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Simplification team
Australian Securities and Investments Commission
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Melbourne VIC 3001
Via email: simplificationconsultativegroup@asic.gov.au

REP 813 - Feedback on platforms instrument simplification proposals

Dear ASIC's Regulatory Simplification Team,

The FSC welcomes the opportunity to provide specific feedback on ASIC's proposals for the simplification of the IDPS and IDPS-like scheme instruments, as set out in Attachment D of Report 813 *Regulatory Simplification*. We support the intent of this work and appreciate ASIC's focus on reducing regulatory complexity for platform operators while maintaining appropriate investor protections.

General feedback on platforms instrument simplification proposals

The proposed simplification of the platform instrument is helpful, removes redundant terminology and overall improves the structure and navigability of the regulatory framework. We particularly welcome the proposed removal of quarterly investor reporting obligations in favour of continuous electronic access to account information, as this reduces the administrative burden of producing statements that are rarely accessed by investors.

The FSC observes that there are additional changes that could be made to the draft legislative instrument to fulfil its intent of reducing regulatory complexity for platform operators, and in that spirit makes the **following recommendations**:

1. That ASIC keep the legislative instruments for IDPSs and IDPS-like schemes distinct.

We do not perceive a clear benefit in combining the two existing instruments. IDPS and IDPS-like schemes are designed for distinct audiences and retaining separate instruments better reflects the structural and operational differences between them.

2. That ASIC provide relief from the requirement to issue annual investor statements for accounts with a zero balance or no transactions during the financial year.

This relief could be achieved through an addition or amendment to s912ADC(4) of the draft instrument. Such a change would deliver meaningful efficiency gains for platform operators without compromising investor understanding, as investors with inactive or nil-balance accounts derive little to no practical benefit from receiving these statements.

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3. That ASIC make clarifications around operationalising the notional s912ADC(3)

We welcome the simplification of reporting obligations under the proposed s912ADC(3), which replaces quarterly statements with continuous electronic access. However, further guidance would assist platform operators to operationalise the provision consistently.

In particular, we seek ASIC's clarification that:

- **Valuation basis (notional s912ADC(3)(b))** - Platform operators may use the sell price for managed funds and market price for listed ETFs and shares when determining "net market value", without needing to adjust for bid/ask spreads or brokerage costs, provided it includes information explaining the prices that have been used. This approach aligns with the information generally held by a platform administrator.

- **Expenses disclosure (notional s912ADC(3)(c))** - The requirement to show "expenses of the client in relation to the IDPS and assets held through the IDPS" applies only to direct fees and expenses charged or accrued on the platform. The FSC also seeks clarification that operators are not expected to display indirect costs associated with underlying investments, which are typically not available to the platform on an up-to-date basis.

These clarifications would help ensure consistent application across industry and avoid the need for unnecessary system changes where data is not reasonably accessible to the operator.

Furthermore, for MDA service providers to rely on the proposed s912ADC(3) of the draft instrument, ASIC should consider updating RG 179 Managed Discretionary Accounts. In particular, the paragraphs 104-109, which currently require MDA operators to provide quarterly statements to clients should be amended to reflect the new requirement to provide clients with electronic access to this information and the removal of the obligation to issue quarterly reports.

4. That ASIC does not remove the exception that allows retail clients to invest in unregistered schemes in certain circumstances.

Subsections 912AD(25)(c)-(d) of the current instrument (*ASIC Corporations (Investor Directed Portfolio Services) Instrument 2023/669*) provides that a platform operator may acquire interests in an unregistered managed investment scheme (MIS) for a retail client if it reasonably believes that:

- had the client invested directly, the scheme would not have been required to be registered, and
- even if all holdings through custodial arrangements were counted, the scheme still would not have needed registration.

Feedback from our members indicates that some IDPS operators **do rely** on this provision to facilitate investment in unregistered schemes.

5. That ASIC promote consistency in IDPS Guide disclosure

While the proposed change (notional s912ADA(3)-(6)) to simplify the content requirements of the IDPS Guide is positive in intent, the removal of prescriptive requirements may result in inconsistent disclosure across platform operators.

We recommend that ASIC provide additional guidance or examples to clarify the minimum disclosure expectations for an IDPS Guide. This would help ensure that investors receive a consistent level of information across the industry while maintaining the benefits of a principles-based approach.

6. That ASIC clarify reliance on Chapter 7 disclosure provisions for IDPS-like schemes

Under proposed change (notional s1013DAB(1)), ASIC intends to simplify the additional content requirements for Product Disclosure Statements (PDSs) of IDPS-like schemes by relying on the existing disclosure obligations in Chapter 7 of the *Corporations Act 2001*.

This simplification seems sensible in principle, but it may be unclear which parts of Chapter 7 ASIC expects IDPS-like scheme issuers to rely on. To avoid confusion, ASIC should cross-reference the new, simplified section to those specific Chapter 7 disclosure provisions, so that responsible entities know which standards still apply.

Additional Feedback – Breach Reporting Portal

We would also like to raise an additional pain point unrelated to the platform instruments. The current layout and workflow of ASIC's breach reporting portal is not intuitive nor user-friendly, creating unnecessary administrative burden for licensees. We would welcome ASIC considering improvements to simplify and streamline the portal as part of its broader simplification program.

We appreciate ASIC's efforts to progress regulatory simplification in this area and encourage continued engagement with industry to ensure reforms deliver both efficiency and clarity while maintaining appropriate safeguards for investors. If you would like to discuss this matter further, please contact Julia Hukka, Policy Manager, Advice and Platforms, on 0432 482 155 or email jhukka@fsc.org.au.

Yours sincerely,

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