27 February 2026

The Treasury
Langton Crescent
PARKES ACT 2600

Via email: MISregulation@treasury.gov.au

Dear Sir/Madam

Joint Association Submission: Enhancing oversight and governance of managed investment schemes

Chartered Accountants Australia and New Zealand (CA ANZ), CPA Australia, the Institute of Public Accountants (IPA) and the SMSF Association (the Joint Associations) welcome the opportunity to provide this submission to the Treasury consultation on *Enhancing oversight and governance of managed investment schemes.*

The Joint Associations represent accounting, taxation, reporting, audit, financial advisory and SMSF professionals who work closely with investors and advisers and observe, firsthand, the consequences of managed investment scheme (MIS) failures. We support a strong MIS regulatory framework that improves investor outcomes, promotes confidence in Australia's financial system and balances consumer protection with innovation and market efficiency.

This submission builds on the Joint Associations' September 2023 submission to Treasury's Review of the regulatory framework for managed investment schemes[1], and is intended to add to positions in that submission which were either:

- explicitly stated in that submission; or
- are clearly consistent with principles articulated in that submission.

In this submission, we have asked two key questions:

- Can the problem be better defined with reference to data demonstrating that problem? and
- Would such problems be better addressed through preventative measures which stop unsafe products making it onto the market in the first place?

The Joint Associations support targeted reforms that strengthen MIS governance, improve compliance plan quality, and enhance the effectiveness of compliance plan audits. These measures align with concerns raised in our 2023 submission and represent an important step toward improving investor protection and confidence in the managed funds sector.

[1] Negline, T., Kasapidis, E., Stylianou, V. and Scotchbrook, T. (2023). *Review of the regulatory framework for managed investment schemes*. [online] Canberra: Commonwealth of Australia. Available at: https://tinyurl.com/4udsy9hr [Accessed 19 Feb. 2026].

CHARTERED ACCOUNTANTS AUSTRALIA + NEW ZEALAND
CPA AUSTRALIA
IPA INSTITUTE OF PUBLIC ACCOUNTANTS
SMSF ASSOCIATION

However, perhaps more importantly we are calling for reform to the MIS application and approval process. We understand that ASIC's review of applications is limited to an assessment of whether a scheme satisfies the legislative criteria in section 5C of the *Corporations Act*, including ensuring that each scheme's constitution, compliance plan and governance arrangements satisfy ASIC.

In a speech to the FSC[2], Joe Longo, ASIC Chair, expressed concern that ASIC has limited powers to prevent registration of an MIS:

> *The bar is so low to register one, it basically serves no barrier to entry at all. It doesn't matter if the underlying asset is alpacas or meme coins – if the fund has a valid trust deed and disclosure document, ASIC has to register it.*

This is not acceptable and poses high potentials risks that the underlying investments are not suitable for retail investors. This includes situations where investments designed for wholesale or sophisticated investors are made available to retail investors through arrangements such as platforms or superannuation funds. Where a compliance plan is registered and a scheme is approved by ASIC, retail investors can reasonably form the expectation that the scheme has met a minimum standard of quality and governance, and that it is appropriate for retail distribution. If the regulatory framework allows schemes with weak, generic or poorly calibrated compliance arrangements to be registered, it risks undermining investor confidence and creating a misleading perception that regulatory approval equates to product quality or safety, when in practice it does not.

It is imperative that the findings of past failures are addressed, with resolutions to mitigate the chance of these happening again.

We note that this consultation addresses a number of complex issues within a relatively short timeframe, and that these issues give rise to broader policy considerations beyond the scope of this submission. We therefore intend to raise those matters separately through future engagement. We would also welcome continued engagement with Treasury and relevant regulators in our capacity as the associations representing accounting, taxation, reporting, audit, financial advisory and SMSF professionals in Australia.

[2] Longo, J. (2025). *Forward together: Addressing misconduct in financial services*. [In-person] Available at: https://tinyurl.com/mu76fvec [Accessed 24 Feb. 2025].

If you have any questions about our submission, please do not hesitate to contact Richard Webb, Superannuation Lead at CPA Australia on richard.webb@cpaaustralia.com.au .

Sincerely,

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Attachment

Improving MIS Governance

Proposal 1: Enhance the regulatory framework for compliance

Question 1

What are your views on proposals 1.1 to 1.4 to enhance the compliance framework for MISs?

The Joint Associations broadly support proposals 1.1 to 1.4.

In our 2023 submission, we raised concerns about the quality and effectiveness of compliance plans and compliance plan audits, noting that many plans are high-level generic documents that meet minimum statutory requirements without meaningfully addressing scheme specific risks.

We support strengthening compliance plan quality and audit effectiveness but note that these proposals operate after registration and therefore have limited preventative effect. In its submission to the Senate Inquiry into the Sterling Income Trust collapse[3], CPA Australia highlighted that many MIS failures arise from commercially flawed business models that pass formal registration thresholds, exposing a gap between compliance formality and substantive risk prevention. Accordingly, enhanced compliance plans and audits should be complemented by stronger ASIC supervision and earlier intervention powers to prevent high-risk schemes entering the market.

We support Proposal 1 (1.1–1.4) as a necessary strengthening of the compliance and assurance framework for managed investment schemes, particularly in improving the quality, auditability and enforceability of compliance plans and compliance plan audits.

We note that Proposal 1 is intended to change behaviour in practice. However, we believe this can only be achieved with 'better' compliance plans that create clearer and auditable criteria.

Proposal 1.1 is proposing requiring more detailed description of the nature of the scheme and its investment strategy, and information outlining how significant risks will be identified, monitored and managed. However, it is unclear what level of details is required, how would 'significant risks' be defined, will it be defined in legislation/instrument or left principles based.

We are generally supportive of Proposal 1.2 to amend the liability framework for compliance plans so that liability attaches only to material contraventions of a plan. This approach is conceptually sound and better aligned with how assurance frameworks, regulatory enforcement and professional judgement operate in practice. However, we note that the effectiveness of this reform will depend critically on how materiality is defined, calibrated and operationalised. This is pivotal to how auditors frame findings and "exceptions" in assurance reporting. If the threshold for materiality is set too high or is insufficiently clear, there is a risk that this proposal could weaken early-warning signals rather than strengthening them.

[3] Pflugrath, G. (2021). *Inquiry into Sterling Income Trust*. [online] Melbourne: CPA Australia. Available at: https://tinyurl.com/9mrak2bp [Accessed 25 Feb. 2026].

We are also supportive of Proposal 1.3 in making existing audit and assurance standards mandatory for auditors including ASAE 3100 *Compliance Engagements* (ASAE 3100) for audits of compliance plans. This proposal is both sensible and proportionate. In practice, many compliance plan audits are already conducted in accordance with ASAE 3100, supported by GS 013 *Special Considerations in the Audit of Compliance Plans of Managed Investment Schemes* (GS 013) issued by the Auditing and Assurance Standards Board (AUASB). Accordingly, we view this proposal largely as formalising and reinforcing established good practice, rather than introducing a new or untested assurance burden. In addition, the APES 210 *Conformity with Auditing and Assurance Standards* also specify that members of professional accounting bodies have professional obligations in respect of:

- compliance with Auditing and Assurance Standards; and
- consideration of relevant Auditing and Assurance Guidance.

Therefore, the audit and assurance standards and guidance have the mandatory force for application.

We also support Proposal 1.4 to increase transparency around compliance committee membership, noting the important gatekeeper role these committees perform in monitoring compliance and protecting investors. We consider that requiring notification of committee member changes is a proportionate and low-cost intervention that improves regulatory visibility without imposing substantive new governance or assurance obligations on responsible entities. However, we emphasise that the value of Proposal 1.4 lies not in the notification requirement itself, but in how the information is integrated into ASIC's broader oversight and early-intervention framework.

As we noted before, we are also of the view that these reforms primarily operate after a scheme has already been registered, which materially limits their preventative effectiveness. Without rigorous upstream gatekeeping or earlier intervention powers, Proposal 1 risks improving post-registration detection rather than preventing poor quality or high-risk schemes from entering the market in the first place.

Question 2

Should the framework for compliance plans be amended to include more specific content requirements?

We support amending the framework for compliance plans under section 601HA of the *Corporations Act 2001* to include more specific content requirements.

The current legislative framework sets out only high-level minimum requirements for compliance plans. While ASIC guidance (including Regulatory Guide 132) articulates expectations that compliance plans be tailored to the nature, scale and complexity of each scheme, these expectations are not expressly reflected in the legislation itself. Consequently, section 601HA permits compliance plans that technically meet statutory requirements but remain generic, high-level and insufficiently focused on the material risks of individual schemes.

This has important downstream consequences for assurance. Compliance plan audits can only assess compliance against the plan as drafted. Where plans lack specificity, it becomes difficult for auditors to meaningfully assess whether controls are operating effectively or to distinguish between minor process deviations and substantive governance failures. In this

sense, the quality of the compliance plan directly constrains the effectiveness of compliance plan audits and, by extension, regulatory oversight.

In addition to our response to Proposal 1.1 above, we caution against excessive prescription that could reduce flexibility or impose disproportionate compliance costs, particularly where responsible entities operate multiple schemes with similar risk profiles. Any amendments to section 601HA should strike a balance between ensuring sufficient specificity to support meaningful assurance and regulatory enforcement and preserving flexibility for responsible entities to design controls appropriate to their business models. We also note that any new requirements will be unlikely to achieve much, without closer oversight and supervision regarding any non-compliance reported.

Question 3

Who should set and enforce standards for compliance plan audits?

The Joint Associations support making compliance plan audits subject to mandatory audit and assurance standards issued by the Auditing and Assurance Standards Board (AUASB), including ASAE 3100.

Compliance with these standards should be monitored and enforced by ASIC.

As set out in our 2023 submission, expressly requiring compliance plan audits to be conducted in accordance with applicable auditing and assurance standards would:

- improve audit quality and consistency;
- clarify auditor obligations; and
- strengthen ASIC's ability to take regulatory action where standards are not met.

Question 4

Are any other changes required to strengthen the compliance framework?

In our 2023 submission, the Joint Associations highlighted ASIC's limited ability to intervene proactively once a scheme is registered, even where governance weaknesses or commercially flawed business models are evident.

In a speech to the FSC[4], Joe Longo, ASIC Chair, expressed concern that ASIC has limited powers to prevent registration of an MIS:

> *The bar is so low to register one, it basically serves no barrier to entry at all. It doesn't matter if the underlying asset is alpacas or meme coins – if the fund has a valid trust deed and disclosure document, ASIC has to register it.*

It should however be acknowledged that ASIC have powers under the Design, Distribution and Obligations (DDO) provisions under Part 7.8A of the *Corporations Act* to make interim or final stop orders to prevent the issue, sale or distribution of a financial product and or limiting ongoing distribution where there is no Target Market Determination (TMD) or a defective or inappropriate TMD.

[4] Longo, J. (2025). *Forward together: Addressing misconduct in financial services*. [In-person] Available at: https://tinyurl.com/mu76fvec [Accessed 24 Feb. 2025].

The introduction of DDO has been described as a "game changer", however to date has not been effective in preventing the recent failures we have seen amongst MISs.

Downstream of registration, ASIC has limited ability to intervene proactively once a scheme is registered. In the Sterling Income Trust submission[5], CPA Australia questioned whether the current framework appropriately protects consumers where ASIC's role is confined to assessing legal form rather than commercial viability. Strengthening compliance plans and audits should therefore be paired with upstream gatekeeping or earlier intervention mechanisms to prevent investor harm before it occurs.

While improved compliance plans and audits are important, they will be most effective when paired with regulatory settings that support early intervention and proactive oversight, rather than reliance on enforcement after investor harm has occurred.

Question 5

What would the impacts of the proposals be, including compliance costs?

The Joint Associations acknowledge that enhanced compliance requirements may increase overall compliance costs for responsible entities, however we do not expect costs to increase if audit and assurance standards are made mandatory, since these are already mostly adhered to in practice presently. That said, we consider that any additional compliance costs are justified given the significant investor harm and broader system costs arising from MIS failures.

Improved compliance plan quality and audit effectiveness should reduce the likelihood of scheme failures, investor losses, and downstream costs borne by compensation arrangements and the financial system more broadly.

Proposal 2: Require a majority of external directors on the boards of responsible entities

Questions 6 and 7

Should responsible entities be required to have a majority of external board members? Are there enough external directors available in Australia to meet this proposal?

The Joint Associations support stronger independent oversight for responsible entities of registered managed investment schemes, including a requirement for a majority of external directors, provided the framework is proportionate, risk-based and supported by appropriate transitional arrangements. Prior consultation and inquiry responses from the bodies separately[6] have consistently supported governance reforms that strengthen board oversight and accountability, while recognising practical constraints for smaller entities and the need to avoid undue capacity constraints and cost impacts flowing to consumers. In their submission to APRA's governance review[7] CPA Australia and CA ANZ supported governance uplift measures while noting the importance of proportionality and implementation feasibility (including talent constraints).

[5] As previously cited in this submission
[6] See, for example, Hunter, A. (2023). *Invitation to make a submission to the Inquiry into Australian Securities and Investments Commission Investigation and Enforcement* [online] Canberra: Commonwealth of Australia. Available at: https://tinyurl.com/87h28fr4 [Accessed 25 Feb. 2026].
[7] Webb, R. and Negline, T. (2025). *APRA's Governance Review Discussion Paper (March 2025)* [online] Sydney: Chartered Accountants Australia and New Zealand. Available at: https://tinyurl.com/nhabfzeh [Accessed 20 Feb. 2026].

Some ways that these could be achieved include:

- Allowing a phased transition period for smaller responsible entities and those needing to restructure boards.
- Clarify that "external" status is a minimum and consider whether "independent" is necessary for certain higher-risk models only (e.g., RE-for-hire structures), to maintain proportionality.
- Permit external specialists to attend and advise board committees without voting rights.

CPA Australia and CA ANZ also noted in that submission that there may be capacity constraints in the market for suitably qualified external directors, particularly if reforms commence quickly or apply uniformly across all responsible entities regardless of size and complexity. In their APRA governance review response[8] CPA Australia and CA ANZ flagged the practical reality that smaller entities can face talent constraints when governance requirements are tightened. They therefore recommend transitional arrangements and proportionality mechanisms (for example, staged commencement, targeted exemptions or alternative oversight mechanisms for lower-risk entities) to mitigate unintended impacts.

Question 8

Are any other changes required to address conflicts of interest and ensure independent oversight of MISs?

The Joint Associations support additional measures to reduce conflicts of interest, particularly where poor governance and conflicted structures are a systemic driver of consumer harm. Our submissions on consumer protection and compensation arrangements have consistently emphasised the need to prevent and detect conflicts earlier, not only remediate after losses crystallise. For example, in our joint submission on professional indemnity insurance (within the CSLR context)[9], we observed that PII is not a substitute for upstream prevention and called for stronger monitoring and enforcement to detect poor conduct and conflicts before they become systemic failures.

Practical measures could include:

- Strengthening requirements for conflicts management, including clearer disclosure of relationships and incentives across the chain (product, platform, advice, and scheme).
- Require boards (or external directors) to oversee documented conflicts and related-party risk frameworks, including escalation triggers to ASIC.
- Consider targeted scrutiny of "trustee/RE-for-hire" or outsourced-accountability models, which have been raised as governance concerns in industry discussions.

Question 9

What would the impacts of the proposal be, including compliance costs?

The Joint Associations expect additional governance requirements will impose incremental costs (director fees, recruitment, governance processes), and these costs may ultimately be

[8] As previously cited
[9] Gibson, H., Webb, R., Davison, M. and Burgess, P. (2026). *Joint Association Submission: Enhancing the effectiveness of financial services professional indemnity insurance*. [online] Melbourne: CPA Australia. Available at: https://tinyurl.com/4par72wc [Accessed 20 Feb. 2026].

borne by investors. However, we consider these costs may be justified where they reduce the probability and severity of failures that lead to widespread consumer losses and remediation costs. We have taken a similar "costs vs consumer protection outcomes" approach in other consultations[10], supporting reforms where they are proportionate and reduce downstream harm.

Proposal 3: Prohibit responsible entities of registered MISs from conducting related party transactions, with limited exceptions

Question 10

Should responsible entities of MISs be prohibited from investing or lending money to companies that are controlled by a member of the responsible entity's board or companies that are related bodies corporate of the responsible entity? What exceptions would be required?

The Joint Associations support strengthening the framework for related party transactions to materially reduce conflicts of interest and misuse of scheme assets. Our CSLR/PII joint submission[11] emphasises that the regulatory system should be able to detect and respond to conflicts and misconduct earlier, rather than relying on end-stage compensation. Our prior work has repeatedly highlighted that conflicted structures and related-party product arrangements can amplify consumer harm and undermine confidence.

Under APES 110- Code of Ethics for Professional Accountants, there is a requirement that if the conflict cannot be eliminated or adequately managed, the accountant must not accept the engagement or must resign from it. We would expect at the very minimum a similar standard be applied to the MIS arrangements.

We therefore support a prohibition in principle, with approvals only granted on a case-by-case basis as determined by ASIC.

Some suggestions for building safeguards could include:

- Permit related party transactions only where there is documented arm's-length evidence, for example, independent valuation where relevant and independent governance approval (for example, approval by external directors or an independent committee) endorsed by ASIC.
- Require enhanced disclosure of related-party exposures and "look-through" where schemes invest through related vehicles.
- Extend Financial Accountability Regime to directors on the Responsible Entity board.

Question 11

Are any other changes required to ensure investment decision making by the responsible entity is in the best interests of scheme members?

Beyond restricting related party transactions, reforms should increase accountability for decision-making where conflicts exist, intervene early where governance weakness and/or conflicts are present, and improve regulatory visibility of risk build-up. Our submissions on

[10] Most recently in Gibson, H., Webb, R., Davison, M. and Burgess, P. (2026). *Joint Association Submission: Enhancing the effectiveness of financial services professional indemnity insurance*. [online] Melbourne: CPA Australia. Available at: https://tinyurl.com/4par72wc [Accessed 20 Feb. 2026].
[11] As previously cited

financial system consumer protection reforms[12] emphasise prevention and early intervention where governance weaknesses or conflicted conduct is present.

Chapter 5C of the Corporations Act primarily regulates registered managed investment schemes. While registered schemes may be offered to both retail and wholesale clients, schemes that are offered exclusively to wholesale clients are generally not required to be registered. As a result, the compliance and governance obligations set out in Chapter 5C do not apply to unregistered schemes.

In our joint 2023 submission[13], and subsequently in our submissions to the Parliamentary Joint Committee on Corporations and Financial Services in 2024[14] [15], the Joint Associations raised concerns regarding the continued appropriateness of the current wholesale client tests. These tests have remained largely unchanged since their introduction more than two decades ago, despite significant changes in economic conditions, asset values, average salary and wages and household wealth over that period.

When the wholesale client thresholds were first implemented, it was estimated that approximately 2 per cent of Australian adults in 2002 would meet the individual wealth criteria required to be classified as wholesale clients. By contrast, by 2021 this proportion had increased to approximately 16 per cent. Modelling indicates that, if the thresholds remain unchanged, the proportion of Australian adults meeting the wholesale client criteria is expected to increase to 29 per cent by 2031 and to 44 per cent by 2041[16].

This growth reflects broader structural trends, including asset price inflation and wage growth, rather than increased financial sophistication or investment capability. As a consequence, an increasing number of investors are being captured by the wholesale client classification and are therefore excluded from the consumer protections that apply to retail clients.

The expansion of the wholesale client cohort has important regulatory implications. As more investors exceed the wholesale thresholds, a growing proportion of the investing public is able to access unregistered managed investment schemes that are not subject to the governance, disclosure, and compliance requirements under Chapter 5C. This raises concerns about the adequacy of investor protections and whether the current wholesale client tests continue to operate as an effective proxy for investor sophistication.

The Joint Associations have therefore recommended that the wholesale client thresholds be reviewed and updated to ensure they remain fit for purpose and appropriately balance access to investment opportunities with the need for consumer protection within the managed investment scheme framework.

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[12] Most recently in Gibson, H., Webb, R., Davison, M. and Burgess, P. (2026). *Joint Association Submission: Enhancing the effectiveness of financial services professional indemnity insurance*. [online] Melbourne: CPA Australia. Available at: https://tinyurl.com/4par72wc [Accessed 20 Feb. 2026], but also CPA Australia in Pflugrath, G. (2021). *Inquiry into Sterling Income Trust*. [online] Melbourne: CPA Australia. Available at: https://tinyurl.com/9mrak2bp [Accessed 25 Feb. 2026].
[13] Negline, T., Kasapidis, E., Stylianou, V. and Scotchbrook, T. (2023). *Review of the regulatory framework for managed investment schemes*. [online] Canberra: Commonwealth of Australia. Available at: https://tinyurl.com/4udsy9hr [Accessed 19 Feb. 2026].
[14] Negline, T., Subramanian, R., Stylianou, V. and Scotchbrook, T. (2024). *Inquiry into wholesale investor and wholesale client tests* . [online] Canberra: Commonwealth of Australia. Available at: https://tinyurl.com/mt9sjj8y [Accessed 25 Feb. 2026].
[15] Scotchbrook, T. (2024). *SMSF Association submission - Inquiry into wholesale investor and wholesale client tests*. [online] Canberra: Commonwealth of Australia. Available at: https://tinyurl.com/btp85bpd [Accessed 25 Feb. 2026].
[16] Phillips, B. (2021). *Research note: Sophisticated Investor Projections*. [online] Canberra: Australian National University, p.8. Available at: https://tinyurl.com/3r2z9v48 [Accessed 25 Feb. 2026].

Questions 12 and 13

What would the impacts of the proposal be, including compliance costs? Where a responsible entity has a separate investment manager, should the investment manager be prohibited from being a related party?

Compliance costs may increase due to required independent approvals, documentation, valuation, and monitoring. However, improved controls on related-party transactions should reduce the risk of severe investor losses and broader system costs associated with scheme failure and remediation. Our CSLR-related submissions highlight the importance of reducing systemic drivers of consumer harm rather than relying on downstream compensation mechanisms.

The Joint Associations support exploring targeted restrictions where related-party investment management materially increases conflicts risk, particularly for retail-facing products. A more proportionate approach may be to require strong governance safeguards and transparent disclosure rather than a blanket prohibition, recognising legitimate vertical integration models can exist. The guiding principle should be ensuring conflicts are identified and avoided and that scheme members' interests are prioritised.

Proposal 4: Amend the framework for setting financial requirements for responsible entities

Question 14

Should more specific financial resource requirements should be imposed on responsible entities (in addition to the general obligation to have adequate resources under section 912A(1)(d) of the Corporations Act)?

The Joint Associations support consideration of more specific financial resource requirements where this improves investor protection and supports orderly transfer/wind-up outcomes, including compensation and remediation obligations. In various CSLR submissions[17] [18] (and previous consultations[19]) we have consistently emphasised that confidence in the system depends on participants being able to meet compensation and remediation responsibilities, and that "last resort" mechanisms should not become a default due to inadequate financial resources or ineffective upstream safeguards.

Question 15

Should the MIS financial requirements (including the net tangible asset requirement for responsible entities) continue to be set by ASIC using its exemption and modification powers in the Corporations Act or should the requirements be set out in primary legislation or regulations?

The Joint Associations generally support frameworks that are clear, transparent, and adaptable to changing market conditions. A principles-based legislative framework supported by enforceable and updateable instruments or regulatory standards may balance certainty with flexibility. Well defined regulatory objectives assist regulated entities, auditors and regulators to understand the purpose of requirements and apply them consistently,

[17] As previously cited
[18] Gibson, H., Webb, R. and Davison, M. (2025). *Compensation Scheme of Last Resort ('CSLR'): exceeding sub-sector levy cap* . [online] Melbourne: CPA Australia. Available at: https://tinyurl.com/2s4k5p9x [Accessed 20 Feb. 2025].
[19] Pflugrath, G. (2021). *Inquiry into Sterling Income Trust*. [online] Melbourne: CPA Australia. Available at: https://tinyurl.com/9mrak2bp [Accessed 25 Feb. 2026].

improving both compliance outcomes and enforcement effectiveness. Our preference would be for requirements to be set in regulations, as future adjustments may be necessary.

We note that in other consultations by the Joint Associations separately[20] [21] we have supported approaches that improve clarity and navigability of regulatory obligations and allow for iterative updates.

Question 16

Should the objectives of the MIS financial requirements be specified in primary legislation or regulations to provide more clarity about the purpose of the requirements?

Yes. Clearly specifying regulatory objectives in legislation would improve interpretability and accountability and reduce uncertainty about what the requirements are intended to achieve. This aligns with our broader position that regulatory frameworks should be transparent and fit-for-purpose.

Question 17

Are any other changes to the framework for determining MIS financial requirements required?

ASIC could consider risk-based financial requirements that take into account scale, liquidity profile, distribution model, upstream funds management and supply chain model, and ensure requirements align with how consumer harm emerges in practice, including through interconnected advice/platform channels.

Our most recent CSLR submission[22] emphasised that systemic failures often involve multiple parties and poor outcomes are not prevented by a single safeguard. Whilst the context of that submission was professional indemnity insurance regarding the provision of financial advice the principles would also apply to MISs.

The problem of ensuring that unsafe products have a safeguard prior to issue is one that ASIC freely admit to. We note that in their submission[23] to the *Review of the regulatory framework for managed investment schemes*, ASIC explains at paragraph 50 that:

> *Over the last 10 years, ASIC has received, on average, 230 scheme registration applications per year, with each registration often requiring several hours to complete. Given the narrow grounds on which we may refuse to register a scheme or request improvements to scheme documents as part of the application process, we rarely refuse to register a scheme.*

ASIC also reports that (at paragraph 55)

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[20] See views expressed by CPA Australia in Kasapidis, E. (2025). *Regulatory simplification: REP 813* [online] Melbourne: CPA Australia. Available at: https://tinyurl.com/6kdn2hmu [Accessed 20 Feb. 2026].
[21] Webb, R. (2025a). *Compensation Scheme of Last Resort post-implementation review – Terms of reference* [online] Melbourne: CPA Australia. Available at: https://tinyurl.com/4c2m82dy [Accessed 20 Feb. 2025].
[22] Gibson, H., Webb, R., Davison, M. and Burgess, P. (2026). *Joint Association Submission: Enhancing the effectiveness of financial services professional indemnity insurance.* [online] Melbourne: CPA Australia. Available at: https://tinyurl.com/4par72wc [Accessed 20 Feb. 2026].
[23] ASIC (2023). *Review of the regulatory framework for managed investment schemes Submission by the Australian Securities and Investments Commission* [online] Canberra: Australian Securities and Investments Commission. Available at: https://tinyurl.com/58x8edt6 [Accessed 25 Feb. 2026].

> *Currently, there are limited grounds under the Corporations Act on which ASIC may refuse to register a managed investment scheme, as set out in paragraph 46. As discussed in the consultation paper, the registration of schemes has been misunderstood by some investors to mean that ASIC has scrutinised and/or endorsed the merits of the scheme's investment strategy (i.e. a 'halo effect').*

We consider these statements to encapsulate ASIC's processes at registration where improvements could be made.

Question 18

What would the impacts of the proposal be, including compliance costs?

More specific and/or higher requirements may increase costs (capital allocation, compliance) but may reduce investor harm and costs of collapse/remediation. This is consistent with a recurring position (spelled out in a recent submission by CA ANZ, CPA Australia and IPA[24]) that preventative settings reduce downstream costs and reliance on last-resort mechanisms.

Enhancing ASIC's access to MIS data

Proposal 5: Increase ASIC's data collection powers on the retail MIS sector

Questions 19 to 23

Should a new legislative framework be introduced for the recurrent collection of data by ASIC on MISs? What types of recurrent data could help to detect risks, including conduct or fund level risks in the retail MIS sector? What data should be collected about MISs? What event notifications should be provided to ASIC? For example, should there be a notification when redemptions are frozen or suspended? What would the impacts of the proposal be, including compliance costs?

In principle, provided the framework is designed to avoid duplication and minimise regulatory burden, we could support the introduction of a new legislative framework. Our submissions and engagements have variously supported "tell us once" style approaches and better data usage to reduce repetitive reporting and improve oversight outcomes.

Recurrent data that supports early detection should focus on core risk indicators such as flows, liquidity constraints, valuation practices for illiquid assets, complaints trends, and use of intermediaries. We have previously highlighted the importance of improving transparency and regulatory visibility to identify risks earlier and reduce consumer harm. Additionally, we note that a well-designed data framework may impose new reporting costs but can also reduce *ad hoc* information requests and improve the timeliness of intervention.

A proportionate dataset might include: investment strategy summary, asset allocation bands, liquidity profile, related party exposures, key service providers, material changes, and complaints/IDR trends. This is aligned with our broader submissions favouring clear, consumer-protective disclosures and evidence-based oversight.

Event-based notifications can be an efficient way to alert ASIC to material consumer-risk events. These should be limited to clearly defined triggers to avoid over-reporting and

[24] Gibson, H., Webb, R. and Davison, M. (2025). *Compensation Scheme of Last Resort ('CSLR'): exceeding sub-sector levy cap* . [online] Melbourne: CPA Australia. Available at: https://tinyurl.com/2s4k5p9x [Accessed 20 Feb. 2025].

ensure the signal is meaningful. This aligns with our longstanding preference for proportional reporting that improves regulatory response without excessive compliance burden.

While our 2023 submission did not explicitly address ASIC's data collection powers, we did raise repeated concerns about ASIC's limited ability to proactively identify and respond to governance and scheme risks before consumer harm occurs. Measures that enhance ASIC's visibility of scheme level risks and support earlier intervention would be consistent with the Joint Associations' objective of preventing scheme failures rather than responding after investor losses have occurred.

Enhancing ASIC's visibility of superannuation switching

Proposal 6: Alerts to ASIC about superannuation switching

Questions 24

Would a mandatory alerts regime for superannuation trustees be the most effective means of improving ASIC's visibility of problematic super switching behaviour?

The Joint Associations support strengthening ASIC's visibility of high-risk switching patterns, including consideration of a mandatory alerts regime, provided it is designed as an intelligence mechanism (patterns-based) rather than an obligation to investigate every individual transaction. Our DBFO consultation responses (see, for example, CPA Australia[25]) supported consumer protections including assessment and record-keeping duties and monitoring obligations, alongside an ability for ASIC to restrict behaviour where harm is likely.

However, we note that where there are existing reporting and other obligations including transaction processing times, we have concerns that additional mandatory reporting could come into conflict with these. The 'tell-us-once' policy is also likely to be impacted by such a requirement, where similar requirements exist for other regulators such as AUSTRAC, APRA and the ATO. Consideration needs to be given to whether there are more efficient and extant ways of gathering this data.

Questions 25

What types of suspected conduct or patterns of behaviour should be reportable to ASIC?

Reportable patterns could include spikes in rollovers associated with specific financial adviser/AFS licensee identifiers, unusual clusters of financial advice-fee deductions or repeated switching concentrated among vulnerable cohorts. This is consistent with the consultation paper's framing and with our broader focus on early identification of misconduct and conflicts.

Questions 26

What, if any, existing barriers prevent transferring funds from:

- *Reporting issues to ASIC where they identify potential concerns?*
- *Identifying suspicious behaviour or potential misconduct by a third party, such as financial adviser or the receiving fund?*

[25] Webb, R. (2025b). *Improving access to affordable and quality financial advice* [online] Melbourne: CPA Australia. Available at: https://tinyurl.com/3ms86xz5 [Accessed 20 Feb. 2025].

Barriers may include uncertainty about thresholds for reporting, privacy constraints, operational burden, fear of legal exposure and reluctance to share information that could trigger disputes with other entities in the chain. We have consistently supported clearer regulatory guidance and frameworks that make compliance expectations more navigable and defensible.

Questions 27

What barriers may impact the ability of trustees to meet this new reporting obligation?

Implementation challenges may include data standardisation across funds, identifying reliable identifiers for advisers/licensees, systems uplift and ensuring alerts are sufficiently high-signal to be useful. Prior "red tape and systems" submissions repeatedly highlight that obligations should be aligned with what data is realistically available and should not impose disproportionate implementation cost.

Questions 28

Under a data reporting approach:

- *What data should be reported?*
- *Are there existing data or reporting lines which could be leveraged?*

A periodic approach could leverage existing reporting lines and focus on aggregated, de-identified indicators where feasible (for example, counts and rates of rollovers flagged by defined criteria), with escalation to entity-level detail only when thresholds are met.

Significant data is currently being reported to APRA and ATO that could be leveraged and utilised and repurposed, subject to privacy constraints to highlight and identify any concerns or trends prevalent in the superannuation switching space. Data used and gathered via SuperStream could also be repurposed.