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## **13-007MR ASIC releases guidance on FOFA fee disclosure statements**

*Friday 25 January 2013*

ASIC today released guidance for Australian financial services (AFS) licensees and their representatives on how to comply with the fee disclosure statement (FDS) requirements under the Future of Financial Advice (FOFA) reforms.

Regulatory Guide 245 Fee disclosure statements ([RG 245](#)) outlines the requirements that will apply to AFS licensees and their representatives who receive ongoing fees from retail clients they have given personal advice to.

Under the FOFA reforms, advice providers receiving fees for giving personal advice under an ongoing arrangement with a retail client must provide the client with an annual FDS setting out information about:

- the fees paid by the client
- the services provided to the client, and
- the services that the client was entitled to receive.

This obligation is designed to help clients determine whether the ongoing fees they are paying are proportionate to the services they have received, or they were entitled to receive.

This regulatory guide explains:

- the FDS obligations and when they apply
- who must give an FDS
- the circumstances giving rise to the obligation to give an FDS, and
- the information that must be disclosed in the FDS.

The regulatory guide also sets out three limited no-action positions ASIC is taking to assist industry make a smooth transition to meeting the FDS obligations within the FOFA regime.

ASIC Commissioner Peter Kell said the regulatory guide addresses industry queries and assists with industry preparations to comply with the new obligations.

'This guidance provides an indication of what ASIC's approach will be in administering these important provisions, which are designed to provide clients with an opportunity to assess whether they are getting value for money for the advice they receive.

'Following consultation ASIC has released this regulatory guide to address practical difficulties for industry participants in complying with the fee disclosure statement obligations, without undermining the consumer protection goals of the provisions.

'ASIC will take a facilitative approach for the first 12 months of the FOFA reforms, until 1 July 2014. We expect industry participants to make a reasonable effort to comply with the new

regime, and we will take a measured approach where inadvertent breaches arise, or system changes are underway.

'However, where we find deliberate and systemic breaches we will take stronger regulatory action.

'We look forward to continuing to work with industry in the lead up to the compulsory compliance date for FOFA on 1 July 2013,' Mr Kell said.

- ▶ [Download RG 245](#)
- ▶ [More about ASIC's FOFA guidance](#)
- ▶ [Attend a FOFA workshop](#)

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## 13-355MR ASIC Update on FOFA

*Friday 20 December 2013*

The Assistant Treasurer, Senator the Hon. Arthur Sinodinos, today announced proposed amendments to the Future of Financial Advice (FOFA) legislation.

Consistent with ASIC's stance during the introduction of other major policy reforms, we are taking a facilitative approach to the FOFA reforms until mid-2014 (refer: [13-007MR](#)).

While we will take enforcement action where we see deliberate breaches of the new requirements or failure to make reasonable efforts to comply, our focus during the facilitative period will continue to be on education and assistance. Accordingly, we are working closely with financial advisers and product providers to ensure understanding and compliance with the FOFA requirements.

In light of this approach, ASIC will not take enforcement action in relation to the specific FOFA provisions that the Government is planning to repeal. For example, we will not take action for breaches of current section 962S of the *Corporations Act 2001*, which requires fee disclosure statements to be provided to retail clients with ongoing fee arrangements entered into before 1 July 2013.

ASIC will review and consult on its regulatory guides on FOFA once the proposed amendments have been made.

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