

# Dollar disclosure: what you need to know

Just when you think you understand how to comply with your Australian Financial Services Licence, Batch 8 dollar disclosure arrives, writes PAULA ZAMMIT.

**D**isclosure, disclosure. Everything at the moment has something to do with disclosure. Whether it's soft dollar disclosure or ensuring that disclosure is 'clear, concise and effective', one thing is for certain – disclosure is here to stay.

And it is likely to excite the Australian Taxation Office (ATO) too.

The latest Corporations Act amendments are all about dollar disclosure. Known as 'Batch 8', the amendments are now in place, however, there is a six-month transition period. But with July already well underway, there is no time to lose.

From January 1, 2005, licensees, their representatives and product issuers must disclose the costs, benefits, remuneration and fees in dollar terms in their statements of advice (SOA), product disclosure statements (PDS) and periodic statements (PS).

Disclosure is with respect to benefits that might reasonably be expected to be or have been capable of influencing the providing entity in offering the advice.

However, if the benefits are not reasonably expected to influence the person providing the advice, then no disclosure is required.

Whether you like it or not, Batch 8 is aimed at providing further consumer protection – in particular, providing the consumer with clear, concise and effective information. Expect that it will be read with the widest of applications when it is finally reviewed by a court.

So, if with every particular financial product placed you receive a bottle of wine you must place a dollar value on this, if it influenced you. But what if you don't drink wine and didn't drink the wine given?

An authorised representative, in their SOAs, must disclose in dollar amounts, remuneration, or other benefits that any of the providing entity, an employer of the providing entity, the authorising licensee, an employee or director of the authorising licensee or an



associate of any of these entities may receive.

An authorised representative must also disclose in dollar amounts in their SOAs any other interest, whether pecuniary or not, and whether direct or indirect, of the providing entity, any employer of the providing entity, the authorising licensee or any associate of any of those persons.

As with everything, Batch 8 allows for exceptions. The Australian Securities and Investments Commission (ASIC) has the power to determine that an industry participant need not disclose the information in dollar amounts, but there must be compelling reasons.

How ASIC will interpret what are compelling reasons will be of some interest. Batch 8 suggests that compelling reasons requires that dollar amount disclosure would need to impose an unreasonable burden or an unreasonable



Getting the message out: advisers must now provide dollar disclosure of any benefits received in relation to clients' investments.

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burden within a time period, or for it to not be in the interest of the client.

If ASIC does make such a determination it doesn't mean you are off the hook, you still must disclose.

You simply fall back to the old disclosure set out as a percentage of an amount or by way of description of the

method of calculating the remuneration. But what is unreasonable?

I can imagine your head is spinning as you read this article. Just when you think you understand how to comply with the terms of your Australian Financial Services Licence – bang! Batch 8 arrives.

While you have six months to transition, you may consider slowly implementing the new disclosure requirements now.

Why, I hear you ask?

In our industry, we only have a couple of months to breathe before the onslaught of the Christmas period frenzy. I know if it were my choice, I would prefer to have the new requirements implemented prior to this period and any Christmas holiday I hope to enjoy.

But don't act too early, as the debate will now commence as to what value the dollar

amounts must be with respect to benefits.

Regularly check the ASIC web site for assistance on implementing Batch 8. A policy statement on the issue of dollar disclosure should be released in the next two months.

I aim to provide some guidance in a future article as to what may be considered a benefit that influences and what the dollar disclosure may be. It is important you know this because the ATO will want to see you put the dollar disclosure into your taxation return and also include it in your BAS statement.

And remember, when you're putting the dollar disclosure in your SOA, your tax return and your GST BAS – whatever you do, don't spill the wine... it makes them much harder to read.

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## BATCH 8 – AT A GLANCE

On July 1, 2004, Batch 8 Regulations commence with dollar disclosure required in SOA, PDS and PS. A six-month transition period applies – you must comply by January 1, 2005, or face ASIC.

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| <b>Exceptions</b>  | <ul style="list-style-type: none"> <li>■ Dollar disclosure not required if ASIC makes determination; but there must be compelling reasons.</li> <li>■ Compelling reasons may require that dollar amount disclosure would impose an unreasonable burden or an unreasonable burden within a time period, or for it to not be in the interest of the client.</li> </ul> |
| <b>What's new?</b> | <ul style="list-style-type: none"> <li>■ Disclosure in dollar amounts (including commissions and benefits that influence).</li> </ul>  |
| <b>Issues</b>      | <ul style="list-style-type: none"> <li>■ What benefits need to be disclosed and how do you disclose those benefits in dollar amounts?</li> <li>■ Taxation consequences of the benefits you do disclose.</li> </ul>   |