



22 May 2026

The Treasury  
Langton Crescent  
PARKES ACT 2600

BY ELECTRONIC LODGEMENT

Dear Sir/Madam,

**SMSF ASSOCIATION SUBMISSION – Curbing Lead Generation Activity: Consultation Paper**

The SMSF Association welcomes the opportunity to make this submission in response to Treasury's consultation on options to curb harmful lead generation activity in financial services.

The Association supports the Government's objective of preventing consumers from being pressured, misled or channelled into inappropriate superannuation switching, financial product advice or investment arrangements. The consultation paper identifies conduct that may occur at the very beginning of a distribution chain, before a consumer reaches a licensed financial adviser, APRA regulated APRA superannuation trustee, platform or financial product issuer. That upstream conduct can be decisive. Where it is commercially motivated, opaque and outside the financial services regulatory framework, it has the potential to expose consumers to significant financial harm.

At the same time, reforms must distinguish harmful commercial lead generation from legitimate education, factual information, professional services and consumer-initiated advice. This distinction is particularly important for the SMSF sector. SMSFs are an established and integral component of Australia's superannuation system, and many SMSF trustees rely on accountants, auditors, lawyers, tax professionals and licensed financial advisers for education, compliance support and professional advice. The regulatory response should target unlicensed and conflicted influence over consumer decisions, not ordinary professional interactions or SMSF trustee education.

In our view, the most effective reform package would bring high-risk lead generation activity, with the view that the activity is considered providing a financial service, within the AFS licensing regime, prevent cold-call models from being cleansed by later provided licensed financial advice, prohibit conflicted referral and lead payments, and provide ASIC with faster intervention powers in relation to harmful advertising. These measures should be accompanied by clear carve-outs for factual information, general education, professional referrals and existing client communications where there is no targeted steering of consumers for commercial gain.



Notwithstanding our concerns and calls for action, we also acknowledge that ASIC has recently commenced a review of advice licensees using generation services to address practices that inappropriately or unnecessarily encourage people to switch their superannuation<sup>1</sup>. The purpose of the review is to understand the nature of these arrangements and where appropriate, take disruptive or enforcement action.

When announcing this review, ASIC warned that lead generators that mislead consumers, utilise high pressure tactics or provide financial services without a licence will risk contravening the law. Licensed persons or entities that engage the services of lead generators acting in this way, share this risk.

We therefore recommend pausing any new regulatory reform until ASIC has completed its review of lead generation practices. This will ensure that any policy response is targeted appropriately—either by addressing genuine regulatory gaps where they exist, or by enforcing the existing financial services framework where current conduct already falls short of established legal obligations.

Our detailed responses to the consultation questions are set out below.

If you have any questions about our submission, please do not hesitate to contact Tracey Scotchbrook, Head of Policy and Advocacy, via email at [traceyscotchbrook@smsfassociation.com](mailto:traceyscotchbrook@smsfassociation.com).

Yours sincerely,

Peter Burgess  
Chief Executive Officer

## **ABOUT THE SMSF ASSOCIATION**

The SMSF Association is the peak body representing the self-managed superannuation fund (SMSF) sector which is comprised of over 1.2 million SMSF members and a diverse range of financial professionals. The SMSF Association continues to build integrity through professional and education standards for practitioners who service the SMSF sector. The SMSF Association consists of professional members, principally accountants, auditors, lawyers, financial advisers, tax professionals and actuaries. Additionally, the SMSF Association represents SMSF trustee members and provides them with access to independent education materials to assist them in the running of their SMSF.

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<sup>1</sup> Australian Securities and Investments Commission *ASIC commences new review of advice licensees that use lead generation services* (18 February 2026) < <https://www.asic.gov.au/about-asic/news-centre/find-a-media-release/2026-releases/26-029mr-asic-commences-new-review-of-advice-licensees-that-use-lead-generation-services/> >



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## **Executive Summary**

The SMSF Association supports decisive action to address harmful lead generation activity that uses social media advertising, online questionnaires, cold calling, data collection, qualification scripts, warm transfers and referral payments to steer consumers toward licensed financial advice or financial products. This conduct is especially concerning where it targets superannuation balances, encourages super-switching, promotes SMSF establishment as a pathway to a predetermined investment, or creates pressure before the consumer has access to impartial licensed financial advice.

The core policy problem is not ordinary marketing. It is unlicensed, conflicted and opaque influence over consumer decision-making. Consumers may not understand that their personal information has been collected and monetised, that they have been selected because of their superannuation balance or vulnerability to conversion, or that a referral payment is being made. In this environment, disclosure alone will rarely be enough.

The Association considers that reform should be principles-based and conduct-focused. A person who, for commercial benefit, captures, screens, warms, transfers or refers a consumer in a way that is intended or reasonably likely to influence a decision about financial advice, superannuation switching, SMSF establishment or a financial product should be subject to the financial services regulatory framework. That person should hold an Australian Financial Services (AFS) licence, be authorised as a representative of an AFS licensee, or fall within a carefully defined low-risk exclusion.

Importantly, any reform should not treat SMSFs as the source of the problem. SMSFs are an established and integral component of Australia's superannuation system, and many consumers receive appropriate licensed financial advice about whether an SMSF is suitable for their personal circumstances and needs.

The risk arises when an SMSF is used as a conduit for product distribution or investment placement by parties who have no obligation to act in the consumer's interests or from the provision of conflicted, yet licensed, financial planning advice. The response should therefore focus on the conduct, incentives and accountability of those who create and monetise the lead, and those that choose to breach their statutory obligations to provide advice in the best interests of their client.

However, we recommend pausing any new regulatory reform until ASIC has completed its review of lead generation practices. This will ensure that any policy response is targeted appropriately—either by addressing genuine regulatory gaps where they exist, or by enforcing the existing financial services framework where current conduct already falls short of established legal obligations.

Notwithstanding this, we outline below a series of policy recommendations for consideration and in our submission, to be considered subject to the findings of the ASIC review.

### **Key Recommendations**

- Prescribe high-risk commercial lead generation as a financial service under section 766A of the *Corporations Act 2001* where the activity involves collecting, assessing, qualifying, warming,



transferring or referring consumers in relation to relevant financial product with the view that such activity is the provision of a financial service.

- Require lead generators undertaking those activities to operate under an AFS licence or as authorised representatives of an AFS licence and therefore be subject to the general licensee obligations including supervision, training, record keeping, dispute resolution and adequately managing conflicts of interest.
- Avoid a blanket prohibition on all unlicensed communication about superannuation. Any restriction should include clear exclusions for factual information, general education, professional advice and services, incidental referrals, public commentary, SMSF trustee education and existing client communications that do not involve commercial steering.
- Strengthen AFS licensee accountability for the lead generation arrangements in line with other outsourcing obligations. This could include due diligence, written agreements, approval of scripts and advertising, monitoring, audit rights, disclosure of benefits and record retention.
- Strengthen anti-hawking protections to prevent unsolicited real-time contact from being able to be 'cleansed' when the financial adviser then engages the consumer.
- Give ASIC proportionate stop-order powers to intervene quickly where advertising is likely to cause significant consumer harm.
- Ensure the reforms are consistent with the Delivering Better Financial Outcomes reforms and do not discourage legitimate, affordable and client-initiated licensed financial advice.



## **Proposals and Consultation Questions**

We recommend pausing any new regulatory reform until ASIC has completed its review of lead generation practices. This will ensure that any policy response is targeted appropriately—either by addressing genuine regulatory gaps where they exist, or by enforcing the existing financial services framework where current conduct already falls short of established legal obligations.

Notwithstanding this, we have provided the following responses and recommendations to the consultation, to be considered subject to the findings of the ASIC review.

### **The policy problem**

#### **1. What types of lead generation activities within the financial services sector provide consumer benefit?**

Lead generation activity may provide a limited consumer benefit where it helps a consumer find a licensed professional, obtain general information or compare service providers in a transparent way. Examples include a consumer-initiated search for a financial adviser, a directory of licensed financial advisers, general advertising by an AFS licensee, or factual education that explains when financial product advice may be beneficial to the consumer.

Those benefits only arise where the consumer understands who they are engaging with, why their information is being collected, who will receive their personal information, what benefit may be paid, and whether any party is authorised under or holds an AFS licence.

The activity should not involve pressure, hidden screening, implied recommendations, authority-like branding, or steer the consumer toward investing in a particular financial product, platform, establishing an SMSF or licensed financial advice provider based on the commercial value of the lead being generated.

In our view, most consumer benefit is delivered by transparent information services and client-initiated referrals, not by opaque commercial lead funnels. Where a business model depends on converting consumers into advice or product sales, the risk of harm is high, and the activity should be regulated accordingly.

#### **2. How should lead generation activities be defined to target consumer harm without capturing legitimate marketing or information services?**

The definition should focus on the combination of commercial benefit, individualised consumer data and influence over a relevant financial product decision.

A workable definition would capture all of the following circumstances:

- A person who, in trade or commerce;
- For remuneration or other benefit;
- Collects, uses, assesses, segments, sells, transfers or refers consumer information;
- For the purposes of, or likely purposes of engaging a consumer or group of consumers; and



- A financial adviser, AFS licensee, superannuation trustee, platform, relevant financial product or provider.

The definition should expressly include lead qualification, balance or demographic screening, scripts that prompt superannuation switching concerns, authority-like statements such as “super review” or “health check”, warm transfers, appointment setting, and the sale or transfer of consumer information to an AFS licensee or its representatives. It should not depend on the lead generator making, or likely to make, a financial product recommendation. In many harmful models, the lead generator's role is to frame the consumer's problem and direct the consumer into a pathway before licensed financial advice is provided.

Importantly, the definition should exclude low-risk activities such as untargeted public advertising, general education, factual information, media commentary, professional publications, licensed adviser directories, and referrals made by accountants, lawyers, tax agents or other professionals where the referral is not a lead generation business and is not remunerated by reference to conversion based on the volume of referrals, number of financial products acquired or as a percentage of the funds invested.

### **3. Does the business model used in the Shield and First Guardian cases raise any potential for unintended consequences in relation to any aspect of the Delivering Better Financial Outcomes reform package?**

We do not consider that the policy objectives of the Delivering Better Financial Outcomes (DBFO) reforms are aligned with the lead generation models that have prompted this consultation. The DBFO reforms are directed at improving access to affordable, fit-for-purpose financial product advice within a regulated framework. Harmful lead generation is directed at acquiring and monetising consumers before they receive licensed financial advice.

There is, however, a risk of unintended consequences if the reforms are drafted too broadly. Restrictions that capture legitimate nudges, trustee communications, scaled advice, intra-fund guidance, professional education or client-initiated licensed financial advice could undermine the DBFO objective of improving access to advice. Treasury should therefore draw a clear line between regulated, accountable licensed financial advice and unlicensed commercial lead generation.

We also caution against reforms that imply SMSF establishment is inherently problematic. The concern is not the SMSF structure itself, but whether the consumer was targeted, pressured or steered into establishing an SMSF to facilitate a predetermined financial product or investment outcome. The law should address this conduct directly. It should not prevent a consumer's ability to access licensed financial advice to understand which superannuation structure is the most appropriate for them based on their financial circumstances and needs, which may be an SMSF.

Where these activities include the provision of unlicensed financial advice or services, prompt intervention and regulatory action are vital to disrupt the activity and prevent further consumer harm.



## Enhance accountability for the conduct of lead generators

### *Licensing*

#### **4. Would reforms to require licensing for certain lead generation activities be an effective and proportionate way to curb harmful lead generation activities?**

Licensing is the most direct and proportionate way to address the accountability gap where commercial lead generation materially influences consumer decisions but is structured to sit outside the current financial services regulatory framework. Where an entity creates, qualifies or transfers a lead in a way that influences a consumer's decision about a relevant financial product, it should be subject to regulation under the AFS licensing framework.

We do not support creating a separate, lighter licensing regime that could become a pathway for regulatory arbitrage. High-risk lead generators should either hold an AFS licence or operate as authorised representatives under an AFS licensee that supervises their conduct. This would align influence with responsibility and ensure that consumers have access to the protections associated with AFS licensing, including supervision, competence, conflicts of interest management and access to dispute resolution.

Licensing should be targeted and consider the current regulatory parameters including if the advice is intended to influence a person to make a decision about a financial product or could reasonably be regarded as being intended to have such influence.

It should not capture genuinely incidental or professional referrals, education and factual information. The proportionality of the reform depends on those exclusions being clear and practical.

#### **5. What is the scope of activities that should be captured under the licensing reform? Should this be limited to activities in relation to superannuation?**

The licensing reform should capture commercial activities that materially influence or direct a consumer toward licensed financial advice in regard to a relevant financial product. It should include activities such as data capture, lead qualification, scripted engagement, warm transfers, appointment booking, referral arrangements and the sale or transfer of consumer details.

We acknowledge the current focus on superannuation, following the Shield and First Guardian cases. However, we caution against the adoption of a policy response that would limit reforms to superannuation only.

Superannuation is particularly sensitive because it often represents a consumer's largest financial asset outside of the family home, and because inappropriate switching or SMSF establishment can have long-term consequences. However, the same conduct and incentives can arise in relation to managed investment schemes, securities, insurance, platforms and other relevant financial products. A superannuation-only approach risks shifting harmful activity into adjacent financial products and creates avoidance opportunities.



A definition centred on a relevant financial product should be accompanied by tailored exemptions for low-risk and factual information and defined professional services<sup>2</sup>. This balance will avoid unnecessary burden while preventing the same business model from reappearing in a different financial product segment.

**6. How should lead generation activities be defined to target consumer harm without capturing legitimate marketing or information services?**

For licensing purposes, the definition should capture activities that have the practical effect of moving an identified consumer along a pathway toward a relevant financial product advice recommendation or relevant financial product acquisition. It should be enough that the lead generator collects or uses information about the consumer and passes that consumer to another party in a way that is connected with this activity where it is undertaken for commercial benefit.

The definition should be outcome-sensitive rather than form-based. It should not be possible to avoid regulation by calling the activity “education”, “comparison”, “coaching”, “superannuation review”, “lost super search” or “appointment setting” if the real function is to qualify consumers and steer them into licensed financial advice or financial product distribution for a third party’s commercial gain as discussed above. Conversely, genuine public education and factual information should remain outside the AFS licensing regime where no individual consumer data is monetised, and no consumer is steered to a specific relevant financial product or provider.

**7. What would be the implication of banning all unlicensed communication about superannuation for commercial purpose? What exceptions or carve outs would be required?**

We believe a blanket ban on all unlicensed commercial communication about superannuation is too broad and will not prevent similar conduct from occurring in regard to other financial products. This is because it may capture legitimate activities that are important to the functioning of the superannuation and SMSF sectors, including trustee education, professional publications, seminars, accounting and tax services, legal services, audit services, factual information, comparison commentary and ordinary business communications.

Rather, the focus should be on the activity and intended outcome considering the current regulatory parameters including the definition of financial product advice under section 766B of the *Corporations Act 2001*. For example, is the recommendation, statement or opinion, or report of either of those things:

- Intended to influence a person in making a decision in relation to a particular financial product or class of financial products, or
- Could it be reasonably regarded as being intended to have such influence.

A further parameter could be if the activity is unsolicited and/or subject to commercial gain based on a conversion or volume based remuneration arrangement.

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<sup>2</sup> Professional services include professions such as accountants, administrators, tax agents, and lawyers who provide a range of services and information to clients based on their profession, registration and the types of services provided.



This approach would ensure legitimate activities could continue, such as:

- Providing factual information and general education about superannuation, SMSFs and retirement planning;
- Communications by AFS licensees and their authorised representatives within the scope of their AFS licence;
- Accountants, registered tax agents, auditors, lawyers, actuaries and other professionals providing services within their professional scope;
- Professional referrals to appropriately licensed financial advisers where no conversion-based or product-linked benefit is received;
- Public policy commentary, media, research, CPD, industry education and trustee education materials; and
- Administrative and regulatory communications by superannuation trustees, platforms, administrators and SMSF service providers.

#### *Licensee accountability*

- 8. Would reforms to impose additional obligations on AFS licensees using lead generators be an effective way to curb lead generation activities?**
- 9. What additional obligations (if any) are appropriate to place on advice licensees using lead generation services to strengthen accountability and support effective enforcement?**

To be effective, any additional obligations should sit alongside direct regulation of high-risk lead generators. It is not sufficient to place all responsibility on AFS licensees if the lead generator remains unlicensed and operates outside the supervision and regulatory financial services framework.

AFS licensees that use leads should be required to undertake reasonable due diligence to ensure that the lead generator uses practices that are lawful and ethical, including that the consumer was not misled or pressured, and that any benefits were permitted and disclosed. This should include meaningful due diligence before entering the arrangement and ongoing monitoring after leads are received.

Where a lead generator is performing high-risk activities, the AFS licensee should either appoint the lead generator as a representative and supervise it accordingly or only deal with a lead generator that holds an appropriate AFS licence. This would prevent AFS licensees from outsourcing consumer acquisition while disclaiming responsibility for the methods used.

- 10. What penalties would be appropriate and effective in deterring misconduct?**

Penalties should be aligned with the seriousness of the conduct and the harm caused. Breaches involving unlicensed lead generation, misleading representations, unlawful hawking, conflicted remuneration or deliberate avoidance should attract civil penalties consistent with comparable breaches of financial services laws.



ASIC should also have access to practical remedies, including banning orders, licence conditions, infringement notices, enforceable undertakings, public warning notices, compensation orders and orders restraining the use or transfer of unlawfully obtained leads. Penalties should apply not only to the immediate lead generator, but also to licensees, related entities and controllers who knowingly benefit from or facilitate non-compliant arrangements.

Given the significant role played by lead generators in the recent spike in consumer claims through the compensation scheme of last resort (CSLR), the licensing and regulation of the sector is paramount, alongside their participation in funding the CSLR levy as a sector participant and the ASIC Industry Funding Model.

However, we recommend awaiting the outcome of ASIC's review of lead generation practices to inform what genuine regulatory gaps exist that must be addressed, and / or, what further penalties may be appropriate to deter misconduct.

#### *Design and distribution obligations*

#### **11. Would reforms to clarify and specifically extend the DDO obligations to lead generators be an effective way to curb lead generation activities?**

We do not consider that DDO should be the primary reform tool for lead generation. DDO is designed to ensure that financial products are designed for, and distributed to, an appropriate target market. Harmful lead generation is often upstream of distribution and may occur before any product is identified to the consumer. Applying DDO too broadly risks misaligning the regulatory tool with the conduct of concern.

Where a lead generator is in substance engaged in distribution conduct, existing or clarified DDO obligations may be relevant. However, this should not replace licensing, hawking and conflicted remuneration reforms. The principal issue is unlicensed and conflicted influence, not product design.

#### **12. What would be the implication of specifically extending the application of DDO to lead generators?**

Extending DDO to lead generators could create uncertainty and compliance burden without addressing the key risk. Lead generators may not have sufficient visibility of the ultimate product or target market determination, particularly where the lead is passed through several intermediaries before advice is provided. Conversely, a lead generator with no product-specific role might be captured even though the better policy response is to regulate the activity, referral and remuneration arrangement.

For the SMSF sector, an overly broad extension could inadvertently capture education providers, professional associations, accountants or other service providers who discuss SMSF concepts without distributing a financial product. Treasury should avoid creating obligations that require non-product educators to assess target markets for products they do not issue or distribute.



**13. What issues would arise from clarifying that certain lead generation activities constitute retail product distribution conduct for DDO purposes?**

Clarification may be useful where a lead generator promotes or directs consumers to a particular financial product or class of financial products. In that case, the lead generator is closer to a distributor and should not be able to avoid DDO merely by using referral language.

However, the clarification should be carefully confined. It should not capture activity that is product-neutral, educational or professional in nature, or where the only outcome is that the consumer is told to seek licensed financial advice. The drafting should also avoid duplicating obligations where the relevant conduct is more appropriately regulated through licensing, hawking and remuneration provisions.

#### Extend anti-hawking requirements

**14. Would reforms to the hawking prohibition be an effective way to curb harmful lead generation activity?**

We support reforms to the hawking prohibition to prevent a non-client initiated high-pressure lead generation activity being able to be “cleansed” through a licensed financial adviser then engaging the consumer. This supporting measure may address the current regulatory gap this provision.

High-pressure lead generation often relies on real-time contact, broad or ambiguous consent, urgency framing and a rapid transition from a marketing interaction to an advice or product pathway. Strengthening the hawking rules would help reduce the effectiveness of those models.

Anti-hawking reform should not be the only response. Lead generation models can be structured to avoid a formal financial product offer or to obtain nominal consent through click-bait advertising. For that reason, hawking reforms should operate alongside the other recommendations we have made in our submission.

**15. How would a ban on non-consumer initiated real-time contact impact the offer of financial products and the provision of financial advice?**

A ban on non-consumer initiated real-time contact could materially reduce the scope for pressure-based consumer acquisition.

However, the ban should not prevent a consumer from directly contacting a licensed financial adviser, asking for advice, responding to an advertisement, attending a seminar, or requesting a call back about a clearly described service. It should also allow existing licensed financial advisers and professional service providers to contact clients within the scope of a genuine relationship and current consent.

The policy focus should be unsolicited real-time sales or referral activity, not ordinary client service or engagement.



**16. Would enhancing the consent disclosures made during the real time contact with consumers ensure that engagement with lead generators and financial advisers is genuinely informed and voluntary, or are additional safeguards necessary?**

Enhanced consent disclosures would assist, but they will not be sufficient. Consumers often do not appreciate the significance of consenting to future contact, particularly where consent is bundled into an online form that appears to offer a free comparison, health check or lost super search. A disclosure made during a pressured call or slick sales pitch may also be ineffective if the consumer has already been primed to believe that urgent action is required.

Additional safeguards are necessary. Consent should be specific, informed, time-limited and related to a clearly identified provider and purpose. It should not authorise unlimited contact by unknown third parties. Consumers should be told, before any call, who will contact them, whether that person is licensed, what the contact is about, and whether any benefit is paid for the referral. Lead generators should be required to keep records demonstrating that valid consent existed.

**17. How would the removal of the personal advice exemption impact the provision of financial advice?**

Removing or limiting the personal advice exemption would reduce the ability of lead generation models to cleanse earlier unsolicited or unlicensed contact by moving the consumer into a personal financial advice process. This would address a key vulnerability in the current framework.

We support limiting the exemption so that it cannot be relied on where the advice interaction arises from unlicensed lead generation, unlawful hawking or non-consumer initiated real-time contact. However, the exemption should continue to support legitimate advice relationships where the consumer has initiated the engagement or where an existing client has given current and specific consent. The reform should not prevent licensed financial advisers from providing timely advice to consumers who genuinely seek it.

**18. Would limiting the operation of the exemption to existing clients or non-superannuation products provide appropriate protection for consumers?**

Limiting the exemption to existing clients could provide some protection, but it may be too blunt if applied without regard to consumer initiation and consent. A new client who actively seeks advice should not be denied access to advice merely because there is no existing relationship. The more relevant question is whether the contact was initiated by the consumer, whether consent was valid, and whether any upstream lead generation activity was lawful and transparent.

We do not support a non-superannuation product carve-out. Harmful lead generation can involve non-superannuation products, including managed investment schemes, securities or investment platforms. In addition, superannuation switching may be a gateway to investments in non-superannuation products. A product-based carve-out could create gaps and avoidance opportunities. Consistency, and clarity is essential.



**19. Of the approaches canvassed under reform 2, which approach, or a combination of approaches, would be most effective in reducing unsolicited contact while preserving legitimate advice provision?**

The most effective approach would combine stricter consent requirements with a limitation on the personal advice exemption where the consumer relationship originated from unsolicited or unlicensed lead generation. This combination would address both the initial contact and the later attempt to legitimise the pathway through advice.

The reforms should preserve legitimate advice by including clear exceptions for genuine client-initiated contact, existing client communications with current consent, and licensed advice services operating within an AFS licensee's compliance framework. ASIC guidance should include examples for seminars, webinars, adviser directories, SMSF education and professional referrals.

**Target remuneration structures that may incentivise poor conduct**

**20. Would reforms to the conflicted remuneration provisions be an effective way to curb harmful lead generation activity?**

Remuneration is central to the risk of consumer harm. Lead generation models may reward the volume of leads, the conversion of leads into advice clients, the amount of superannuation switched, SMSF establishment, product acquisition or ongoing advice fees. These incentives can prioritise commercial outcomes over consumer interests and may operate outside the consumer's knowledge.

Conflicted remuneration reforms should capture lead generators and related intermediaries where a benefit could reasonably influence the referral, advice pathway or product outcome. This should include direct and indirect benefits, benefits paid through related entities, marketing allowances, data payments, recurring or trailing benefits and benefits tied to balances, product acquisition or advice fees.

Further to our recommendation above, if lead generation was subject to the AFS licensing regime to relevant financial products, the existing conflicted remuneration bans should also apply which would address this issue.

It would also prevent ordinary fixed-price advertising or general marketing services that do not involve personal data transfer, targeted referral or conversion-based payment from being prohibited. Rather the distinction would turn on whether the benefit is connected with steering an identified consumer into a financial services pathway.

**21. What lead generation remuneration arrangements or practices may create incentives for poor conduct or circumvent existing conflicted remuneration provisions? Are there remuneration practices associated with lead generation that pose a low risk of influencing financial advice, and should not be captured by reforms?**

High-risk remuneration arrangements include pay-per-lead fees, conversion fees, success fees, fees calculated by reference to superannuation balance, fees linked to advice fees, trailing referral payments, product placement payments, payments for warm transfers, volume rebates, marketing allowances and arrangements involving interposed entities designed to break the apparent link between a product issuer, licensee and lead generator.



These arrangements can create incentives to target consumers with higher balances, exaggerate concerns about existing funds, prioritise consumers who are more likely to switch, and steer consumers toward advisers or products that pay for the lead. They should be prohibited or treated as conflicted remuneration unless a narrow exception applies.

Lower-risk arrangements may include fixed-fee advertising, directory listings, sponsorship of general education, or administrative referral arrangements where the fee is not linked to consumer attributes, conversion, advice fees or product acquisition and where the arrangement is transparent to the consumer.

Any exception must be carefully defined to prevent avoidance.

**22. Would a broad prohibition that captures transactions beyond those that directly involve advice providers, product issuers/sellers and lead generators, be appropriate to curb misaligned incentives?**

A prohibition limited only to the immediate parties would be vulnerable to avoidance. Lead generation arrangements can involve marketing agencies, data brokers, call centres, related entities, introducers, platforms, product issuers and advice licensees. Benefits may be routed through entities that are not formally advice providers or product issuers but are commercially connected to the outcome.

**23. How would broadening the definition of ‘benefit’ impact remuneration practices?**

Broadening the definition of “benefit” would reduce the scope for avoidance through non-cash, indirect or disguised forms of value. This is important because lead generation incentives may be provided through marketing support, data access, reciprocal referrals, technology, sponsorship, preferred panel status or other commercial advantages rather than a direct referral fee.

The drafting should nevertheless be clear enough to avoid capturing ordinary commercial arrangements that do not influence consumer referrals or advice outcomes, such as arm's-length technology services, general advertising purchased at market rates, or professional education sponsorship that does not involve identifiable consumer referrals.

Clear guidance supported by practical examples will be essential.

**24. Of the approaches canvassed under reform 3, which option or combination of options would achieve the best balance between consumer protections, while facilitating consumer choice and minimising regulatory burden?**

We support a combination of capturing lead generators under the conflicted remuneration ban and clarifying that indirect, deferred, and non-cash benefits are captured where they are connected with lead generation. This should be supported by targeted exclusions for genuinely low-risk fixed-fee advertising and education arrangements.

This approach would protect consumers while avoiding unnecessary burden on legitimate professional and educational activity. It would also support consumer choice by ensuring that



consumers can seek advice and information but are not unknowingly steered by payment structures that reward referral volume or product conversion.

### Target advertisements for earlier intervention

**25. Would requiring superannuation advertisements to display an AFS licence number, be an effective way to curb lead generation and improve transparency for consumers?**

Requiring relevant superannuation advertisements to display the responsible AFS licence number would improve transparency and make it easier for consumers, platforms and regulators to identify the regulated entity behind the advertisement. This would be particularly useful where advertisements invite consumers to complete online forms, compare their superannuation, check fund performance, find lost super, book a review or speak to a specialist.

The requirement should apply to advertisements that promote financial services or collect consumer information for referral, advice or product pathways. It should not apply to general education, public commentary, professional publications or SMSF trustee education that does not promote a financial product or collect leads. In digital media, the AFS licence number should appear in the advertisement where practicable and always on the linked landing page before information is collected.

**26. What practical implementation issues or costs would arise for advertisers, publishers and licensees?**

AFS licensees already have an obligation to display and disclose their AFS licence details in advertising. The responsibility should lie with the AFS licensee or the lead generation service provider to ensure that their marketing materials, regardless of mode or platform are wholly compliant with the law.

A more rapid response is needed where non-compliant advising is detected by or reported to the Regulator.

**27. Would a broad prohibition on advertisements in relation to superannuation without an AFS licence unduly constrain legitimate advertising?**

An unqualified broad prohibition could unduly constrain legitimate advertising and education. Many organisations communicate about superannuation without providing financial services or collecting leads, including professional associations, accountants, lawyers, educators, media organisations and policy bodies. Those communications should not require an AFS licence merely because they concern superannuation.

A prohibition should instead target commercial advertisements that promote or facilitate financial services, collect identifiable consumer information for referral, imply a personalised assessment, or encourage switching, SMSF establishment or financial product acquisition. The law should include clear exclusions for factual information, general education, public commentary, professional services and regulatory communications.



**28. In relation to ASIC’s stop order power, what threshold test would be appropriate to ensure that ASIC’s stop order powers are exercised proportionately and do not unduly restrict legitimate advertising?**

ASIC should be able to issue an interim stop order where it has reasonable grounds to suspect that an advertisement, campaign or lead generation pathway is likely to cause significant consumer harm, involves unlicensed financial services, materially misleads consumers, breaches hawking requirements, obscures the responsible licensee, or forms part of a broader arrangement that may contravene financial services laws.

The threshold should allow early intervention before widespread harm occurs but should include safeguards. Interim orders should be time-limited, reasons should be provided, affected parties should have an opportunity to respond, and there should be an expedited review mechanism. ASIC should also be able to direct orders to advertisers, lead generators, licensees and digital platforms where necessary to stop the campaign effectively.

**29. Are there any other changes to the regulation of financial advertisements that would better address emerging risks associated with lead generation practices?**

The Association recommends a package of supporting measures for financial advertisements and lead generation campaigns:

- a clear ASIC regulatory guide on acceptable and unacceptable superannuation and SMSF lead generation advertising, with worked examples;
- a prohibition on authority-like representations such as “superannuation specialist”, “government review”, “fund performance check” or “SMSF expert” unless the advertiser is appropriately licensed and the claim is substantiated;
- mandatory disclosure, before personal information is collected, of the advertiser’s identity, AFS licence details, purpose of collection, referral recipients and benefits paid;
- record-keeping obligations for advertisements, landing pages, scripts, consent records, call recordings and referral payments;
- digital platform obligations to verify AFS licence numbers for relevant financial services advertising and to respond promptly to ASIC takedown requests; and
- ASIC to continue its public warnings and consumer education about lead generation, cold calling and high-pressure superannuation switching tactics.

These measures would improve transparency, support earlier regulatory intervention and help consumers distinguish legitimate education and advice from harmful lead generation.