



**Ethical Investment Association**

**Formal Response to the draft Corporations  
Amendment Regulations 2004/05: Fee Disclosure and  
Other Regulations**

***With special reference to the 'Consumer Advisory Warning'  
on Page 23 of the Consultation Draft***

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The Manager – Investor Protection Unit  
Corporations and Financial Services Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

This submission is made by the Ethical Investment Association (EIA) in respect of the Fee Disclosure Draft Regulations released for consultation on 23 December 2004.

The EIA is a representative membership body for organisations and professionals working in the area of socially responsible investment (SRI). The EIA also aims to help investors learn more about how they can become socially responsible investors. Detailed information about the EIA is available on our website: [www.eia.org.au](http://www.eia.org.au)

The EIA is concerned over the wording of Clause 219 in Schedule 9A of the Draft Regulations - the Consumer Advisory Warning (CAW) to appear in all superannuation and managed investment Product Disclosure Statements (PDSs). In particular we are concerned over the wording in the third sentence:

“You should consider whether investment features such as superior investment performance, provision of better member services, or ethical and social considerations justify higher fees and costs.”

Our concern is that this statement strongly infers that “ethical and social considerations” are linked with “higher fees and costs”. We believe this sends a worrying message to consumers that SRI and higher costs are inextricably linked. We believe this in turn makes SRI less attractive to consumers as they are likely to believe the SRI is always the high cost option as a result of the CAW’s inference, regardless of what the product’s actual fee is.

To the best of the EIA’s knowledge, there is no evidence conclusively demonstrating a link between a SRI/ethical investment style and comparatively higher fees. While fees are an important consideration, particularly in an environment of choice of superannuation, the proposed statement in the CAW ignores that other investment strategies may often carry “higher costs” as well.

The statement also infers that higher fees and costs will generate superior investment returns, another spurious and potentially misleading statement.

The EIA would suggest two forms of alternative wording:

**Form 1: reference to choice:**

**“You should consider whether investment features such as the possibility of higher returns, more investment choices or additional member services justify higher fees and costs.”**


**Form 2: simple removal of the phrase ‘social and ethical considerations’:**

**“You should consider whether investment features such as superior investment performance or provision of better member services justify higher fees and costs.”**

The EIA would also like to note that for both of the suggested forms above, there will be no need for the footnote included at the bottom of the proposed CAW in the draft regulations. This will be a significant improvement in terms of appearance and readability of the warning box, hopefully resulting in better outcomes for consumers.

The EIA apologise for the lateness of this submission but is hopeful the matters raised are given due consideration. If you have any questions or comments please feel free to contact me on 02 6201 1900

Yours sincerely

A handwritten signature in black ink, appearing to be 'DP', with a horizontal line extending to the right.

Duncan Paterson  
Board Member, Ethical Investment Association  
CEO, Centre for Australian Ethical Research (CAER)

# **Background 1: The Ethical Investment Association**

## ***What is the Ethical Investment Association?***

The Ethical Investment Association (EIA) was formed in 1999 and is Australia's peak membership body for professionals and professional organisations working in the area of Socially Responsible Investment (SRI).

The EIA exists to promote the concept, practice and growth of SRI and to represent the best interests of its members to the investment industry, government, the media, regulators and the public.

Almost every fund manager and financial adviser working in SRI in Australia is a member of the EIA, together with many other professionals who work toward similar goals.

### **EIA Achievements and Plans for the Future**

- Produced four annual conferences bringing together key players in the SRI field from Australia and abroad;
- Played a key role in the development and passage of the FSRA Disclosure Bill and ASIC SRI Disclosure Guidelines;
- Developed and presented the Ethical Investment Association SRI Training Course for Financial Advisers and gained accreditation for 6 CPD points;
- Conducted a major public awareness campaign on SRI;
- Established a new website, which has become the country's key portal for the location of SRI products, services and information
- Conducted four annual benchmarking surveys to track the size and growth of SRI in Australia, which are frequently cited by the media and publications here and abroad;
- Produced a series of events called Harvest: Sustainable Company Briefings, designed to showcase leading companies from sectors such as renewable energy, forestry and waste management to potential investors;
- Acted as a key spokesperson in the media for issues related to SRI;
- Prepared a website campaign for 2005 for Choice of Super;
- Prepared a promotional campaign for 2005 to assist consumers to make use of the new Ethical Product Disclosure Statements.

### ***Benefits of EIA membership***

Join the EIA and become part of a co-ordinated, united group working to promote the growth of SRI in Australia.

#### **Benefits of EIA Membership include:**

- The opportunity to write about your organisation on the EIA website, which is Australia's central portal for information about SRI products and services;
- The opportunity to promote your products and services at EIA conferences;
- The opportunity to apply to use the SRI Recognition Symbol;
- Representation in policy development;
- An opportunity to network with the core of the SRI industry;
- Discounts to all EIA events;
- The opportunity to participate on the EIA Committee and to vote on EIA resolutions;
- The opportunity to work closely with other EIA members in industry collaborations.

## Background 2: Socially Responsible Investment Shows Rapid Growth

Nearly all forms of socially responsible investment (SRI) in Australia continued to grow dramatically over the past year – rising to at least \$21.5 billion by 30 June 2004. This is an increase of 1% since the benchmarking study in 2003. The total of all areas of SRI except shareholder resolutions grew by 26% overall in the past year. In the three years since the first benchmarking study in 2001, SRI in Australia has doubled.

The \$21.5 billion in socially responsible investment assets identified by this benchmarking study include:

- \$3.3 billion managed SRI funds
- \$168 million private SRI portfolios managed by financial advisers
- \$7.2 billion investments by religious organisations
- \$327 million invested by charitable trusts using SRI criteria
- \$7.2 billion employer superannuation funds using SRI overlays
- \$322 million community finance investment
- \$3 billion shareholder resolutions on environmental and social issues

Assets of SRI managed funds in Australia grew by 41% between June 2003 and June 2004, more than twice as fast as the overall Australian retail and wholesale investment market (which grew 18% over that period). Since June 2000, SRI managed fund assets in this country have achieved a staggering growth rate of 920%.

The number of SRI managed funds has also increased substantially. In 1996, there were 10 funds. The 2001 baseline study of SRI in Australia identified 46 funds; Ethical Investor magazine now lists 89 ethical managed funds.

Investments in all categories except shareholder action have also shown significant growth. Private portfolios managed by financial advisers grew by 32% this year, and have increased by 113% over the past three years.

Funds invested by charitable trusts using SRI criteria have shown an increase of 48% since last year, and a spectacular growth of 6,400% over the past three years.

A growing number of superannuation funds are offering their members the opportunity to invest in a socially responsible manner. Some employer super funds have either established an ethical or SRI investment option or have appointed a fund manager to manage a mandate that is explicitly defined as ethical or SRI.

Other superannuation funds use an overlay to take account of social responsibility criteria while continuing to use traditional methods for selecting investments. (A fund using an overlay typically identifies environmental, social or other risks to a company in which it is investing, and then meets with the company to discuss ways of overcoming or reducing the risks.) Superannuation funds using an overlay approach have a total of \$7.2 billion in assets, up by 40% since last year.

Community finance programs increased by 69% since last year. These programs provide capital to people who have difficulty obtaining it through conventional channels or are underserved by conventional lending institutions. The increase over the past three years is a dramatic 148%.

Shareholder activism has definitely been on the rise over the past few years. A very large proportion of shareholder action concerns issues of corporate governance. Although many or most of the corporate governance resolutions introduced at Annual General Meetings (AGMs) can certainly be considered relevant to the social responsibility of the companies involved, our benchmarking study took a relatively focused approach, restricting our coverage to resolutions covering environmental or social issues. The major activity in this area was spearheaded by the Wilderness Society, which succeeded in gaining support for an anti-

woodchipping resolution from 25% of the shares voted at an AGM of the Commonwealth Bank in October 2003. This appears to be the largest support for a shareholder resolution in Australia's corporate history, surpassing the previous record of 23%, which was set by a Wilderness Society resolution in the previous year. The assets represented by the vote totalled \$3 billion.

The \$21.5 billion in SRI investments identified in this report is a conservative estimate; details on many other probable areas of investment were unable to be obtained for this survey.

### ***The Survey***

In September and October 2004, we surveyed financial advisers, institutional investors and community finance providers to determine the assets they control or manage under socially responsible investment guidelines. We also contacted groups involved in shareholder action. Data on ethical/SRI managed funds and on superannuation funds with ethical/SRI options was provided by Rainmaker Information. All data were based on investments as of 30 June 2004.

The figures in this report update results of the EIA benchmarking study conducted in 2003. The benchmarking reports for 2003, 2002 and 2001 are available on the website of the Ethical Investment Association, <http://www.eia.org.au>

Deni Greene Consulting Services conducted the research for the Ethical Investment Association.