

APPENDIX 5: DISCLOSURE FOR LIABILITY PRODUCTS

INSTITUTION	PRODUCTS	EXISTING REGULATOR	DISCLOSURE REQUIREMENTS
Banks	<ul style="list-style-type: none"> • Deposits 	Reserve Bank	Legislation: <ul style="list-style-type: none"> • Trade Practices legislation • Corporations Law if debentures. General nature of requirements: No “prescriptive requirements” unless debentures. General test whether misleading conduct under the Trade Practices legislation.
Life Insurance Companies	<ul style="list-style-type: none"> • Risk products, including <ul style="list-style-type: none"> – life insurance, – disability insurance, – trauma insurance. 	ISC (life group)	Legislation: <ul style="list-style-type: none"> • Life Insurance Act (ISC Circular G.I.1) • Trade Practices legislation General nature of requirements: <ul style="list-style-type: none"> • The ISC Circular contains highly “prescriptive” requirements including key features requirements.
			<ul style="list-style-type: none"> • It should be noted that strictly the Life Circular has no legislative basis as yet; foreshadowed consumer protection provisions under that legislation are yet to be introduced.
			<ul style="list-style-type: none"> • The liability provisions under the Trade Practices legislation do not contain “due diligence” defences - compare SIS and the Corporations Law (see below).
	Investment (non-super) products, including insurance bonds. <ul style="list-style-type: none"> • May be: <ul style="list-style-type: none"> – capital guaranteed or not – participating or not 	ISC (life group)	Legislation: Life Insurance Act (ISC Circular G.I.1) Trade Practices legislation General nature of requirements: See note above.
	Superannuation products <ul style="list-style-type: none"> • May be: <ul style="list-style-type: none"> – capital guaranteed or not – participating or not. 	ISC (super group)	Legislation: Life Insurance Act Trade Practices legislation Superannuation Industry (Supervision) (“SIS”) legislation (including ISC’s 153 Determination) General nature of requirements:

INSTITUTION	PRODUCTS	EXISTING REGULATOR	DISCLOSURE REQUIREMENTS
			The SIS legislation contains highly “prescriptive” requirements including key features requirements. These are however different to those that apply to non-super life products under ISC Circular G.I.1.
			There are a number of inconsistencies between the different legislative requirements, including that the SIS legislation contains “due diligence” defences for directors and the issuing company and the other legislation does not.
	Annuities, which may be: <ul style="list-style-type: none"> - allocated - fixed term - life 	ISC (life group)	Legislation: ISC Circular G.I.1 Trade Practices legislation General nature of requirements: Same note as for risk and investment products above.
Public Unit Trust Managers	Non-super trust schemes.	ASC	Legislation: Corporations Law Trade Practices legislation General nature of requirements: The Corporations Law contains the traditional “prospectus” requirements. Under the Corporations Law this is currently a comparatively “non-prescriptive” general disclosure test - in broad terms the investor must be given all information he or she and their professional advisers would reasonably need to make an investment decision. There are a number of inconsistencies between the Corporations Law and Trade Practices requirements, including that the former contains “due diligence” defences for directors and the issuing company and the latter does not.
Superannuation Trustees	Non-life insurance based super investment products May include allocated pensions	ISC (Super Group)	Legislation: SIS legislation (including ISC’s 153 Determination) Trade Practices legislation
			General nature of requirements: The SIS legislation and ISC

INSTITUTION	PRODUCTS	EXISTING REGULATOR	DISCLOSURE REQUIREMENTS
			Determination contain highly “prescriptive” requirements including key features requirements.
			There are a number of inconsistencies between the SIS and Trade Practices requirements, including that the former contains “due diligence” defences for directors and the issuing company and the latter does not.