

Investment Science Asset Management- response to CP208

B1 We propose to grant relief from s1016A, as requested by ASX, for responsible entities of schemes in relation to applications made through AMFS, and modify the Corporations Act to impose obligations on AMFS brokers (and settlement participants) who choose to give instructions or make applications through AMFS to ensure that investors are provided with a PDS.

The form and conditions of relief proposed to address the application by ASX are outlined in paragraphs 31–48.

B1Q1 Do you agree with our proposal to grant relief to responsible entities? If not, why not?

Yes.

We would however urge further consideration be given to grant similar relief for long form Product Disclosure Statement (PDS) funds.

B1Q2 Do you consider that the conditions for relief are appropriate compared to the conditions outlined in [CO 02/260]?

Yes.

B1Q3 Are there any other conditions that should be imposed on the responsible entities?

No.

B1Q4 Are the proposed changes to the ASX Operating and ASX Settlement Rules, in relation to responsible entities (see paragraph 37), adequate as a basis for giving relief?

Yes.

B1Q5 How would the proposed relief affect your compliance costs?

There would be minor increases in compliance costs relating particularly to the reporting to ASX requirements.

B2 We propose that, if we grant the relief as requested by the ASX, we will modify Pt 7.6 by class order to impose an obligation on AMFS brokers and settlement participants) to ensure that retail investors have been given the current PDS (including any supplementary PDS) that appears on the ASX's market announcement platform before transmitting instructions for a request to be issued products.

In ASX's proposals, the AMFS broker (and any settlement participant) will be required to ensure that the current PDS has been given to an investor and the CHES system will capture the information that the investor has been given the current PDS and other details, including the date of birth of the investor. This information will be electronically relayed to the responsible entity and the responsible entity will rely on the CHES message to determine that the obligation to provide a PDS to an investor has been fulfilled.

B2Q1 Do you consider that the conditions imposed on the AMFS brokers (and any settlement participants) are unduly burdensome?

No.

However as we are not brokers, comments from AMFS aligned brokers would be more relevant.

B2Q2 Are there any other conditions that should be imposed on the settlement participants or on the AMFS brokers?

No.

We agree AMFS brokers are solely responsible to 1) provide the current PDS to the client 2) acknowledge the PDS has been received or opened by the client 3) send an email with another copy or link to the PDS when delivering the units to the investor.

B2Q3 Are the proposed changes to the ASX Operating and ASX Settlement Rules, in relation to AMFS brokers, settlement participants and online brokers (see paragraphs 38-48), adequate as a basis for giving relief?

Yes.

B2Q4 Should, and how would, compliance with the requirement to provide a current PDS for the managed investment product to an investor be more effectively enforced in the context of the AMFS?

It would be effective to have the AMFS broker confirm that the PDS has been 1) provided to & opened by the client on the brokers website, & or 2) have the PDS sent to the nominated email account of the investor where they acknowledge back that they have received & read the PDS.

B2Q5 As the AMFS is not covered by the NGF, do you consider that the risk of inadequate compensation or inaccurate perceptions about compensation arrangements should be addressed in PDSs, and that this should be a requirement for relief? Please explain why or why not.

No.

We note that the NGF does not apply to exchange traded options nor to ASX futures, so there are already products traded on ASX that are not covered by the NGF.

B3 When deciding whether to grant relief, we propose to consider (among other things), whether:

(a) the AMFS represents a net benefit to the industry and investors that outweighs any reduction of regulatory protection for investors;

(b) the arrangements proposed by ASX would be effective to ensure that an investor will be given a PDS by the AMFS broker before or at the time the investor invests;

(c) an investor will understand when using the AMFS that the investor is applying or requesting redemption of products from the issuer and is not able to buy or sell products through a financial market;

(d) the arrangements will result in a current PDS (and not an outdated PDS) being provided to the investor;

(e) there is any mechanism to identify when an investor is not given a PDS and, when this happens, what rectification measures will follow;

(f) there is sufficient record keeping to ensure that the policy objectives of s1016A are achieved through the system proposed by the ASX; and

(g) investors utilising the service to invest in admitted schemes will have diminished rights or be treated differently to investors in registered schemes that are not admitted schemes. We note investors using the AMFS will continue to have cooling-off rights under s1019B.

B3Q1 Are there any other factors that we should consider when granting relief, and why should the factors be considered?

Future consideration should be taken to include other simple managed investment schemes, other managed investment schemes (long form PDS) & potentially overseas funds with Australian issued prospectuses.

We do not know the reason for the exclusion of long form PDS' from the ASX Managed Fund Service. We surmise that the exclusion is because a fund that requires a long form

PDS' is thus marked as having high risk and complex investments, and these are not acceptable to ASX.

We note that long form PDS' have already satisfied the regulatory requirements to be a Registered Managed Investment Scheme. We note that many of the investments in ASX-listed companies and other types of portfolios listed on ASX can be as risky or as complex as long form PDS'.

We note that investments covered by long form PDS' do not inherently have more risk than short form PDS'. The difference between the two types of investments is in the disclosure requirements. Compared to the current single form PDS regime, long form PDS' now have more stringent disclosure requirements, thus providing the diligent investor with more information for them to consider prior to investing, whereas short form PDS exclude much of the disclosures that were previously required.

Ultimately the creation of the AMFS should provide benefits to industry & investors alike, and the exclusion of long form PDS' prevents these benefits.

We note that most of the characteristics of investment products that are eligible for short form PDS' are already obtainable via existing investment products currently available on the ASX, but that investment portfolios and strategies that are used in long form PDS are not suitable:

- **Exchange Traded Funds** allow for open-ended investment schemes, but require a market-maker capability, which means that only schemes which have the most liquid and transparently priced instruments would be considered.
- **Listed investment companies** allow for closed-end investment schemes that raise enough investor's money prior to listing.
- A portfolio of actively managed Australian stocks can be obtained via **managed account services**.

So the exclusion of long form PDS from the ASX Managed Fund Service allows for only more of the same types of investments as are already available on the ASX. The problem is that these types of investments are exposed to moves in the stock market in general and Australian stock market in particular, thus limiting the degree of diversification available to ASX investors.

By contrast, the inclusion of long form PDS' to the ASX Managed Fund Service would have great diversification benefits to the investors' portfolios because these include hedged portfolios, active strategies, currencies, fund-of-funds, and other diversified risk exposures. By including long form PDS', investors can use the ASX as a one-stop-shop for their entire portfolios because they can achieve the level of diversification required by a prudent investment strategy.

In addition, long form PDS' have barriers to entry and are potentially discriminated against on existing investment platforms, so their inclusion on the ASX Managed Fund

Service would benefit the industry because it would allow a wider range of choice for investors than is currently available on any one platform. Platforms require a large commitment from investors before listing a fund, thus providing a barrier to entry. Platforms can potentially find reasons to exclude funds that compete with the funds managed by the owner of the platform, thus channelling money towards house branded funds by reducing the list of allowable investments. These barriers inhibit the development and adoption of innovative products on investment platforms, so the availability of these on the ASX Managed Fund Service would benefit the industry.

We would like to see a discussion take place between the regulator & long form PDS MIS fund managers/responsible entities to begin to look at solutions to eventually admit these investments on AMFS. We have spoken with a number of managers, brokers & associated industry participants that would appreciate & look forward to such a solution orientated discussion. We all have the best interest for the investors & industry in mind.

B3Q2 Do you consider that investors are likely to confuse the AMFS with a trading platform? If yes, what changes to the AMFS should be made to reduce this likelihood of confusion?

No.

It is clear to all that the AMFS is not a trading platform but that it is a quoting platform. The process will be easily understood by investors that they make application for a specific dollar amount where the corresponding amount of units they receive in return is not immediate but will be fixed at a future date as given in the offer document.

The ASX has & no doubt will continue to do a superb job of educating the public on all available investments.

B3Q3 What effects do you foresee on the distribution arrangements of schemes as a result of implementing the AMFS?

The AMFS is set to become an additional distribution avenue for fund managers with the benefit of lower costs for investors. We see AMFS giving fund managers audience to self-directed investors, full service brokers & financial planners who favour portfolios constructed from ASX investment options.

B3Q4 What effects do you foresee the AMFS will have on the use of financial advice by investors in simple managed investment schemes?

Any self-directed investor that has formerly only ever traded shares online, may take opportunity to seek professional financial advice to ascertain any potential benefits of combining any AMFS product with their existing portfolio.

B3Q5 What other negative or positive effect, if any, do you foresee the AMFS may have on investors or industry participants?

We only foresee positive effects for investors as AMFS will add greater product choice, lower fees, simplify the application process for investors whilst offering the same level of protection & regulatory environment.

Impacts upon the industry are also positive, it gives additional distribution channels for the funds & perhaps puts pressure on the large bank owned platforms to compete on price (e.g. lower their charges).

B3Q6 What do you foresee the net direct and indirect cost impacts of the AMFS and specifically the proposed relief will be on your organisation?

Although there will be some small cost impacts on compliance, reporting functions & perhaps development of product, we foresee any costs will be absorbed by additional revenues stemming from investment flows into AMFS.

Regulatory and financial impact

In developing the proposals in this paper, we have carefully considered their regulatory and financial impact. On the information currently available to us we think they will strike an appropriate balance between:

(a) confident and informed investors by holding ASX and the AMFS brokers to account and by empowering investors through appropriate information and disclosures; and

(b) fair and efficient financial markets by allowing the proposed use of a mechanism for transacting in products in admitted schemes that can compete with existing distribution arrangements.

Before settling on a final policy, we will comply with the Australian Government's regulatory impact analysis (RIA) requirements by:

(a) considering all feasible options, including examining the likely impacts of the range of alternative options which could meet our policy objectives;

(b) if regulatory options are under consideration, notifying the Office of Best Practice Regulation (OBPR); and

(c) if our proposed option has more than minor or machinery impact on business or the not-for-profit sector, preparing a Regulation Impact Statement (RIS).

All RISs are submitted to the OBPR for approval before we make any final decision. Without an approved RIS, ASIC is unable to give relief or make any other form of regulation, including issuing a regulatory guide that contains regulation.

To ensure that we are in a position to properly complete any required RIS, please give us as much information as you can about our proposals or any alternative approaches, including:

(a) the likely compliance costs;

(b) the likely effect on competition; and

(c) other impacts, costs and benefits.

- a) Additional compliance costs will be minimal & as stated previously will be offset by scale of assets managed through the AMFS offer (particularly to Foundation Members).
- b) By removing high cost of shelf space typical of other platforms, barriers to direct investors & research costs, the industry is highly likely to become more competitive which clearly ends up benefitting investors. These benefits will only increase in time by safely giving investors access to all forms of managed investment schemes.
- c) As a whole the industry will become more competitive, create greater choice & diversification for investor portfolios & increase assets managed by managed funds (currently shrinking because of costs & inefficiencies of existing platforms).