providers give to members or clients that contains personal information relating to the member or client or their investment. Examples include SOAs, periodic statements of a client's holding under s1017D and confirmations of transactions under s1017F
Product Disclosure Statement (PDS)	A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act Note: See s761A for the exact definition.
provider	Any person (including a responsible entity, product issuer, Australian financial services licensee or authorised representative) who is required to give a financial services disclosure to clients under the Corporations Act or an instrument of relief

Term	Meaning in this document
Pt 7.6 (for example)	A Part in the Corporations Act (in this example numbered 7.6)
reg 7.7.01 (for example)	A regulation in the Corporations Regulations (in this example, numbered 7.7.01)
s1017F (for example)	A section of the Corporations Act (in this example numbered 1017F)
Statement of Advice (SOA)	A document that must be given to a retail client for the provision of personal advice under Subdivs C and D of Div 3 of Pt 7.7 of the Corporations Act Note: See s761A for the exact definition.

Related information

Headnotes

consent, financial services disclosure, Financial Services Guide, FSG, online, PDS, Product Disclosure Statement, SOA, Statement of Advice

Class orders

[CO 10/1219] *Facilitating online delivery of PDSs, FSGs and SOAs*

Legislation

Corporations Act, Ch 7, s940C, 1015C, 1017A(4), 1017B, 1017D, 1017DA, 1017F, 1019E(1), 1019G(3), 1019J(2)

Corporations Regulations, reg 7.7.01, 7.9.02A, 7.9.02B, 7.9.63I, 7.9.75A, 7.9.75B, 7.9.75BA

Consultation papers and reports

CP 93 *Facilitating online financial services disclosures*

CP 121 *Facilitating online financial services disclosures*

REP 223 *Response to submissions on CP 121 Facilitating online financial services disclosures*