

EXPLANATORY STATEMENT

Issued by authority of the Treasurer

Corporations Act 2001

Corporations Amendment (Portfolio Holdings Disclosure) Regulations 2021

Section 1364(1) of the *Corporations Act 2001* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Treasury Laws Amendment (Improving Accountability and Member Outcomes in Superannuation Measures No. 1) Act 2019* (the Act) introduced measures to increase the amount and quality of information available to superannuation fund members and other stakeholders. These measures have subsequently been amended by the *Treasury Laws Amendment (Your Future, Your Super) Act 2021*.

These included amendments to the ‘portfolio holdings disclosure’ regime to ensure that information is available to members about the portfolio holdings of superannuation funds.

The *Corporations Amendment (Portfolio Holdings Disclosure) Regulations 2021* support those amendments by prescribing the manner in which information provided under the portfolio holdings disclosure regime must be organised.

The regulations detail the information regarding the RSE’s portfolio holdings that must be made publicly available. However, in addition to these mandatory disclosures, RSEs are free to provide supplementary information regarding the portfolio holdings of the RSE’s products in a separate public disclosure

The amendments made by this instrument apply in relation to reporting days that occur on or after 31 December 2021 or the commencement of the Schedule, which ever is later.

These regulations were previously consulted on from 28 April 2021 to 25 May 2021. Following changes to the way portfolio holdings are to be organised and additional requirements for the format they are to be displayed in, the government has decided to consult again on these amendments. The main changes to the regulations following the first round of consultation are to:

- Introduce a requirement that the information should be easily downloadable from the website of the fund in a delimited file format;
- Allow cash and bank bill investments to be aggregated by the relevant institution;
- Sub-divide infrastructure and property into directly held and unitised and require percentage ownership for directly held; and

- Remove the requirement to disclose maturity dates and counterparty name for derivatives.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Regulations are set out in [Attachment A](#).

Details of the Corporations Amendment (Portfolio Holdings Disclosure) Regulations 2021

Section 1 – Name of the Regulations

This section provides that the name of the Regulations is the *Corporations Amendment (Portfolio Holdings Disclosure) Regulations 2021* (the Regulations).

Section 2 – Commencement

Schedule 1 to the Regulations commence on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Regulations are made under the *Corporations Act 2001*.

Section 4 – Schedule

This section provides that each instrument that is specified in the Schedules to this instrument will be amended or repealed as set out in the applicable items in the Schedules, and any other item in the Schedules to this instrument has effect according to its terms.

Schedule 1 – Portfolio Holdings Disclosure

Schedule 1 to the Regulations amends the *Corporations Regulations 2001* to prescribe the way in which portfolio holdings of a registrable superannuation entity (RSE) are to be disclosed for purposes of section 1017BB of the *Corporations Act 2001*.

Subsection 1017BB(1) in the *Corporations Act 2001* sets out the required information that is to be collected and disclosed in respect of an investment item allocated to an investment option. An investment item is an asset or a derivative.

Subsection 1017BB(3) in the *Corporations Act 2001* requires the trustee of an RSE, with the exception of trustees exempted under subsection 1017BB(4), to make publicly available information regarding the RSE's portfolio holdings in accordance with regulations if regulations are made for that purpose. Trustees of affected RSEs are required to publish information relating to investment items on the RSE website in an area that is accessible to the public at all times.

Item 1 of Schedule 1 inserts Subdivision 2E.2 into Part 7.9 of the *Corporations Regulations 2001*. Regulation 7.9.07Z provides that the regulations contained in the new Subdivision are made for purposes of sub-section 1017BB(3) of the *Corporations Act 2001* and provides for rules around how the information must be organised.

In general, information about an investment option must be organised in a manner consistent with the tables contained in the new Schedule 8D to the Regulations. The

tables provide for different methods of organising information depending on whether the investment item is an asset or derivative.

Sub-regulation (1) requires the information to be presented consistently with the tables in new Schedule 8D, and requires that the information should be easily downloadable from the website of the entity in a delimited file format. Delimited file formats are file formats such as .csv and .txt formats that allows data to be analysed more efficiently.

Sub-regulations 7.9.07Z(2) and (3) provide that information may be displayed using a different number of columns or rows, or with the use of subsidiary tables, but at a minimum information must be displayed consistently with the tables in Schedule 8D.

Recognising the interactive nature of websites, the required information may be dispersed and disclosed in multiple subsidiary tables as opposed to one single table, particularly when large amounts of information are required, as long as the information relates to that investment option and is easily accessible from those subsidiary tables and the information is available to be downloaded in a single delimited file format document.

An example of subsidiary tables is where each kind of investment item is disclosed in a separate tab of a table, so that the viewer can access the information about a specific kind of investment item by clicking the tab containing that information rather than scrolling down a screen.

Example tables for organising information for derivatives and investment options that are not derivatives are included in **Attachment B**.

Organising information for investment items that are not derivatives

The first table in Schedule 8D provides for the way information is to be organised and displayed for non-derivative investment items, subject to the organisation rules in regulation 7.9.07Z.

Figures expressed in the example tables in Attachment B are purely included for example purposes and are not intended to reflect a realistic portfolio of a RSE. Under section 1017BB of the *Corporations Act 2001*, trustees are only required to disclose investment items held by the RSE, an associate of the RSE or a pooled superannuation trust. It is not a full look-through model to the underlying asset.

The rows contain particular investment items and columns contain headings that provide details of: name/kind of institution or investment item, security identifier, units held, and a summary column containing the value or current price and weighting. For fixed income investment options, there are additional columns being: maturity, face value, and coupon. For property and infrastructure directly held by the RSE, trustees must also disclose the percentage ownership interest that the fund has in the asset.

For cash (including term deposits) and bank bills, amounts of the same currency should be aggregated based on the relevant institution (for example, ABC Bank). This means that amounts of the currency in different accounts held with the same

institution can be disclosed as a single aggregate figure (rather than individually disclosing the amount in each individual account).

The last row of the table is to show the aggregate of the totals of each kind of investment item disclosed in the table.

Weightings for each investment item can be calculated on the basis of the value of that investment item divided by the total value of all investment items (including derivatives).

Trustees are able to use a valuation methodology that is consistent with how investment items are valued for other purposes (for example, taxation or financial reporting). To ensure consistency across the table, all values in the table should be expressed in Australian dollars.

Organising information for derivatives

The method of displaying information on investment options that are derivatives is contained in the second table in Schedule 8D. Similar to the investments table, figures expressed in the example table in Attachment B are purely included for example purposes and are not intended to reflect a realistic portfolio of a RSE. It is recognised that some RSEs may not engage in all (or any) of the derivative transactions outlined in the table.

Additional information is required to be disclosed for derivatives to enable users of the table to obtain an increased understanding of these, more complex, derivative instruments. To the extent that the information in a particular column heading is not applicable to a particular instrument, the table can be filled in with an 'N/A'.

Similar to the investments table, weightings for each derivative can be calculated on the basis of the value of that derivative divided by the total value of all investment items (including derivatives). Trustees are able to use a valuation methodology that is consistent with how derivative items are valued for other purposes (for example, taxation or financial reporting). To ensure consistency across the table, all values in the table should be expressed in Australian dollars.

The amendments in Schedule 1 apply to the first reporting day either on or after 31 December 2021 or the first reporting day after the commencement of the Regulations, whichever occurs later. ASIC has deferred the first reporting day for portfolio holding disclosures in relation to reporting days that occur before 31 December 2021 in ASIC Class Order [CO14/433].

ATTACHMENT B

Portfolio Holdings Information for Investment Option A - Assets						Summary		
Name of Institution						Currency	Value (AUD)	Weighting (%)
Cash								
Bank A						AUD	\$20,000,000.00	%
Bank A						NZD	\$9,521,000.00	%
Bank B						AUD	\$10,000,000.00	%
Total							\$39,521,000.00	%
Name of Institution						Currency	Value (AUD)	Weighting (%)
Bank Bills								
Bank A						AUD	\$20,000,000.00	%
Bank B						NZD	\$9,521,000.00	%
Total							\$29,521,000.00	%
Name/kind of investment item	Security Identifier	Units held	Maturity	Face value	Coupon	Value (AUD)	Weighting (%)	
Fixed Income								
Australian Government Bond	AU0000145	45,300	Aug 1, 2021	45,300,000	1.50%, 6 months	\$45,149,000.00	%	
New Zealand Government Bond	NZ0000150	22,875	Sep 30, 2022	22,875,000	1.75% 6 months	\$29,819,000.00	%	

Total			\$74,968,000.00	%
Name/kind of investment item	Security Identifier	Units held	Value (AUD)	Weighting (%)
Equity				
Capella	CPL.AW	100,000	\$1,000,000.00	%
Menkalinan	MNK.LN	50,000	\$1,000,000.00	%
Total			\$2,000,000.00	%
Name/kind of investment item	Security Identifier	Units held	Value (AUD)	Weighting (%)
Property (unitised)				
ABC Property Trust	-	1	\$1,000,000.00	%
Total			\$1,000,000.00	%
Name/kind of investment item	Address	% of property held	Value (AUD)	Weighting (%)
Property (direct)				
XYZ Office	123 Super Street Sydney NSW	100%	\$1,000,000.00	%
Total			\$1,000,000.00	%
Name/kind of investment item	Security Identifier	Units held	Value (AUD)	Weighting (%)
Infrastructure (unitised)				

LMN Infrastructure Fund	-	100		\$1,000,000.00	%
Total				\$1,000,000.00	%
Name/kind of investment item	% Ownership			Value (AUD)	Weighting (%)
Infrastructure (Direct)					
XYZ Port	40%			\$1,000,000.00	%
Total				\$1,000,000.00	%
Name/kind of investment item	Security Identifier	Units held		Value (AUD)	Weighting (%)
Commodities					
Gold Bullion	-	10 oz		\$1,000,000.00	%
Total				\$1,000,000.00	%
Name/kind of investment item				Value (AUD)	Weighting (%)
Other				\$-	%
Total				\$-	%
Total Investment Items				\$151,010,000.00	%

Portfolio Holdings Information for Investment Option A - Derivatives

Name/kind of investment item	Bought/Sold Position	Number of Contracts	Amount per Contract	Price in Contract (Underlying)	Notional Amount	Currency of Contract	Value (AUD)	Weighting (%)	
Future Contracts									
Gold	Bought	10	10 oz	\$2,000	\$200,000	AUD	\$2,000.00	%	
USD	Bought	10	US\$100,000	\$1.31	\$1,310,000	AUD	\$13,100.00	%	
Total							\$15,100.00	%	
Name/kind of investment item	Bought/Sold position	Amount	Price in contract (underlying)	Notional Amount	Currency of Contract	Counterparty Credit Rating	Value (AUD)	Weighting (%)	
Forward Contracts									
Gold	Bought	100 oz	\$2,000	\$200,000	AUD	AA-	\$2,000.00	%	
USD	Bought	US\$1 million	\$1.31	\$1,310,000	AUD	AA-	\$13,100.00	%	
Total							\$15,100.00	%	
Name/Kind of investment item	Bought/Sold position	Option Type	Number of contracts	Currency of Contract	Notional Amount	Exercise Price	Counterparty Credit Rating	Value (AUD)	Weighting (%)
Options									
Gold	Bought	Call	10	AUD	\$200,000	\$2,000 per oz	AA-	\$10,000.00	%

Total							\$10,000.00	%
Name/kind of investment item	Amount	Price in Contract	Floating Benchmark (if applicable)	Notional Amount	Currency of Contract	Counterparty Credit Rating	Value (AUD)	Weighting (%)
Currency Swap USD for AUD	US\$1 million	\$1.31	NA	\$1,310,000	AUD	AA-	\$13,100.00	%
Interest Rate Swap Fixed for floating	US\$1 million	0.25bps	6mBBSW	\$25,000	AUD	AA-	\$250.00	%
Total							\$13,350.00	%
Other							-	-
Total							\$0	%
Total Derivative Items							\$53,550.00	%