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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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SUPERANNUATION LEGISLATION AMENDMENT (TRANSPARENCY  
MEASURES) BILL 2015

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EXPLANATORY MEMORANDUM

(Circulated by the authority of the  
Minister for Small Business and Assistant Treasurer,  
The Hon K O'Dwyer)



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## ***Glossary***

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The following abbreviations and acronyms are used throughout this explanatory memorandum.

<b><i>Abbreviation</i></b>	<b><i>Definition</i></b>
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
Bill	Superannuation Legislation Amendment (Transparency Measures) Bill 2015
Corporations Act	<i>Corporations Act 2001</i>
PHD	Portfolio Holdings Disclosure
RSE	Registrable Superannuation Entity
RIS	Regulation Impact Statement
The Review	The Cooper Review
SIS Act	<i>Superannuation Industry (Supervision) Act 1993</i>



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## ***General outline and financial impact***

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### **Outline**

The Superannuation Legislation Amendment (Transparency Measures) Bill 2015 (this Bill) makes amendment to the *Corporations Act 2001* (Corporations Act) to increase the quality of information available to superannuation fund members and employers while ensuring that the current obligations in the Corporations Act in relation to choice product dashboards and portfolio holdings disclosure are workable for industry.

Improving the quality of information through improved disclosure will increase transparency and allow consumers and employers to make informed decisions in respect to member's superannuation savings.

Transparency through improved disclosure is critical to the efficiency and operation of Australia's market based superannuation system, as it improves understanding, awareness and engagement across the community.

The two measures contained in this Bill, portfolio holdings disclosure (PHD) and choice dashboards will improve transparency while reducing potential costs for the superannuation industry.

***Date of effect:*** 1 July 2016

***Financial impact:*** Low. This Bill will have no financial impact on the Commonwealth.

### **Summary of regulation impact statement**

#### **Regulation impact on business**

***Impact:*** The full impact of this Bill will be assessed prior to the making of the regulation for the measures contained in this Bill.

***Main points:***

- An early assessment Regulation Impact Statement (RIS) has been prepared for this Bill.

*[Click here and insert the name of the Bill]*

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- It is recognised that the proposed amendments will significantly reduce compliance costs on the industry, while still ensuring increased transparency for superannuation fund members.
- Given the final cost implications of the proposed amendments will not be able to be determined without consideration of the content of the associated regulation, the explanatory statement to the Regulation will contain the final assessment RIS.



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# Chapter 1

## Choice Product Dashboards

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### Outline of chapter

1.1 The Government wishes to ensure the public disclosure of risk, return and fee information for regulated superannuation funds is easily accessible to consumers, while reducing the costs to superannuation funds of such disclosure.

1.2 To achieve this objective, the Government will amend the *Corporations Act 2001* (Corporations Act) to limit the requirement for a trustee of a regulated superannuation fund with five or more members to produce a choice product dashboard to the fund's 10 largest choice investment options, as measured by funds under management. The current requirement prescribes the provision of a product dashboard for all the fund's choice products. A power will be provided to prescribe by regulation how the dashboard must be displayed on the fund's website, and how information on the dashboard is to be set out.

### Context of amendments

1.3 The Corporations Act requires trustees of certain superannuation funds to publish on the fund's website a product dashboard. The dashboard provides a summary of information for consumers about each of the fund's MySuper and choice products.<sup>1</sup> Product dashboards are intended to assist members and other users such as regulators, review agencies and the media to more easily compare investment options. The dashboard is also intended to assist members to decide whether their current superannuation investment option is suitable for them or whether to switch into a different investment option.

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<sup>1</sup> The product dashboard requirements were introduced by the *Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012*, with changes being made by the *Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Act 2013*.

1.4 The product dashboard requirements are set out in section 1017BA of the Corporations Act. In summary:

- Subsection 1017BA(1) provides that trustees of regulated superannuation funds must produce a product dashboard for each of their MySuper products and choice products, and ensure that each product dashboard is available publicly on the fund website of each, is updated as required and contains the required information;
- Subsections 1017BA(2)-(3) provide that certain information must be included, in accordance with the regulations, in product dashboards;
- Subsection 1017BA(4) provides that product dashboards do not have to be published for investment options within a choice product in certain circumstances; and
- Subsection 1017BA(5) defines terms for the purposes of the product dashboard. The terms ‘choice product’, ‘member’, ‘MySuper product’, and ‘regulated superannuation fund’ are defined as having the same meaning as in the *Superannuation Industry (Supervision) Act 1993* (SIS Act) as these terms are used with the same underlying concepts and are superannuation specific.

1.5 The product dashboard requirements took effect for MySuper products on 31 December 2013. The *Corporations Regulations 2001* (Corporations Regulations) specify the detailed requirements regarding the presentation and content of the information in a product dashboard for a MySuper product (regulations 7.9.07L–7.9.07W). Australian Prudential Regulation Authority (APRA) Reporting Standard SRS 700.0 sets out the detailed requirements for product dashboards.

1.6 The product dashboard requirements for choice products were scheduled to take effect from 1 July 2014. Regulations specifying the detailed requirements regarding the presentation and content of the information in a product dashboard for a choice product have not been made.

1.7 Australian Securities and Investments Commission (ASIC) Class Order [CO 14/443] delays the requirement to provide choice product dashboards until 1 July 2016. The purpose of this deferral is to allow further consultation on both the legislation and regulation, and provide industry with a reasonable period to prepare for the detailed presentation and content requirements relating to the provisions.

## Summary of new law

1.8 The new law amends the existing provisions relating to product dashboards in section 1017BA of the Corporations Act. An important change limits the requirement to provide a product dashboard to a superannuation fund's ten largest choice investment options, as measured by funds under management, instead of for all investment options. The fund still has to provide a product dashboard for all its MySuper products.

1.9 A new power is provided to prescribe in regulations how a product dashboard must be displayed on a fund's website. This power will cover both MySuper products and choice investment options.

1.10 Certain types of choice products are excluded from the requirement to provide a product dashboard. A power to exclude further types of products by regulation is provided.

## Comparison of key features of new law and current law

<i>New law</i>	<i>Current law</i>
Trustees of regulated superannuation funds with five or more members must publish a choice product dashboard for each of their fund's ten largest choice investment options, as measured by funds under management.  For MySuper and choice lifecycle products, a separate dashboard must be provided for each lifecycle stage (in the case of choice lifecycle products, this rule only applies if the lifecycle product as a whole is among a fund's 10 largest choice investment options).	Trustees of regulated superannuation funds with five or more members must publish a product dashboard for each of the investment options within a fund's choice products.
Regulations setting out content and presentation requirements for choice product dashboards will be made separately.	Trustees must ensure that certain information is included, in accordance with the regulations, in a product dashboard for a choice product.  Regulations setting out content and presentation requirements have not been made.
Regulations can prescribe the manner in which MySuper and choice product dashboards must be disclosed publicly	Product dashboards must be available on the fund's website.

<i>New law</i>	<i>Current law</i>
Pooled superannuation trusts and eligible rollover funds will be exempted from the product dashboard requirements. A general power to provide further exemptions from the choice dashboard requirements by regulation will be inserted.	Product dashboards do not have to be published for investment options within a choice product in certain circumstances.
A number of further definitions will be inserted, including the important definition of a ‘qualifying choice investment option’ which restricts the choice product dashboard requirements to a fund’s 10 largest investment options.	A number of terms are defined for the purposes of the product dashboard requirements (for example ‘choice product’, ‘MySuper product’, and ‘regulated superannuation fund’).

## Detailed explanation of new law

### Schedule # — Product dashboards

#### *Corporations Act 2001*

1.11 A new subtitle ‘Making product dashboards publicly available’ is inserted before subsection 1017BA(1). *[Schedule #, item 1, Before subsection 1017BA(1)]*

1.12 This item repeals and replaces existing paragraph 1017BA(1)(a) which requires that a product dashboard must be available on a fund’s website for each of its MySuper products and choice products. New paragraph 1017BA(1)(a) requires a product dashboard to be available at all times on a fund’s website for each of a fund’s MySuper products and qualifying choice investment options.

1.13 ***Qualifying choice investment option*** is a new defined term which is inserted in subsection 1017BA(5) in this bill. It limits the product dashboard requirements to a fund’s ten largest choice investment options, as measured by funds under management. For lifecycle products, a separate product dashboard must be prepared for each lifecycle stage, as each stage is likely to have a different mix of investments. The requirement applies to both MySuper and choice lifecycle products. Relevant definitions, including the definition of a lifecycle stage, are provided in subsections 1017BA(4C), (4D) and (5). See the relevant paragraph below for further details. *[Schedule #, item 2, Paragraph 1017BA(1)(a)]*

1.14 This item repeals and replaces existing paragraph 1017BA(1)(e) which allows the regulations to prescribe how information must be set out in a product dashboard. New paragraph 1017BA(1)(e) includes this provision, and adds a new power for the regulations to prescribe how a product dashboard is to be displayed on a fund's website. Matters that could be prescribed using this power could include the presentation of particular information, for example fee information, using specified formats. With regard to the display of product dashboards on a fund's website, this power could be used for example to prescribe how consumers could access the dashboard from the fund's homepage, the types of links required, and the file formats that must be used for the dashboard. *[Schedule #, item 3, Paragraph 1017BA(1)(e)]*

1.15 A new subsection (1A) is inserted following subsection 1017BA(1) providing an exemption from the product dashboard requirements for pooled superannuation trusts and eligible rollover funds. A power is also created to provide further exemptions through regulations. If a product dashboard is being prepared for a choice product for the first time, because it is one of the qualifying choice investment options as determined at the end of the previous financial year, then a period extending until 1 October of the current financial year is provided before the dashboard must be made available. *[Schedule #, item 4, After Subsection 1017BA(1)]*

1.16 Paragraph 1017BA(2)(b) allows the regulations to prescribe other information that must be set out in a MySuper product dashboard. An additional power is provided allowing the regulations to prescribe that APRA or ASIC may issue instructions for how that other information is to be displayed. *[Schedule #, item 5, At the end of subsection 1017BA(2)]*

1.17 A new subsection (2A) is inserted following subsection 1017BA(2) creating a power to provide an exemption through regulations from the product dashboard requirements for MySuper products. *[Schedule #, item 6, After Subsection 1017BA(2)]*

1.18 Subsection 1017BA(3) is amended to ensure that it only applies to **qualifying choice investment options**, i.e. a fund's ten largest choice investment options, as measured by funds under management. *[Schedule #, item 7, Subsection 1017BA(3)]*

1.19 The wording 'for each investment option offered within the choice product' is removed from paragraph 1017BA(3)(a). These words are not required, as they are superseded by the changes made in the previous item 5 that make it clear that this entire subsection only applies to qualifying choice investment options. *[Schedule #, item 8, Paragraph 1017BA(3)(a)]*

1.20 Paragraph 1017BA(3)(b) allows the regulations to prescribe other information that must be set out in a choice product dashboard. An additional power is provided allowing the regulations to prescribe that APRA or ASIC may issue instructions for how any other information is to be displayed. *[Schedule #, item 9, At the end of subsection 1017BA(3)]*

1.21 Subsection 1017BA(4) is amended to ensure that it only applies to **qualifying choice investment options**, i.e. a fund's ten largest choice investment options, as measured by funds under management. *[Schedule #, item 10, Subsection 1017BA(4)]*

1.22 A minor amendment is made to paragraph 1017BA(4)(a) to make clear that it refers to the **qualifying choice investment options** mentioned in the first line in the subsection, as amended by the previous item. *[Schedule #, item 11, Paragraph 1017BA(4)(a)]*

1.23 A new paragraph is added to subsection 1017BA(4) providing a power to prescribe additional conditions by regulation which, if satisfied, would provide an exemption from the product dashboard requirements for **qualifying choice investment options**. *[Schedule #, item 12, At the end of subsection 1017BA(4)]*

1.24 A new subsection (4B) is inserted in section 1017BA amending the existing definition of **fee** in subsection 1017BA(5) to ensure that it applies to **qualifying choice investment options**. At the same time, the definition is simplified and shortened by using the defined term **excluded fee** (see the next item for an explanation of this term). New subsections (4C) and (4D) state that subsections 1017BA(1) to (4) apply to MySuper and choice lifecycle products as if each reference to a MySuper product and **qualifying choice investment option** was a reference to each lifecycle stage included in the product or investment option.

1.25 This means that a separate product dashboard must be prepared for each lifecycle stage of a MySuper lifecycle product or choice lifecycle investment option. The terms **lifecycle exception** and **lifecycle stage** used in subsections (4C) and (4D) are defined and explained in subsection 1017BA(5) as amended by this bill (see below for a detailed explanation). *[Schedule #, item 13, After subsection 1017BA(4A)]*

1.26 Two new definitions are inserted in subsection 1017BA(5). **Eligible rollover fund** is defined as having the same meaning as in the SIS Act. The term **excluded fee** is defined to include activity, advice and insurance fees as defined in the SIS Act. This term is used to simplify the definition of **fee** in new subsection (4B) (see previous item for an explanation of this change). *[Schedule #, item 14, Subsection 1017BA(5)]*

1.27 The definition of **fee** in subsection 1017BA(5) is amended to refer to the new definition in subsection (4B), as explained above.

[Schedule #, item 15, Subsection 1017BA(5) (definition of fee)]

1.28 Five further definitions are inserted in subsection 1017BA(5). The first definition makes it clear that the term **investment option** includes choice products that do not offer multiple investment options.

1.29 The second definition relates to the term **lifecycle exception** for a MySuper product by referring to the definition in subsection 29TC(2) of the SIS Act. That definition states that a **lifecycle exception** is a rule that allows gains and losses to be streamed to different groups of fund members based on age or other prescribed factors. The same definition is then applied to qualifying choice investment options.

1.30 The next definition of a **lifecycle stage** is linked to the definition of **lifecycle exception** in that it is defined as so much of a lifecycle MySuper product or **qualifying choice investment option** as is streamed to one of the groups of fund members to which gains and losses are streamed based on age or other factors.

1.31 **Pooled superannuation trust** is defined as having the same meaning as in the SIS Act.

1.32 The final definition concerns the important term **qualifying choice investment option**. This definition effects the change to the scope of the product dashboard requirements with respect to choice products, in that it limits the scope to the ten largest investment options within a choice product. Section 1017BA previously required a product dashboard to be produced for all investment options. The determination of the 10 largest investment options is to occur annually based on funds under management as of 30 June of the previous financial year. It is noted that all investment options are to be included in the calculation, including options closed to new investors. The note to this definition explains that for investment options that include lifecycle stages the funds under management of all stages must be added together in working out whether the option is a **qualifying choice investment option**. This outcome results from the fact that new subsection (4D) that provides for these options, a reference to a qualifying choice investment option is equivalent to a reference to each lifecycle stage of the investment option does not apply to subsection (5).

1.33 Finally, a power is provided to prescribe by regulation investment options that may be excluded from the calculation and therefore do not require a product dashboard. [Schedule #, item 16, Subsection 1017BA(5)]

1.34 Section 1021NA sets out a number of offences in relation to the product dashboard requirements in section 1017BA. The wording of paragraphs 1021NA(1)(b) and (c) is amended to reflect the changes made to section 1017BA by this bill. The fundamental offence remains the same, that is, failing to comply with the requirement in section 1017BA to make a product dashboard publicly available. *[Schedule #, item 17, Paragraphs 1021NA(1)(b) and (c)]*

1.35 Paragraph 1539(a) is amended to reflect that the MySuper product dashboard requirements took effect from 31 December 2013. *[Schedule #, item 18, Paragraph 1539(a)]*

## **Application and transitional provisions**

1.36 Paragraph 1539(b) is amended to specify that the product dashboard requirements with regard to choice products will apply from 1 July 2016. *[Schedule #, item 19, Paragraph 1539(b)]*



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## **Chapter 2**

# **Portfolio Holdings Disclosure**

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### **Outline of chapter**

2.1 This Chapter explains the amendments to the *Corporations Act 2001* that refine the requirements for RSE licensees to publish their portfolio holdings. The purpose of these amendments is to ensure that superannuation fund members, and their employers, have access to information about the portfolio holdings of superannuation funds, while minimising the compliance burden RSE licensees.

### **Context of amendments**

#### ***Existing requirements for trustees to publish details of portfolio holdings***

2.2 Under the current law trustees of an RSE (other than a pooled superannuation trust) must publish their fund's portfolio holdings on the fund's website twice a year (subsection 1017BB(1) of the Corporations Act).

2.3 The information must be sufficient to identify each financial product or other property, and the value of the investment in each financial product or property. The legislation does not differentiate between assets held in a fund's associated entities and its non-associated entities. As such, the same level of disclosure is required.

2.4 Disclosure is required for all assets the fund invests in on a full 'look-through' basis by including 'assets derived from assets' in the scope of investments covered by the provision. For example, this means that full disclosure must be made with respect to , multiple levels of investments.

2.5 To enable trustees to meet these obligations, a party acquiring a financial product from another party must notify the second party if the purchase is being made using the funds of the RSE and provide the second party with details of the RSE (subsections 1017BC(1)–(2) of the Corporations Act). Where this occurs, the second party is required to provide the trustees of the RSE with information on the financial product acquired and any other product or property acquired using assets of the RSE fund.( subsection 1017BC(3) of the Corporations Act).

2.6 The existing portfolio holdings disclosure requirements were introduced in 2012 by the *Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012*.

2.7 Commencement of these disclosure requirements was initially delayed until 1 July 2015 through the Australian Securities and Investments Commission (ASIC) Class Order CO14/443. The requirements were originally due to take effect from 31 December 2013. ASIC amended the Class Order on 1 May 2015, deferring the start for portfolio holdings disclosure reporting until 1 July 2016.

2.8 Consultation on the current PHD obligations have indicated that there are significant compliance costs in collecting and collating data for all assets held indirectly (held by third parties). Concerns have also been raised by some superannuation funds about the requirement to disclose data, which relates to private equity investments, unlisted assets and other commercial in confidence arrangements. The amendments in this Bill will address the comments in the consultation and other concerns raised by industry

## **Summary of new law**

2.9 The new law amends the existing portfolio holdings disclosure obligations in the Corporations Act. Two important changes are:

- The RSE must publish, for each of its investment options, information about the nature and value of financial products or other property that the RSE, or an associated entity of the RSE, has directly invested in. The obligation to include information about financial products, or other property that non-associated entities have directly invested in will be repealed; and
- The reporting obligations on parties to contracts and arrangements that acquire a financial product using the assets, or assets derived from assets, of an RSE will be repealed.

<i>New law</i>	<i>Current law</i>
RSEs will be required to publish, for each of its investment options, information about the nature and value of financial products or other property that it, or an associated entity, has invested in.	RSE's are required to disclose information at the entity level to identify the nature and value of assets held directly, through associated entities and non-associated entities.  For MySuper products that have a lifecycle option, RSE's are required to provide assets held at each lifecycle stage.
Information relating to the first investment in non-associated entities will need to be disclosed, assets held through non-associated entities will not be required to be disclosed.	Information on all investments held by the RSE, including both associated entities and non-associated entities are required to be disclosed.
RSEs will be required to obtain sufficient information from associated entities in order to comply with their requirements.	A party acquiring a financial product from an associated entity using the assets of an RSE must provide notification that the financial product or assets is being acquired using the funds of the RSE and supply the details of the RSE.
	Entities holding financial products acquired using the funds of an RSE are required to provide the RSE with information about the product being acquired and other products /property acquired using the assets of the RSE that are held by associated entities of the RSE. The entity will also have to notify the RSE about any other products/property acquired using the assets of the RSE that are held by associated entities of the RSE. The information has to be sufficient to enable the RSE trustee to satisfy the PHD regime requirements.
	If purchased through an agent, the agent must notify the seller that the product being acquired using the funds of an RSE and supply the details of the RSE.

## **Detailed explanation of new law**

### ***Trustees must publish details of portfolio holdings***

2.10 RSE licensees will continue to have an obligation to make publicly available the details of their portfolio holdings twice annually (at each reporting day), which will be 30 June and 31 December each year, by publishing this information on the fund's website within 90 days.

2.11 The details published must cover information sufficient to identify, for each investment option offered by the RSE:

- each financial product, or other property in in which the RSE, or an associated entity of the RSE has invested in; and
- the value of the investment in each financial product or other property.

*[Schedule #, item 1, paragraph 1017BB(1)(a) and paragraph 1017BB(1)(b)]*

2.12 The disclosure of a fund's portfolio holdings will provide its members with additional information in respect to where their member contributions are being directed. It is expected that given the detailed nature of the information required to be disclosed, financial analysts will disseminate the information to facilitate increased useability of the disclosed information.

2.13 Importantly, while the RSE must disclose information about an RSE, or an associate of the RSE's, investment in a non-associated entity, it does not need to disclose information about the investments of non-associated entities.

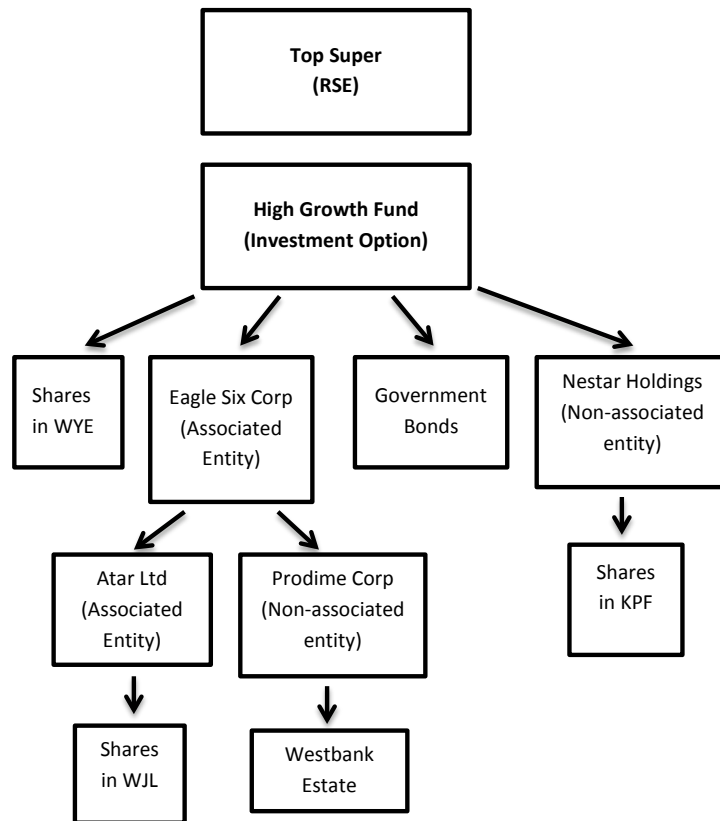
2.14 As required under the existing law the RSE must ensure that the information:

- continues to be made publicly available on the RSE's website until it makes the information pertaining to the next reporting period publicly available (subsection 1017BB(2)).
- is organised in accordance with the regulations. (subsection 1017BB(3))

**Example 2.1**

**PHD REGIME REQUIREMENTS FOR TOP SUPER'S HIGH GROWTH FUND**

**Diagram 2.1**



Top super has directed \$100 million of its member contributions into its High Growth Fund investment option.

High Growth Fund subsequently directed the \$100 million as follows:

- \$10 million in shares WYE;
- \$20 million in Government bonds;
- \$50 million in Eagles Six Corp (an associated managed investment scheme); and
- \$20 million in Nestar Holdings (a non-associated managed investment scheme).

*[Click here and insert the name of the Bill]*

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Subsequently:

- Eagles Corporation directed \$20 million (of the \$50 million) into Atar Limited (an associated entity) and \$30 million in Prodime Corporation (a non-associated entity); and
- Nestar Holdings directed \$20 million in shares KPF.

Finally:

- Atar Limited directed \$20 million in shares WJL; and
- Prodime Corporation directed \$30 million into the Westbank Estate commercial property.

### ***PHD regime requirements***

The table below sets out the disclosure requirements for the financial products and other property that Top Super has allocated to High Growth Fund.

<b><i>Financial product/property</i></b>	<b><i>Disclosure required?</i></b>	<b><i>Reason</i></b>
<b>Shares in WYE</b> \$10 million	Yes	Top Super directly invested in CBA shares.
<b>Eagle Six Corp MIS</b> \$50 million	Yes	Top Super directly invested in Eagle Corporation MIS.
<b>Atar Ltd</b> \$20 million (of the \$50 million invested in Eagle Corp MIS)	Yes	Eagle Corp MIS, an associated entity of Top Super directly invested in Atar Ltd.
<b>Shares in WJL</b> \$20 million (of the \$20 million invested in Atar Ltd)	Yes	Atar Ltd, an associated entity of Top Super, directly invested in ANZ shares.
<b>Prodime Corp</b> \$30 million (of the \$50 million invested in Eagle Corp MIS)	Yes	Eagle Corp MIS, an associated entity of Top Super directly invested into Prodime Corp.
<b>Westbank Estate</b> \$30 million (of the \$30 million invested in Prodime Corp)	No	Prodime Corp, a non-associated entity of Top Super directly invested in Westbank Estate.
<b>Government Bonds</b> 20 million	Yes	Top Super directly invested Government Bonds.
<b>Nestar Holdings MIS</b> \$20 million	Yes	Top Super invested directly into Nestar Holding MIS (a non-associated entity).
<b>Shares in KPF</b> \$20 million (of the \$20 million invested in BP shares).	No	Nestar Holdings, a non-associated entity of Top Super, invested directly in KPF shares.

### ***Exclusions from the disclosure requirements***

2.15 There are a number of exclusions from the PHD requirements to reduce the compliance burden on RSE's where the benefit of disclosure of investment details for members and their employers is limited. The exclusions cover the following circumstances:

- the RSE is a pooled superannuation trust, single member fund or a small APRA fund. *[Schedule #, item 2, paragraph 1017BB(4)(a)]*
  - Pooled superannuation trust has the same meaning as in the SIS Act.
  - Small APRA fund has the same meaning as in prudential standards determined under section 34C of the SIS Act. *[Schedule #, item 3, section 1017BB(6)]*
- an RSE's investment option has been closed to new members for at least 5 years (legacy products). *[Schedule #, item 2, paragraph 1017BB(4)(b)]*
- investments are made in financial products or other property allocated to a defined benefit fund. *[Schedule #, item 2, paragraph 1017BB(4)(d)]*
  - Defined benefit fund has the same meaning as in Division 3A of Part 8 of the SIS Act.
- RSE's may determine up to five per cent of the assets attributable to each of their investment options for which they are not required to make information publicly available. This provides an RSE with the flexibility to select a limited number of investments, which it considers to be commercially sensitive, to exclude from disclosure. *[Schedule #, item 2, paragraph 1017BB(4)(c)]*
- Where regulations determine financial products, or other property, that is not a material investment. Where appropriate, regulations can be made to exempt investments that are not considered material for complying with the PHD obligations. *[Item 2, paragraph 1017BB(4)(e)]*

2.16 The reporting obligations on parties to contracts and arrangements that acquire a financial product using the assets, or assets derived from assets, of an RSE will be repealed. These obligations were primarily designed to enable trustees to obtain information from non-associated entities. The amended obligations only extend to associated entities. *[Schedule #, item 4, sections 1017BC, 1017BD and 1017BE]*

2.17 The current offence provisions and the related defences that apply in respect to the PHD regime will continue to have application to the new PHD requirements.

## **Consequential amendments**

2.18 To remove the reference to the repealed provisions and omissions relating to:

- notifications the reference to subsection 1017BC(3) in paragraph 1020E(11)(c), and the application of paragraph 1022B(1)(h); including the “or” in Subparagraph 1022B(1)(g)(iii) *[Schedule #, items 5, 8 and 9, paragraph 1020E(1)(c), subparagraph 1022B(1)(g)(iii) and paragraph 1022b(h)]*;
- notifications the reference to 1017BC in subsection 1020E(11) (paragraph (d) of the definition of defective) *[Schedule #, item 6, subsection 1020E(11)]*;
- the application of section 1021NC *[Item 7, subsection 1021NC]*;
- references to 1021NC in subparagraphs 1022H(3)(a)(iii) and 1022K(1)(a)(iii) *[Schedule #, items 10 and 11, subparagraphs 1022H(3)(a)(iii) and 1022K(1)(a)(iii)]*;
- the table items 308AG, 308AH and 308AI in Schedule 3 *[Schedule #, item 12, Schedule 3(table items 308AG, 308AH and 308AI)]*
- the application provision relating to 1017BC *[Schedule #, item 14, section 1541]*

2.19 To establish the new application date of the subsection 1017BB(1) to apply to a reporting date of 31 December 2016. *[Schedule #, item 13, section 1540]*

## **Application and transitional provisions**

2.20 Part 10.25 has been inserted to provide the location for the Transitional provisions relating to the *Superannuation Legislation Amendment (Governance and Transparency Measures) Act 2015*. *[Schedule #, item 15, Part 10.25]*

2.21 The amendments made by this Schedule apply in relation to the reporting day that is 31 December 2016, and to later reporting days. *[section 1550]*