



**ASIC**

Australian Securities &  
Investments Commission

## REGULATORY GUIDE 148

# Platforms that are managed investment schemes and nominee and custody services

February 2024

### About this guide

This guide is for:

- platform operators (including operators of investor directed portfolio services (IDPSs) and responsible entities of IDPS-like schemes), issuers of investments available through platforms and people who provide financial product advice on platforms; and
- operators and people involved in the operation of nominee and custody services.

It explains:

- our objectives when regulating, and the requirements for operating, platforms and nominee and custody services, and the related disclosure obligations; and
- some of the obligations when issuing investments acquired through a platform or a nominee and custody service, and of financial product advisers who give advice about platforms.

### About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

**Consultation papers:** seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

**Regulatory guides:** give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

**Information sheets:** provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

**Reports:** describe ASIC compliance or relief activity or the results of a research project.

### Document history

This guide was issued in February 2024 and is based on legislation and regulations as at the date of issue. In September 2022 we made technical and clarifying amendments to RG 148.29, RG 148.32(a), RG 148.39, RG 148.41, RG 148.43 (note), RG 148.68, RG 148.78 (note), RG 148.103–RG 148.104, RG 148.116, RG 148.167, and the definition of 'financial product'.

Previous versions:

- Superseded Regulatory Guide 148 *Platforms that are managed investment schemes and nominee and custody services*, issued December 2016, reissued September 2017
- Superseded Regulatory Guide 148 *Platforms that are managed investment schemes*, issued June 2013
- Superseded Regulatory Guide 149 *Nominee and custody services*, issued January 2000, incorporated into Regulatory Guide 148 in December 2016 and withdrawn
- Superseded Policy Statement 148 *Investor directed portfolio services*, issued January 2000, rebadged as a regulatory guide 5 July 2007

### Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations. Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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## A Overview

### Key points

This section provides an overview of our regulatory approach to:

- investor directed portfolio services (IDPSs) and IDPS-like schemes (together, referred to as platforms); and
- nominee and custody services.

It explains:

- what is meant by the terms ‘platform’ (see RG 148.1–RG 148.2) and the difference between an IDPS and an IDPS-like scheme (see RG 148.3–RG 148.7);
- what is meant by the term ‘nominee and custody service’ (see RG 148.8–RG 148.9);
- the requirements that apply to platforms and nominee and custody services (see RG 148.10–RG 148.13); and
- our objectives when regulating platforms (see RG 148.14–RG 148.18) and nominee and custody services (see RG 148.19–RG 148.20).

### What is meant by the term ‘platforms’?

RG 148.1 We recognise that, commercially, industry and investors generally refer to and understand the term ‘platforms’ to mean IDPSs and IDPS-like schemes, as well as superannuation master trusts and certain other superannuation funds.

RG 148.2 In this guide, the term ‘platform’ means IDPS and IDPS-like schemes, unless a distinction needs to be made where different legal requirements apply, or in light of our historical position. References to ‘platform operators’ include both IDPS operators and responsible entities of IDPS-like schemes. The expression ‘platform’, as used in this guide, does not extend to:

- (a) nominee and custody services (see RG 148.8–RG 148.9 for what is meant by this term);
- (b) superannuation master trusts or other superannuation funds;
- (c) self-managed superannuation funds; or
- (d) managed discretionary accounts, as defined in [Regulatory Guide 179](#) *Managed discretionary accounts* (RG 179).

## IDPSs

- RG 148.3 IDPSs are unregistered managed investment schemes for holding and dealing with one or more investments selected by investors. They are managed investment schemes because investors have the expectation of cost savings (e.g. through the netting of transactions or the pooling of funds to acquire investments) or access to investments that would not otherwise be available to them.
- RG 148.4 In broad terms, IDPSs provide custodial, transactional and reporting services where the investor makes all of the investment decisions. Specifically, IDPSs have the following features:
- (a) Assets in which an investor has an economic interest (or expects to derive a benefit) may be acquired or held by a custodian (which may or may not be an IDPS operator).
  - (b) The investor has the sole discretion to decide what (but not necessarily when) assets will be acquired or disposed of through the IDPS, with limited exceptions (e.g. an IDPS operator may rely on standing instructions where they do not exercise any discretion, such as in the case of realising predefined assets to maintain a minimum agreed cash balance).
  - (c) An investor may direct the IDPS operator to transfer assets in specie to them. This allows an investor to move in and out of the IDPS with minimum disruption to the underlying investments. Such transfers are limited to circumstances where the investor is able to hold the assets in their own right. A transfer is not required where, for example, there is a minimum holding requirement that is greater than the interest the investor would have after the transfer.
  - (d) An investor may direct the IDPS operator to realise assets held on account for them, unless this is not possible under the law or the contractual terms under which the assets were issued. The realisation of an investor's assets may be made on the direction of another person to pay money owing by the investor to:
    - (i) pay fees associated with the IDPS where necessary; and
    - (ii) cater for provisions typically found in margin lending agreements that enable the lender to sell assets provided as security where the borrower fails to meet a margin call.
  - (e) Any discretion of the holder of assets held through the IDPS may be otherwise exercised only in accordance with the directions of the investor with limited exceptions (e.g. an IDPS operator may rely on standing instructions where they do not exercise any discretion).

- (f) Investors are led to expect, and are likely to receive, benefits from using the IDPS in the form of:
  - (i) access to investments they could not otherwise directly access; or
  - (ii) cost reductions through the pooling of investor funds (which allow the IDPS operator to make large investments that can be acquired on more favourable terms) or through the netting of transactions (where investors' directions to buy and sell assets are offset against each other and a transaction for the net amount is entered into).

This does not include a scheme under which material terms of any rights that may be acquired on behalf of a client are negotiated, or substantially determined.

Note: Arrangements relating to 'marketplace lending' or 'peer-to-peer' lending are not generally covered by the IDPS definition because the loans are generally initiated through the platform. See [Information Sheet 213 Marketplace lending \(peer-to-peer lending\) products](#) (INFO 213) for more information on marketplace lending.

- RG 148.5 ASIC exempts IDPSs with these features from the requirement to be a registered managed investment scheme (registered scheme): see [ASIC Corporations \(Investor Directed Portfolio Services\) Instrument 2023/669](#).

### IDPS-like schemes

- RG 148.6 IDPS-like schemes operate similarly to IDPSs in that investment decisions are generally made in accordance with specific member instructions, but are registered schemes.

- RG 148.7 An IDPS-like scheme is a scheme under which members are allowed, or which has a constitution that has provisions that allows members, to:
- (a) direct that an amount of money be invested in specific investments available through the scheme; and
  - (b) receive capital and income distributions from the scheme determined by reference to amounts received by the custodian corresponding to their interests in the scheme and acquired in accordance with their directions (see [ASIC Corporations \(Investor Directed Portfolio Services Provided Through a Registered Managed Investment Scheme\) Instrument 2023/668](#)).

Note: The 'IDPS-like scheme' definition in ASIC Instrument 2023/668 covers schemes that in substance have the features described above. The relevant test extends both to how the scheme functions as well as to the presence of specific provisions in the constitution.

## What is meant by the term ‘nominee and custody service’?

- RG 148.8 A nominee and custody service is an arrangement that does not have the characteristics that normally mean a platform is a managed investment scheme. A nominee and custody service has the following features:
- (a) Assets in which an investor has an economic interest (or expects to derive a benefit) may be acquired or held by a custodian (which may or may not be the operator).
  - (b) The investor has the sole discretion to decide what (but not necessarily when) assets will be acquired or disposed of through the nominee and custody service, with limited exceptions (e.g. an operator may rely on standing instructions where they do not exercise any discretion, such as in the case of realising predefined assets to maintain a minimum agreed cash balance).
  - (c) The service is not an IDPS or provided under an IDPS-like scheme.

Note: While nominee and custody services and platforms have a number of characteristics in common, ordinarily a nominee and custody service does not have the characteristics of a managed investment scheme (unlike platforms) because it does not provide cost savings or access to investments that the client could not otherwise access directly.

- RG 148.9 Typically, a nominee and custody service is an arrangement for the holding of securities or other financial products and incidental functions, such as the banking of dividends and the receipt of communications. Usually, it provides some form of consolidated reporting and does not have a menu of investment opportunities associated with it.

## What requirements apply?

- RG 148.10 Australian financial services (AFS) licensees that are licensed to operate a platform must comply with [ASIC Instrument 2023/668](#) (for IDPS-like schemes) or [ASIC Instrument 2023/669](#) (for IDPSs).
- RG 148.11 An operator of a nominee and custody service will generally require an AFS licence to arrange for the issue of financial products on behalf of its clients, and holders of assets held through a nominee and custody service will require an AFS licence authorising the provision of a custodial or depository service. [ASIC Corporations \(Nominee and Custody Services\) Instrument 2016/1156](#) modifies the *Corporations Act 2001* (Corporations Act) to require a nominee and custody service operator to meet certain obligations and be exempt from certain other obligations.

- RG 148.12 We also require IDPS operators, nominee and custody service operators and responsible entities of IDPS-like schemes to comply (as relevant) with the financial requirements set out in:
- (a) [\*ASIC Corporations \(Financial Requirements for Responsible Entities, IDPS Operators and Corporate Directors of Retail CCIVs\) Instrument 2023/647\*](#); and
  - (b) [\*ASIC Corporations \(Financial Requirements for Custodial or Depository Service Providers\) Instrument 2023/648\*](#).
- RG 148.13 When providing advice about using platforms, we also expect advisers to comply with the financial product advice provisions of the Corporations Act.

## Our objectives

### Our objectives for platforms

- RG 148.14 Our overriding objectives when regulating platforms are to:
- (a) promote investor confidence in the sector and help investors make informed decisions about platforms by requiring:
    - (i) appropriate and compliant personal advice about these vehicles (if given);
    - (ii) adequate disclosure about platforms and investments held through them, including the key differences between investing through a platform and investing directly;
    - (iii) reliable investor reporting;
    - (iv) effective compliance controls;
    - (v) custodial and transactional integrity; and
    - (vi) access to adequate dispute resolution in relation to financial products held through the platform as if they were held directly;
  - (b) apply the minimum appropriate regulation to platform operators, consistent with the framework for the regulation of financial services and products in the Corporations Act; and
  - (c) treat IDPSs and IDPS-like schemes similarly where there is no regulatory basis for different treatment.
- RG 148.15 To achieve these objectives:
- (a) when regulating IDPSs, we require operators to comply with certain requirements set out in this guide and [\*ASIC Instrument 2023/669\*](#)—in particular, IDPS operators must hold an AFS licence and comply with the requirements under ASIC Instrument 2023/669;



- (b) when regulating IDPS-like schemes, we give responsible entities relief from some of the managed investment scheme, fundraising, financial product disclosure and other investor rights requirements provided for in the Corporations Act where responsible entities comply with the requirements under [ASIC Instrument 2023/668](#);
- (c) we require IDPS operators and responsible entities of IDPS-like schemes to comply with the financial requirements set out in [ASIC Instrument 2023/647](#) and [ASIC Instrument 2023/648](#) (as relevant); and
- (d) when regulating advice about using platforms, we expect advisers to comply with the financial product advice provisions of the Corporations Act.

We expect platform operators to comply with this guide to meet the requirements of [ASIC Instrument 2023/647](#), [ASIC Instrument 2023/648](#), [ASIC Instrument 2023/668](#) and [ASIC Instrument 2023/669](#) (as relevant).

### **Principles underlying our regulatory approach**

- RG 148.16 We have given IDPS operators relief in [ASIC Instrument 2023/669](#) because, unlike most responsible entities, they do not make any investment decisions and therefore have more limited functions. However, to the extent that the transactional and custodial functions undertaken by IDPS operators are similar to the activities of responsible entities, we apply a regulatory approach similar to that for registered schemes, where this is relevant.
- RG 148.17 The disclosure requirements we have imposed seek to ensure that platform investors receive an adequate level of disclosure about the platform and the investments that can be accessed through the platform. This promotes a clear understanding of the differences between investing through a platform and investing directly, and, consequently, more informed and confident investor decision making about using platforms and making investments through them.
- RG 148.18 Our regulatory approach also seeks to provide flexibility in the structuring of a platform, while ensuring certain basic safeguards.

### **Our objectives for nominee and custody services**

- RG 148.19 [ASIC Instrument 2016/1156](#) seeks to ensure that the regulatory protections that would have applied to a direct acquisition by a client will apply if the client makes an acquisition through a nominee and custody service.
- RG 148.20 Nominee and custody service operators must also comply with the financial requirements set out in [ASIC Instrument 2023/648](#).

## B Requirements for operating a platform or a nominee and custody service

### Key points

This section sets out the specific requirements that apply to platform operators and nominee and custody service operators: see Table 1 for an overview of the requirements.

Additional specific requirements apply to you if you offer securities through a platform or a nominee and custody service (see RG 148.89–RG 148.90) or if you operate an IDPS-like scheme (see RG 148.91–RG 148.99).

### Overview of the requirements

- RG 148.21 An IDPS or nominee and custody service may have more than one operator, each of which takes responsibility for a part of the IDPS or nominee and custody service. An IDPS or nominee and custody service operator may engage others to provide some or all of the services you contract to provide to the investor. The nature and extent of your obligations will vary with the functions—custodial, transactional and/or reporting—you carry out.
- RG 148.22 Table 1 provides an overview of the requirements that apply to platform operators and nominee and custody service operators, which are explained in this section.

**Table 1: Overview of the requirements**

Requirement	Who the requirement applies to	Cross-reference
Meet the corporate structure requirement	Platform operators	See RG 148.23–RG 148.24
Comply with your AFS licence obligations and the requirements of the relevant ASIC instrument(s)	Platform operators and nominee and custody service operators	See RG 148.25–RG 148.41
Have adequate arrangements in place to manage conflicts of interest	Platform operators and nominee and custody service operators	See RG 148.42–RG 148.44
Perform your obligations honestly and with reasonable care and diligence	IDPS operators	See RG 148.45–RG 148.46
Hold all investments within the IDPS (not including assets held by an investor) on trust for investors of the IDPS	IDPS operators	See RG 148.47–RG 148.50

Requirement	Who the requirement applies to	Cross-reference
Comply with the financial requirements in <a href="#">ASIC Instrument 2023/647</a> and <a href="#">ASIC Instrument 2023/648</a> (where relevant) and described in Appendices 3–4 of <a href="#">Regulatory Guide 166 AFS licensing: Financial requirements</a> (RG 166)	Platform operators and nominee and custody service operators	See RG 148.51
Maintain professional indemnity insurance and insurance against fraud by your officers	Platform operators	See RG 148.52–RG 148.55
Have in place a voting policy that includes information about your voting practices on company and scheme resolutions	Platform operators	See RG 148.56–RG 148.62
Have a reasonable belief that financial product issuers or sellers have a dispute resolution system in place for any client that would be acquiring as a retail client if they acquired directly, and to facilitate dispute resolution between investors and financial product issuers	Platform operators and nominee and custody service operators	See RG 148.63–RG 148.67
Have in place policies for investors who do not opt in to continuing to receive financial product advice	Platform operators	See RG 148.68–RG 148.70
Maintain adequate internal control procedures	IDPS operators	See RG 148.71–RG 148.75
Agreement in writing if outsourcing	IDPS operators	See RG 148.76
Requirements relating to acquisitions of investments and prohibitions on certain investments	Platform operators and nominee and custody service operators (as relevant)	See RG 148.77–RG 148.88
Specific requirements if offering securities	Product issuer or seller offering securities through a platform or nominee and custody service under an ASIC instrument	See RG 148.89–RG 148.90
Specific requirements for IDPS-like schemes	Responsible entity of an IDPS-like scheme	See RG 148.91–RG 148.99

## Meet the corporate structure requirement

RG 148.23 To operate a platform, you must be a public company that holds an AFS licence specifically authorising you to operate an IDPS or IDPS-like scheme: see [ASIC Instrument 2023/669](#) for the requirement as it applies to

IDPS operators and s601FA of the Corporations Act for the requirement as it applies to responsible entities of IDPS-like schemes.

Note: In this document, references to sections (s), divisions (Divs), parts (Pts) and chapters (Chs) are to the Corporations Act, unless otherwise specified.

- RG 148.24 This requirement ensures that platform operators have suitable operating structures to conduct their financial services businesses and promote greater transparency, including through increased financial accountability requirements and disclosure requirements about related party transactions.

## Comply with AFS licence obligations and ASIC instruments

- RG 148.25 You must comply with your AFS licence obligations and the requirements in the relevant ASIC instrument(s)—that is, [ASIC Instrument 2023/647](#), [ASIC Instrument 2023/648](#), [ASIC Instrument 2023/668](#), [ASIC Instrument 2023/669](#) and [ASIC Instrument 2016/1156](#).
- RG 148.26 If you breach an AFS licence obligation (including where applying because of an ASIC instrument), you will be in breach of your obligations as an AFS licensee to comply with the relevant financial services laws. We will consider the nature, scope and effect of any breach to determine an appropriate regulatory response.

## Licensing authorisations

### Platforms

- RG 148.27 If you wish to operate a platform under a relevant ASIC instrument, you must tell us this when applying for an AFS licence or seeking an appropriate variation. We will consider this when assessing your application or variation and, if we grant you a licence, you will need to comply with the requirements of the relevant ASIC instrument(s).

### Custody for IDPS and nominee and custody services

- RG 148.28 For an IDPS or nominee and custody service, if you hold investments that are financial products or beneficial interests in financial products on behalf of investors under an arrangement with the investor or with another person who has an arrangement with the investor, you will be regulated as a provider of custodial or depository services. You may enter into a contract with:
- (a) the investor to provide the service to that investor and consequently be an operator; or
  - (b) the operator to discharge that operator's duty to arrange custody.

## Licensing requirements

- RG 148.29 In deciding whether to grant an AFS licence authorisation to issue interests in and to operate a platform or a nominee and custody service, and in assessing ongoing compliance, we will assess the capacity and expertise of the applicant to act as an operator in accordance with its obligations as an AFS licensee, such as the capacity to operate efficiently, honestly and fairly. This assessment will be based on our guidance, including in:
- (a) [Regulatory Guides 1–3](#) *AFS Licensing Kit* (RG 1–RG 3);
  - (b) [Regulatory Guide 104](#) *AFS licensing: Meeting the general obligations* (RG 104);
  - (c) [Regulatory Guide 105](#) *AFS licensing: Organisational competence* (RG 105);
  - (d) [Regulatory Guide 126](#) *Compensation and insurance arrangements for AFS licensees* (RG 126);
  - (e) [Regulatory Guide 132](#) *Funds management: Compliance and oversight* (RG 132);
  - (f) [Regulatory Guide 133](#) *Funds management and custodial services: Holding assets* (RG 133);
  - (g) [Regulatory Guide 166](#) *AFS licensing: Financial requirements* (RG 166);
  - (h) [Regulatory Guide 167](#) *Licensing: Discretionary powers* (RG 167);
  - (i) [Regulatory Guide 181](#) *Licensing: Managing conflicts of interest* (RG 181); and
  - (j) [Regulatory Guide 271](#) *Internal dispute resolution* (RG 271).
- RG 148.30 We require a platform operator or a nominee and custody service operator to hold an AFS licence and meet its licence obligations and the requirements of our instruments, some of which are described in this guide, because we want to ensure that the operator has the necessary expertise and capacity to administer investor assets. This is a key consideration when we are deciding whether to grant a licence to a proposed operator, or assessing compliance by an operator with its obligations as a licensee. Where relevant, our approach to assessing an IDPS operator will be similar to our approach to assessing a responsible entity.
- Note: To lodge the AFS licence application form online, see [Form FS01](#) *Application for AFS licence*. The *AFS Licensing Kit* (RG 1–RG 3) is available from our website at [www.asic.gov.au/afslicensing](http://www.asic.gov.au/afslicensing). For a paper application form, or for help with applying online, phone ASIC on 1300 300 630.
- RG 148.31 Where relevant, IDPS operators must meet additional AFS licence conditions that reflect the requirements applying to the responsible entities of registered schemes: see [Pro Forma 209](#) *Australian financial services licence conditions* (PF 209).

## Relief for operators of, or persons involved in, operating or promotion of an IDPS or nominee and custody service

- RG 148.32 We provide an exemption under [ASIC Instrument 2023/669](#) and [ASIC Instrument 2016/1156](#) for operators of, or persons who are involved in operating or promoting, an IDPS or a nominee and custody service. These persons are exempt:
- (a) for an IDPS, from the registration requirements in Ch 5C;
  - (b) from the requirements of Pts 6D.2 and 6D.3 applying to offers of equitable interests in securities acquired through the platform or nominee and custody service; and
  - (c) from the financial product disclosure provisions and other provisions relating to the issue, sale and purchase of financial products in Pt 7.9 and the hawking provisions in Div 8 of Pt 7.8 relating to interests in the managed investment scheme constituted by an IDPS, and relating to financial products acquired through the IDPS or nominee and custody service.

Note: The exemptions from Pt 7.9 do not extend to s1017E, 1020D and 1021O.

- RG 148.33 The exemption in RG 148.32(b) applies to persons who do not issue the securities acquired through the IDPS or nominee and custody service.

### Additional FSG relief for operators of an IDPS

- RG 148.34 If you are an IDPS operator, under ASIC Instrument 2023/669, you also have limited relief to allow multiple operators of an IDPS to use the one IDPS Guide as your Financial Services Guide (FSG), which must set out the parts of the FSG for which each operator is responsible.

## Relief for responsible entities of IDPS-like schemes

- RG 148.35 Under [ASIC Instrument 2023/668](#), we provide relief for responsible entities of IDPS-like schemes from the fundraising and financial product disclosure provisions of the Corporations Act to the extent that they require disclosure about securities and financial products held within the IDPS-like scheme.
- RG 148.36 The requirements in ASIC Instrument 2023/668 aim to ensure that members receive similar information about investments made through the scheme and similar periodic reporting to investors of an IDPS.
- RG 148.37 ASIC Instrument 2023/668 also:
- (a) allows members of IDPS-like schemes to withdraw assets without following the procedures for withdrawal from non-liquid schemes; and
  - (b) gives relief from the requirements for responsible entities to give cooling-off rights under Div 5 of Pt 7.9 because it may not be practicable to realise the investment held within the scheme relating to the member (see RG 148.92–RG 148.93).

## Failure to comply with an ASIC instrument

- RG 148.38 If you do not comply with a requirement in [ASIC Instrument 2023/647](#), [ASIC Instrument 2023/648](#), [ASIC Instrument 2023/668](#), [ASIC Instrument 2023/669](#) and/or [ASIC Instrument 2016/1156](#), you will be in breach of your obligations as an AFS licensee to comply with the relevant financial services laws.
- RG 148.39 You must report to us any breach or likely breach of a core obligation that is significant, or any other reportable situation, within 30 days after you first know that, or are reckless as to whether, there are reasonable grounds to believe a reportable situation has arisen: see s912DAA.
- Note: For more information about breach reporting, see [Regulatory Guide 78](#) *Breach reporting by AFS licensees and credit licensees* (RG 78).
- RG 148.40 We will consider the nature, scope and effect of any breach of the requirements, or failure to report any such breach, to determine an appropriate regulatory response. This may include, where appropriate, exclusion from reliance on our relief by way of a notice from ASIC or revocation or suspension of your AFS licence.
- RG 148.41 In exercising our administrative powers, we will apply the considerations set out in [Regulatory Guide 98](#) *ASIC's powers to suspend, cancel and vary AFS licences and make banning orders* (RG 98).

## Manage conflicts of interest

- RG 148.42 An AFS licensee must comply with its AFS licence obligations, including the requirement under s912A(1)(aa) that it has in place adequate arrangements for the management of conflicts of interest in the provision of financial services. To do so, we expect licensees to have regard to [RG 181](#), including having in place a comprehensive conflicts of interest policy that contains appropriate measures to identify, document and manage conflicts, and following that policy in the running of its business (e.g. disclosure in the IDPS Guide or PDS (as relevant), where appropriate). The policy should be adequate to give confidence that a conflict will not cause the operator to breach its duties.

## Platform operators

- RG 148.43 Platform operators typically have associations with other parties in the product distribution chain that may give rise to conflicts of interest. For example, a platform operator may be more likely to select investments for inclusion in the investment menu of its platform if the product issuer is associated with the platform operator and this interest may conflict with the platform operator's obligations. In this case, we would expect the platform operator's conflicts of interest policy to address (at a minimum):

- (a) how decisions about the investment menu for the platform are made and the potential for any conflicts to arise and affect decision making, including what processes and procedures are in place to assist platform operators to manage conflicts of interest obligations in the selection process—for example, use and composition of investment committees and administrative or technological limitations that may affect the breadth of investment options available on the platform; and
- (b) how to manage conflicts that arise because of relationships between those in the product distribution chain, including whether an independent assessment is conducted when the platform operator selects investments.

Note: The Corporations Act bans platform operators from accepting volume-based benefits (s963L) and volume-based shelf space fees (s964A(1)). For further details, see [Regulatory Guide 246](#) *Conflicted and other banned remuneration* (RG 246) and RG 148.198–RG 148.200.

- RG 148.44 To the extent that any conflicts do not need to be avoided to ensure that the platform operator will comply with its AFS licence obligations, particularly in circumstances where the platform operator undertakes a duty for selecting investments for inclusion on its investment menu, the conflicts should be managed appropriately and/or fully disclosed in the IDPS Guide or PDS (as relevant).

## Perform your obligations honestly and with care and diligence

- RG 148.45 While we do not compel IDPS operators to satisfy fiduciary duties to act in the best interests of investors by way of specific obligations, certain fiduciary duties will apply by virtue of investors' assets being held on trust.
- RG 148.46 As an IDPS operator, you must perform your obligations honestly and with reasonable care and diligence. You must accept liability to investors for acts and omissions of people you engage to perform functions of the IDPS as if they were your acts or omissions.

## Hold assets on trust

- RG 148.47 As an IDPS operator responsible to investors for holding their assets, you, or a custodian engaged by you, must hold all investments held within the IDPS (not including assets held by an investor) on trust for the investor.
- RG 148.48 You must ensure that all money that you, or a person engaged by you, receive from investors, or in which investors have an interest, is promptly paid into a designated trust account with an Australian authorised deposit-taking institution (ADI), including a foreign corporation which is authorised.



RG 148.49 These requirements protect investors against the loss of assets or money if you become insolvent, and ensure that the duties of a trustee under general law will apply.

RG 148.50 [RG 133](#) requires asset holders to meet certain minimum standards. If an IDPS operator holds investor assets, it must meet the standards.

Note: For further details about arrangements for holding scheme property, see RG 133.

## Comply with your financial requirements

RG 148.51 If you are a platform operator or a nominee and custody service operator, you must meet the requirements set out in [ASIC Instrument 2023/647](#) and [ASIC Instrument 2023/648](#) (where relevant) and described in Appendices 3–4 of [RG 166](#), including:

- (a) the standard solvency and positive net assets requirement;
- (b) a tailored cash needs requirement;
- (c) a tailored audit requirement; and
- (d) a net tangible assets (NTA) requirement.

## Maintain adequate insurance

RG 148.52 A platform operator must maintain professional indemnity insurance and insurance against fraud by its officers. This insurance must be adequate for the functions of a platform operator and must cover claims up to, and in aggregate, \$5 million or the value of scheme assets, whichever is less. Scheme assets include assets held under the platform and also any registered scheme for which you are a responsible entity.

RG 148.53 This requirement is in addition to our general requirements for AFS licensees to have compensation arrangements, which are set out in [RG 126](#). The same insurance may be relied on to meet both requirements.

RG 148.54 The requirement for insurance to be held ensures that you provide some protection for the risk to you from claims by investors against loss because of negligent administration or fraud.

RG 148.55 In any business there is a risk of funds or assets being misappropriated or misused by officers of the business. When an entity is managing another person's money or assets, the risk and impact of negligence or fraud may increase. Therefore, we impose minimum insurance requirements for platform operators that reflect those applying to responsible entities of registered schemes.

## Have in place a voting policy

RG 148.56 A platform operator must have in place a voting policy that includes information about its voting practices on company and scheme resolutions. The platform operator must disclose its voting policy in its IDPS Guide or PDS (as relevant). This will ensure transparency to investors about their ability to actively participate in votes or other corporate actions affecting investments held through platforms (e.g. their ability to make a decision whether to participate in a share buy-back), while also enhancing market efficiencies by promoting resolutions in a commercially viable way.

### IDPS operators

RG 148.57 If you are an IDPS operator, where the voting policy allows investors to vote, the policy should provide key information about what actions you will take in response to company or scheme resolutions, and what rights (if any) the investor has in determining how a vote will be exercised. It should also provide information about how company and scheme resolutions and other corporate actions will be communicated to the investor as soon as practicable and how investors can give voting instructions to the IDPS operator. This may, for example, be in the form of an electronic webpage or a communications bulletin to advisers that act as agents for investors.

RG 148.58 Where an IDPS operator's voting policy allows the investor to exercise their voting rights on company or scheme resolutions, the IDPS operator (or a custodian acting on its behalf) must:

- (a) give investors any information that they require about proposed company or scheme resolutions that is made available to them as soon as practicable;
- (b) identify how such information will be given to an investor;
- (c) identify the steps that will be taken once voting instructions have been communicated by an investor; and
- (d) identify whether any cost will be charged to an investor for exercising the voting rights.

RG 148.59 An IDPS operator must only vote when, and as, instructed by investors—including under a standing instruction—and not otherwise. That is, an IDPS operator cannot vote unless it is instructed by investors.

RG 148.60 If an IDPS operator charges investors a fee to exercise their voting rights, this fee must be no more than a reasonable estimate of the cost of the investor exercising their voting right.

- RG 148.61 If an IDPS operator's voting policy does not allow voting by investors in certain circumstances, or altogether, the voting policy must state this and that this restriction will be disclosed prominently in the IDPS Guide. In these circumstances, the IDPS operator must:
- (a) disclose in the IDPS Guide that voting rights are not available when investing through the platform; and
  - (b) include this information in a clear and prominent consumer warning acknowledgement in the application form where an investor is required to acknowledge that they are aware that they do not have voting rights when investing in financial product(s) through the platform.

### **IDPS-like schemes**

- RG 148.62 Responsible entities must act in the best interests of the members of the scheme (s601FC(1)(c)) in the exercise of any power to vote arising from holding scheme property. We expect that a responsible entity of an IDPS-like scheme will consider whether it is in the best interests of members to vote on company or scheme resolutions and/or other corporate actions in all circumstances and, if it is in the best interests of members to do so, that it will ensure the vote is exercised. The responsible entity of an IDPS-like scheme must also disclose information about its voting policy in the PDS: see RG 148.56.

## **Issuer/seller dispute resolution requirements**

### **Reasonable belief issuer or seller has a dispute resolution system covering certain acquisitions for retail clients**

- RG 148.63 From 1 January 2018, a platform operator or a nominee and custody service operator must not acquire financial products (other than securities) for a retail client unless it reasonably believes that the issuer or seller has a dispute resolution system that:
- (a) covers complaints against the issuer or seller to the same extent as if the client had acquired the product directly from the issuer or seller as a retail client; and
  - (b) complies with s912A(2).
- RG 148.64 Product issuers and AFS licensees must meet dispute resolution requirements where financial services are provided to retail clients. As such, where financial products are held through a platform or a nominee and custody service, clients should have the same rights of complaint as they would have had about the issue or sale and the provision of financial services by the issuer or seller as if they had acquired the financial products directly.

- RG 148.65 We expect that a platform operator or a nominee and custody service operator will generally be able to rely on a written statement by the product issuer or seller that it will keep in place the required dispute resolution arrangements, unless there is reason to doubt a product issuer's representations. We think that a reasonable belief can generally be held based on representations by the product issuer, in a PDS or directly to the operator. Contractual warranties might assist an operator. We do not expect each operator to ask for details of the product issuer's dispute resolution arrangements. Further inquiries may be needed if there is a particular reason to doubt a product issuer's representations.

### **Facilitating dispute resolution**

- RG 148.66 A platform operator or a nominee and custody service operator must take reasonable steps to facilitate dispute resolution between investors and financial product issuers, including, for example, by informing investors about the product issuer's dispute resolution procedures and providing evidence of the investor's holding or transfer of financial products to the investor or product issuer or seller (if required).
- RG 148.67 Platform operators must also make clear and prominent disclosure in the IDPS Guide or PDS (as relevant) about who investors may complain to about different types of complaints: see RG 148.163.

## **Have in place policies for investors who do not opt in to continuing to receive financial product advice**

- RG 148.68 Platform operators must have a written policy that outlines how they will deal with investors who do not opt in to continue to receive financial product advice from their financial product advisers or who otherwise decide not to retain or continue to retain the services of any financial product adviser or a financial product adviser meeting certain requirements. This policy must be clearly disclosed in the IDPS Guide or PDS (as relevant).
- RG 148.69 If an investor does not opt in to receiving further advice from a financial product adviser approved or permitted by the platform operator, we consider it good practice for the platform operator to allow the investor to use any financial product advisers acting under an AFS licence so that they can continue investing through the platform. Alternatively, where the investor does not choose to continue to retain a financial product adviser, we consider it good practice that the investor be allowed direct access to manage their investments.

- RG 148.70 We expect a platform operator will have procedures for:
- (a) contacting the investor and offering details of other financial product advisers the investor may use to assist them with using the platform and investing through it;
  - (b) contacting the investor to arrange for the investor to stop investing through the platform, including transferring investments directly to the investor and/or their nominee (where that is possible) or selling out their investments in the portfolio after reasonable notice; and/or
  - (c) allowing the investor to transact directly through the platform, if applicable.

## Maintain adequate internal control procedures

- RG 148.71 If you are an IDPS operator, you must maintain, document and comply with adequate internal control procedures to ensure compliance with financial services laws. This is in addition to the AFS licence obligation to establish and maintain compliance measures that ensure that the licensee complies with the financial services laws.

Note: For further information about requirements for internal control procedures, see [RG 132](#).

- RG 148.72 The internal control procedures must be audited annually after the end of your financial year to determine whether:
- (a) you have complied with the internal control procedures; and
  - (b) the internal control procedures operate to ensure, as far as is reasonably practicable, compliance with financial services laws at all times during the financial year.
- RG 148.73 If you engage another person to perform a function associated with the IDPS, you must contract with that person to give the auditor all reasonable assistance and access to allow the auditor to carry out the audit of the functions performed by that person.
- RG 148.74 The auditor must be a registered company auditor. You may use the same auditor as you do for the purposes of s989B. You must lodge this auditor's report with us when lodging your accounts and auditor's report under s989B.
- RG 148.75 These requirements, which are based on those applying to compliance plans for registered schemes, provide assurance that you are complying with your regulatory obligations.

## Agreement in writing if outsourcing

- RG 148.76 If, as an IDPS operator, you are responsible for custodial or transactional functions and you engage another person to perform any of these functions on your behalf, you must enter into a written agreement with the person. We expect the agreement to specify (among other things) how you will give instructions to the person and liability provisions applying to the person breaching their agreement with you.

## Acquisitions of investments and prohibitions on certain investments

### Acquisitions under a direction

- RG 148.77 The circumstances in which a platform operator or a nominee and custody service operator acquires financial products under a direction of an investor include:
- (a) an allocation of entitlements relating to the financial products to the interest of the investor in the platform, or holding through a nominee and custody service; and
  - (b) an increased investment in a financial product in respect of which an investor's interest in the platform, or holding through a nominee and custody service, has been allocated entitlements.

### Acquisitions of securities

- RG 148.78 If you are a platform operator or a nominee and custody service operator, you must only acquire or instruct the custodian to acquire securities for an investor if:
- (a) you are reasonably satisfied that the investor has been given the disclosure document for the securities that would have been required had the securities been offered to the investor directly at the time of the acquisition and you have no reason to believe that the disclosure document is defective as if it were prepared at that time;
  - (b) you are reasonably satisfied that the securities could have been lawfully offered and issued or sold, as the case may be, to the investor directly without the investor being given a disclosure document under Ch 6D;
  - (c) for platforms, the acquisition is under a dividend or distribution reinvestment scheme (see RG 148.110–RG 148.112); or

- (d) for a CSF offer, if the investor would not have acquired the shares as a wholesale client if the investor had acquired the shares directly under the CSF offer, you reasonably believe that the investor:
  - (i) has accessed the CSF platform of a CSF intermediary containing the CSF offer document for the CSF offer and you have no reason to believe the document is defective as at the time of the acquisition of the shares;
  - (ii) has completed the acknowledgement that would be required under s738ZA(3)(b) if the investor had applied as a retail client;
  - (iii) was able to use the relevant communication facility for the CSF offer provided under s738ZA(5);
  - (iv) was able to withdraw the direction within five business days after it was made;
  - (v) has not been provided with financial assistance in relation to the CSF offer by any of the following:
    - (A) a person referred to in s738ZE(1) (i.e. the company making the CSF offer, a related party of that company, the CSF intermediary that is or intends to be the intermediary in relation to the CSF offer, and an associate of such a CSF intermediary);
    - (B) you; or
    - (C) one of your associates that is not an Australian ADI; and
  - (vi) has not in total paid for, become liable to pay for, or given directions under an IDPS, an IDPS-like scheme or a nominee and custody service for the acquisition of, shares under a CSF offer of the company making the CSF offer that together exceed the cap on investment in s738ZC(1)(b).

Note 1: For further details about the requirements to provide disclosure under Ch 6D, see RG 148.89–RG 148.90.

Note 2: For further information about CSF offers, see [Regulatory Guide 261](#) *Crowd-sourced funding: Guide for companies* (RG 261) and [Regulatory Guide 262](#) *Crowd-sourced funding: Guide for intermediaries* (RG 262).

RG 148.79 The requirement to give a disclosure document helps ensure that persons investing through a platform or a nominee and custody service receive the same quality of disclosure as if they were investing directly.

RG 148.80 These requirements also aim to ensure that securities are not offered through a platform, or in some circumstances a nominee and custody service, as a device for avoiding the disclosure requirements (e.g. by keeping the number of offerees within the exception provided for in s708) or the rights and protections for CSF offers.

## Acquisitions of financial products

RG 148.81 Under s1012IA, a platform operator or a nominee and custody service operator must give a PDS to an investor before making each regulated acquisition of financial products through a platform or a nominee and custody service, if a PDS would have been required for an equivalent direct acquisition by the investor.

RG 148.82 We have given some limited exemptions from s1012IA. A platform operator or a nominee and custody service operator is exempt from giving a PDS for a financial product under s1012IA if:

- (a) the investor has already been given a PDS by an operator for a previous acquisition of a financial product of the same kind as the investor's investment;
- (b) you reasonably believe that the investor has access to, and knows they have access to, a PDS;
- (c) the PDS the investor has access to is the most current in use or does not differ from the most current in use in a way that is materially adverse for the investor; and
- (d) you have no reason to believe the PDS the investor has access to is defective as if it were prepared at the time of the acquisition.

RG 148.83 An investor only knows they have access to a particular PDS if they know that an identified PDS exists. It is not sufficient for the investor to merely be aware that PDSs will exist from time to time.

Note 1: If a person issues financial products that are available for acquisition through a platform or nominee and custody service, and they become aware that the PDS they have provided to the platform or nominee and custody service operator has become defective, s1021J requires the person to take reasonable steps to direct the operator not to distribute the PDS.

Note 2: The operation of s1012IA is discussed in [Regulatory Guide 184](#)  
*Superannuation: Delivery of product disclosure for investment strategies* (RG 184).

RG 148.84 Under our relief, you must also give a PDS if:

- (a) as a result of an additional investment by you in a financial product, or a transfer of entitlements to financial products that the custodian already holds, the investor acquires an interest in the financial product or an increased interest in the financial product; and
- (b) you would have to give a PDS under s1012IA if the investor's interest or increased interest was because of an acquisition.

The limited exemptions apply in RG 148.82–RG 148.83 equally in these circumstances.



- RG 148.85 We do not consider that relief is needed to allow issuers of financial products to give an ordinary PDS (appropriate for investors who are acquiring the financial product directly) to persons who are acquiring the financial product through a platform or nominee and custody service. The provisions in Pt 7.9 about disclosure in a PDS must be interpreted in the context of s1012IA, which sets out when a PDS for financial products available through a platform or a nominee and custody service must be given, and implies that the PDS to be given is one that would be given for an equivalent direct acquisition.

### Prohibition on certain investments

- RG 148.86 You must ensure that neither you nor any custodian acting on your behalf acquires a right to benefits in a scheme that is not a registered scheme unless:
- (a) you are reasonably satisfied that, if the investor had invested directly in the scheme, the scheme would not have been required to be registered; and
  - (b) you are not aware and have no reason to suspect that if all interests in the scheme held by a platform or under a nominee or custody service had been held in the scheme directly by the relevant client of the platform or nominee and custody service, the scheme would have been required to be registered.
- RG 148.87 Investors should have the protections applying to registered schemes as if they were investing in a managed investment scheme directly and should not lose those protections because they acquire interests in the managed investment scheme through a platform or a nominee and custody service.
- RG 148.88 The requirements of the ASIC instruments restrict investments in unregistered schemes because the Corporations Act restricts direct investment by retail clients in unregistered managed investment schemes. Where an investor must be given a PDS for an acquisition of interests in a managed investment scheme under s1012IA or our relief, the exclusion from registration in s601ED(2) will not apply. This means that, when appropriate, the managed investment scheme will have to be a registered scheme.

### Specific requirements if offering securities

- RG 148.89 If you are an issuer offering securities through a platform (under [ASIC Instrument 2023/668](#) or [ASIC Instrument 2023/669](#)) or a nominee and custody service (under [ASIC Instrument 2016/1156](#)), you may do so using an ordinary document under Ch 6D that would be given to investors who invest directly. The disclosure document does not have to explain the differences between the rights available to investors who apply for an acquisition as part of a platform or nominee and custody service and investors who invest directly because this should be addressed in the IDPS Guide or PDS (as relevant).

- RG 148.90 We think that the combination of disclosures should ensure that investors who acquire securities through a platform or nominee and custody service should receive the same quality of disclosure (if any) about securities that they would receive if they invested directly.

## Specific requirements for IDPS-like schemes

- RG 148.91 If you are a responsible entity operating an IDPS-like scheme, you are not required to include in the PDS for the IDPS-like scheme information about all the investments available through the scheme. However, you must include in the PDS the type of information about investing through the scheme that is set out in [ASIC Instrument 2023/668](#).

### Cooling-off rights

- RG 148.92 We have given relief to responsible entities of IDPS-like schemes from the requirements to give cooling-off rights under Div 5 of Pt 7.9 where the requirements of ASIC Instrument 2023/668 are met. We have provided this relief because it may not be possible to dispose of the investments due to minimum holdings or transactions requirements, or limitations on the liquidity of the investments.
- RG 148.93 Under ASIC Instrument 2023/668, you must take reasonable steps to realise the investments and repay the investor, after deducting any losses in value to the investments on realisation relative to what was paid for them, and any fees and costs that could be deducted on exercise of cooling-off rights under Div 5 of Pt 7.9.

### Withdrawal without complying with Ch 5C.6

- RG 148.94 We have modified the provisions of Ch 5C.6 about restrictions on withdrawal of interests so that each member of an IDPS-like scheme will be able to withdraw assets of the scheme in which they have an economic interest without the responsible entity following the procedures for withdrawal from non-liquid schemes.
- RG 148.95 However, under ASIC Instrument 2023/668, the constitution of the IDPS-like scheme must specify how withdrawal requests will be dealt with where more than one member has an interest in an investment and the investment cannot be realised in part because a holding in that investment below a certain minimum is not permitted under its terms of issue. That is, the constitution must specify whether, in this situation, the responsible entity will either:
- (a) realise all members' holdings in that investment; or
  - (b) refuse to accept a withdrawal request.

- RG 148.96 The requirement that the constitution specify how the responsible entity will deal with withdrawal requests ensures that members clearly understand their withdrawal rights.
- RG 148.97 The restrictions on withdrawals from non-liquid schemes in Pt 5C.6 are designed to ensure that some members' rights to withdraw are not unfairly affected because other members have already withdrawn and therefore reduced the liquid assets of the scheme.
- RG 148.98 The intent of Pt 5C.6—to ensure fairness in giving access to withdrawal—is relevant to IDPS-like schemes where more than one member has an interest in an investment and a holding in that investment below a certain minimum is not permitted under its terms of issue. In this situation, a member who asks that their investment be realised at a time when this is possible without the holding of the investment falling below the minimum holding may be advantaged over a member who asks for withdrawal at a time when the withdrawal cannot be made without the holding of the investment falling below the minimum holding. Nevertheless, we accept that it may not be practicable to provide for a withdrawal notice procedure separately for each investment in which multiple members have an interest to help ensure fairness.

### **Selection of investments**

- RG 148.99 The responsible entity of an IDPS-like scheme must act in the best interests of members of the scheme when considering the selection of investments that are to be made available within the scheme: s601FC.

## C General disclosure obligations for platform operators

### Key points

This section explains when, under an ASIC instrument for platform operators, a document is 'given' to a person.

It also explains the general disclosure obligations of an IDPS operator, including the obligation to:

- provide an IDPS Guide (see RG 148.105–RG 148.116), which may be, or may include, your FSG;
- comply with quarterly reporting obligations (see RG 148.117–RG 148.123);
- provide an annual investor statement and audit report (see RG 148.124–RG 148.132); and
- if requested, provide notices on assets (see RG 148.133–RG 148.136).

Specific requirements apply to you if you operate an IDPS-like scheme: see RG 148.137–RG 148.138.

### When is a document 'given' to a person?

RG 148.100 For platform operators, a document is given to a person, under the requirements of the relevant ASIC instrument, when:

- (a) it is received by that person or their eligible agent; or
- (b) it may reasonably be expected to be received by that person or their eligible agent.

If RG 148.100(a) or RG 148.100(b) cannot be met, we will deem the document to be given when all reasonable steps have been taken to give it to that person or their agent.

RG 148.101 We regard a document as given if a copy of it is given and the giver takes reasonable steps to ensure that the document received by the person is a complete and unaltered copy.

RG 148.102 Platform operators can give documents to investors electronically, including by providing hyperlinks or by reference to a website if the investor has agreed, or by giving documents to agents in some circumstances.

Note: For further details on digital financial services disclosure, see [Regulatory Guide 221](#) *Facilitating digital financial services disclosures* (RG 221).

## Platform operator can give documents to investor's agent

### Giving a PDS for financial products available through a platform through an agent

RG 148.103 Under the ASIC instruments, platform operators can give disclosure documents about financial products available through a platform to an investor by giving the documents to the investor's agent. Generally, under s1015C(3)(a) and (b), a PDS cannot be given to an investor by giving it to an AFS licensee or its authorised representative acting as the investor's agent. However, [\*ASIC Corporations \(Shorter PDS and Delivery of Accessible Financial Products Disclosure by Platform Operators and Superannuation Trustees\) Instrument 2022/497\*](#) allows you, as a platform operator, to give PDSs for financial products acquired through the platform by giving these documents to an agent of the investor that is a licensee or authorised representative.

RG 148.104 Some restrictions apply to an AFS licensee or its authorised representative acting as an agent of the investor. When acting as an agent of an investor, the licensee or an authorised representative must promptly give the documents to the investor. We have modified s1015C in ASIC Instrument 2022/497 to require a licensee and an authorised representative acting as an agent to promptly give to the investor the PDS they receive as agent for that investor from a platform operator. We consider this necessary to ensure that the investor receives important disclosures in a timely manner.

Note: Trustees of superannuation entities may also give investors documents by giving those documents to another person who is acting as an agent of the investor if the agent is an AFS licensee or authorised representative: see ASIC Instrument 2022/497.

RG 148.105 A platform operator may rely on an AFS licensee or authorised representative acting as an agent only when the platform operator has evidence (e.g. a copy) of an agreement in writing between the agent and the investor for the former to act in an 'agent' capacity.

RG 148.106 We expect an authorised representative to ensure that it gives to the AFS licensee for whom they are acting a copy of the agreement in writing between the agent and the investor for the former to act in an 'agent' capacity.

### Giving a document through an eligible agent

RG 148.107 Generally, an eligible agent must not be associated with the platform operator. [\*ASIC Instrument 2023/668\*](#) and [\*ASIC Instrument 2023/669\*](#) allow certain documents required for investments made through the platform to be given by you, as a platform operator, to an eligible agent of the investor that is an AFS licensee or authorised representative, or their employee, even if they are associated with you.

## Providing an IDPS Guide

RG 148.108 As an IDPS operator, before entering into an IDPS contract with each prospective investor, you must ensure that each investor is given an IDPS Guide setting out disclosure about the IDPS before the investor agrees to use the IDPS. This requirement helps a prospective investor to make an informed decision about whether to use an IDPS: see Section D.

### Relief from PDS requirement where an IDPS Guide is given

RG 148.109 You and any custodian acting on your behalf as an IDPS operator must only acquire financial products available through the IDPS if a person performing the transactional functions is reasonably satisfied that:

- (a) the investor has been given a PDS for the financial products that would have been required had the financial products been offered to the investor directly at the time of the acquisition and the operator has no reason to believe that the PDS is defective as if it were prepared at the time of the acquisition; or
- (b) the investor has been given a PDS for the financial products that is current at the time of the acquisition of the investment or the investment could lawfully have been offered and issued or sold to the investor directly, without the investor being required to have received a PDS and you have no reason to suspect that a PDS would have been required to be given to the investor if all other holdings of the financial products in custodial arrangements had been held by the client as defined in s1012IA (of those arrangements).

### Disclosure in IDPS Guide on dividend or distribution reinvestment plans or regular savings plans

RG 148.110 IDPS operators are exempt from giving a PDS under s1012IA for an acquisition of a financial product under a dividend or distribution reinvestment plan if a financial product of the same kind is already held by the investor through the platform. A dividend or distribution reinvestment plan is a written arrangement between you and the investor, under which the investor instructs you to:

- (a) reinvest dividends or distributions from their investment in some or all of their investments held through the platform; and
- (b) carry out the reinvestment of dividends or distributions referred to in paragraph (a) according to an agreed method.

Note: Financial products are 'of the same kind' if they meet the requirements in s1012D(10).

- RG 148.111 [ASIC Instrument 2023/669](#) requires that the investor is given an IDPS Guide containing a statement to the effect that the investor may not have the current PDS for a financial product or security held through the platform at the time that an additional holding of the investment is acquired under the dividend or distribution reinvestment plan.
- RG 148.112 You are also exempt from giving a PDS under s1012IA for an acquisition of a financial product under a regular savings plan. A regular savings plan is a written arrangement between you and the investor to the effect that:
- (a) the investor instructs you to acquire specific investments by way of periodic payments of a specified amount and at specified intervals;
  - (b) the investor acknowledges that, under the regular savings plan, you may acquire a financial product or security in accordance with the investor's instruction without the investor having a current PDS or disclosure document for that financial product or security;
  - (c) as soon as is reasonably practicable and, in any event, by the fifth business day after you receive what you reasonably believe are the most current documents, you agree to give the investor access to what you reasonably believe is:
    - (i) the most current PDS, or relevant supplementary PDS, if financial products are to be acquired; or
    - (ii) the most current disclosure document, or relevant supplementary prospectus, if securities are to be acquired; and
  - (d) the investor acknowledges that you will continue to make acquisitions in accordance with the regular savings plan until they instruct you otherwise or the arrangement constituting the regular savings plan is terminated.
- RG 148.113 Similar to the requirements for dividend or distribution reinvestment plans, ASIC Instrument 2023/669 requires you to ensure that:
- (a) the IDPS Guide discloses that the investor may not have the current PDS or current disclosure document at the time that an acquisition of the financial product or security is made under the regular savings plan—you must ensure that each investor is notified of this in writing at least quarterly; and
  - (b) you comply with your agreement with the investor under the regular savings plan to give any PDS, supplementary PDS, disclosure document or supplementary prospectus as soon as is reasonably practicable and, in any event, by the fifth business day after you receive what you reasonably believe are the most current documents.
- RG 148.114 We have given some other exemptions from s1012IA to platform operators: see RG 148.82–RG 148.84.

### **Disclosure on implications for investors who do not opt in to continuing to receive financial product advice**

- RG 148.115 The IDPS Guide or PDS (as relevant) must clearly disclose the platform operator's policy on how it will deal with investors who do not opt in to continue to receive financial product advice from a financial product adviser approved or permitted by it or who has decided not to continuously use a financial product adviser. The disclosure should state clearly any implications of not having retained the continuing services of a financial product adviser when using the platform, including whether this will affect an investor's ability to continue to use the platform or result in liquidation of their assets.
- RG 148.116 The IDPS Guide or PDS (as relevant) must be clear about how investors who do not opt in to continuing to receive financial product advice from a financial product adviser will be affected. For example, when an investor ceases to use a financial product adviser approved by the platform operator, disclosure of a policy that converts the investor's investment into cash immediately and puts it in a cash management account, regardless of the prevailing market conditions (including that this could be unfavourable and result in a loss to the investor), would be required.

### **Providing a Financial Services Guide**

- RG 148.117 A platform operator must give investors an FSG for the financial services it provides to investors as part of the platform. An IDPS Guide may be, or may include, your FSG.
- RG 148.118 The IDPS Guide can include the FSG for one or more of the IDPS operators. Under [ASIC Instrument 2023/669](#), we have modified how the Corporations Act applies where an IDPS Guide relates to financial services of multiple operators and is the FSG for two or more of those operators. In that case, each of the operators can limit their liability for the contents of the document under the FSG liability provisions of the Corporations Act so they are not responsible for any part of the IDPS Guide for which another operator has accepted responsibility under the FSG liability provisions.
- RG 148.119 In this way, multiple operators of an IDPS can produce one IDPS Guide that satisfies the FSG requirements, without being responsible for disclosures about other operators, so long as it is clear that the other operators are responsible for those disclosures.



## Complying with quarterly reporting obligations

RG 148.120 As an IDPS operator, you must ensure that each investor is given either:

- (a) a quarterly report containing the information in RG 148.122 within one month after each quarter-end date, unless the quarter-end date is at the end of a financial year; or
- (b) electronic access to the information referred to in RG 148.123 on a substantially continuous basis as described in RG 148.121.

RG 148.121 You can give electronic access to:

- (a) investors who:
  - (i) have agreed not to be given a quarterly report;
  - (ii) have agreed to obtain information electronically about transactions and holdings through the service; and
  - (iii) you have no reason to doubt can electronically access this information on a substantially continuous basis; or
- (b) investors who:
  - (i) have received reasonable notice that they will be able to obtain information electronically about transactions and holdings through the service;
  - (ii) you have no reason to doubt can electronically access this information on a substantially continuous basis;
  - (iii) have been provided with the ability to opt out of receiving information by electronic access; and
  - (iv) have not opted out of receiving the information by electronic access.

RG 148.122 The quarterly report must contain information about:

- (a) all transactions during the quarter relating to the investor's investments held through the platform;
- (b) the quantity and value of the investor's investments held within the platform and corresponding liabilities on the quarter-end date; and
- (c) the revenue and expenses of the investor in relation to the platform and the investor's investments during the quarter.

RG 148.123 If electronic access is provided instead of quarterly reports, the following information must be accessible electronically:

- (a) all transactions in the investor's investments held through the platform for a period of at least one year up to a date no more than 48 hours (excluding hours on a day that is not a business day) before the time of access;

- (b) the quantity and value of the investor's investments held within the platform and the corresponding liabilities at a time no more than 48 hours (excluding hours on a day that is not a business day) before the time of access;
- (c) the revenue and expenses of the investor in relation to the platform and the investor's investments held in the platform during a period of at least one year up to a date no more than 48 hours (excluding hours on a day that is not a business day) before the time of access; and
- (d) the time at which the information is current.

RG 148.124 The value reported or displayed for any of the investor's investments held through the platform must be the value in the most current accounting records of the platform operator responsible to the investor for reporting.

RG 148.125 As well as keeping investors informed, giving quarterly reports or continuous electronic access provides a mechanism by which users of services can play a role in ensuring that transactions are carried out as instructed.

RG 148.126 We allow continuous electronic access to up-to-date information about transactions, holdings and value as an alternative to quarterly reporting, in recognition of the electronic nature of some platforms. This alternative can only be used for investors who have either agreed to receive information in this way or have been given reasonable notice and have not opted out of receiving information in this way.

RG 148.127 Before providing investors with electronic access in lieu of giving quarterly reports, we expect that operators will, as a matter of good practice, provide a number of reminders to investors notifying them of the transition to electronic access and that they will no longer receive quarterly reports. If investors wish to revert to receiving quarterly reports at any time, this should be permitted unless the investors have expressly agreed to electronic access.

## Providing an annual investor statement and audit report

RG 148.128 As an IDPS operator, you must ensure that each investor is given an annual investor statement within three months of the end of each financial year, regardless of whether quarterly reporting or continuous electronic reporting is provided. The statement must contain a summary of the transactions in the investor's investments held through the platform during the financial year, including the details that an investor may reasonably require in relation to the transactions. For each investor who has been provided with quarterly reports, the annual investor statement must state that the investor may request a copy of any quarterly report relating to the relevant financial year that was required to be given to the investor.

- RG 148.129 You must ensure that each investor is given an annual audit report relating to the annual investor statement within three months of the end of each financial year. The annual audit report must be prepared by the registered company auditor who provides the audit report on internal control procedures referred to in RG 148.74.
- RG 148.130 The audit report must state the auditor's opinion on whether the accounting procedures and internal controls of the IDPS operator, the custodian and any other relevant person acting on behalf of the IDPS operator were designed and operated effectively in all material respects to ensure that generally:
- (a) an investor's investment statements for the financial year are, or have been, given to investors without material misstatement; and
  - (b) where the annual investor statements do not purport to include details of each transaction that would be required in quarterly reports for each quarter during the financial year:
    - (i) quarterly reports are or have been given to investors without material misstatement; and
    - (ii) the information that is made accessible electronically is not materially misstated at each quarter's end in the financial year.
- RG 148.131 The report must include the auditor's opinion on whether the aggregate of the investor's investments held through the platform, corresponding liabilities, and the relevant revenue and expenses shown in the investor's annual statement have been properly reconciled in all material respects to the corresponding amounts shown in the reports prepared by the custodian, which have been independently audited.
- RG 148.132 The audit report must set out whether the auditor has reason to believe that:
- (a) any of the investor's investment statements for the financial year are, or have been, given to investors without material misstatement; and
  - (b) where the annual investor statements for the financial year do not include details of each transaction that would be required in quarterly reports for each quarter during the financial year:
    - (i) any quarterly reports for the financial year are, or have been, given to an investor without material misstatements; and
    - (ii) the information that has been made accessible electronically in respect of the financial year was not materially misstated at any quarter's end in the financial year.
- RG 148.133 If one operator is responsible for preparing the investor's annual statements and giving them to another platform operator that is responsible for giving the investor annual statements, the audit report may be tailored to reflect those separate responsibilities.

- RG 148.134 The annual statement is important because it will help investors assess their investments held through the platform and comply with their tax obligations.
- RG 148.135 Although the audit report does not involve an audit of each investor statement, it provides investors with some assurance that your systems will enable investor statements to be provided in compliance with your obligations.

## Providing notices relating to assets (if requested)

- RG 148.136 On request, IDPS operators must give an investor a copy of all communications that are required by law to be given, or made available, to the holder of the relevant investments held within the platform. This includes communications that must be given to the holder of an investment if the holder elects to receive them—for example, the full annual report for a company, the shares of which are held as investments within the platform.
- RG 148.137 You must provide the communications as soon as possible after the information is received or is able to be obtained.
- RG 148.138 You may charge a reasonable administrative fee for this service (including any costs of obtaining access).
- RG 148.139 These requirements for passing on communications will help to ensure that investors have access to the same information about investments held within a platform as they would do if they had invested directly.

## Specific requirements for IDPS-like schemes

- RG 148.140 If you are a responsible entity operating an IDPS-like scheme, we will give you relief from the fundraising and financial product disclosure provisions to the extent that these provisions require disclosures about the investments available through the scheme in the PDS. We have done this because disclosure about investment in a PDS for an IDPS-like scheme would be unreasonably burdensome because the investor will receive a PDS for a financial product or Ch 6D disclosure document for an investment.
- RG 148.141 Whether or not you rely on our relief, you must:
- (a) comply with the financial product disclosure provisions by including in the PDS for the IDPS-like scheme all other information required by the financial product disclosure provisions about the IDPS-like scheme (except for information about investments); and
  - (b) comply with the requirements of [ASIC Instrument 2023/668](#).

## D Content disclosure obligations for platform operators

### Key points

This section describes the content disclosure obligations relating to:

- general content and presentation (see RG 148.142–RG 148.145);
- incorporation by reference (see RG 148.146);
- access to non-materially adverse information (see RG 148.147–RG 148.148);
- consumer warnings (see RG 148.149–RG 148.162), including cooling-off rights (see RG 148.157–RG 148.158), withdrawal rights (see RG 148.159–RG 148.160) and voting rights (see RG 148.161–RG 148.162);
- access to dispute resolution schemes (RG 148.163);
- the selection of investments (see RG 148.164–RG 148.166);
- fees and costs information (see RG 148.167–RG 148.171); and
- updated disclosure (see RG 148.172–RG 148.173).

Additional specific requirements apply for retaining copies of your disclosure documents (see RG 148.174), and to IDPS-like schemes (see RG 148.175).

### General content and presentation

- RG 148.142 The IDPS Guide may consist of one or more documents. It may be, or may include, your FSG.
- RG 148.143 You must include in the IDPS Guide all information a person would reasonably require for the purpose of making a decision, as a retail client, whether to become an investor of the IDPS.
- RG 148.144 Information included in an IDPS Guide must be worded and presented in a clear, concise and effective manner.
- RG 148.145 Your IDPS Guide must be up-to-date when given.

### Incorporation by reference

- RG 148.146 You can exclude certain information referred to in RG 148.143 from an IDPS Guide if that information is publicly available in a document other than the IDPS Guide and you refer to it in your IDPS Guide. For example, you could have a separate document listing the investments that can be acquired through the IDPS. If you decide not to include this information in

the IDPS Guide, but rather refer to the availability of the information in the IDPS Guide, the IDPS Guide must:

- (a) give sufficient details about the information to enable a person to identify by a unique identifier the document or part of the document containing the information and to locate the information and decide whether to read or obtain a copy of it;
- (b) state that the information can be obtained from you on request at no charge; and

Note: If you receive a request for the information, you must comply as soon as practicable at no charge.

- (c) contain a description in summary of the information known to you that might reasonably be expected to have a material influence on the decision of a reasonable person as a retail client whether to use the IDPS.

## Access to non-materially adverse information

RG 148.147 You can also satisfy your obligation to give a current IDPS Guide by giving an existing document that is not up-to-date only if:

- (a) the updated information that would be required is not materially adverse from the viewpoint of a reasonable retail client of the IDPS;
- (b) the IDPS Guide clearly and prominently:
  - (i) explains that information that is not materially adverse information is subject to change from time to time and may be updated by means described in the IDPS Guide;
  - (ii) explains how that updated information can be found out at any time; and
  - (iii) states that a copy of any updated information will be given to a person without charge on request; and
- (c) you have taken reasonable steps to:
  - (i) establish and maintain the way in which an investor may find out any updated information—this process should be simple and involve no charge and little inconvenience to the investor, bearing in mind the kinds of people likely to consider acquiring an interest in the IDPS, and include arrangements where an investor is given a paper copy of the updated information without charge on request; and
  - (ii) make any updated information available as soon as practicable free of charge to each regulated person to whom the IDPS Guide was originally provided.

RG 148.148 For the purposes of RG 148.147(b)(i), one of the ways in which the information may be made available to investors is through publication on a clearly identified website.

## Consumer warnings

RG 148.149 We consider it best practice for platform investors to receive the same rights for investments through those vehicles as for investing directly in the same financial products or securities.

Note: For CSF offers see RG 148.78(d).

RG 148.150 Where it is not possible for this to be achieved, we consider that it is necessary for investors to be given clear and effective disclosure in the IDPS Guide or PDS (as relevant) of the key differences in the entitlements available to platform investors, as opposed to investing directly. At a minimum, we expect that a platform operator will provide clear disclosure about the following areas:

- (a) cooling-off rights (see RG 148.157–RG 148.158);
- (b) withdrawal rights (see RG 148.159–RG 148.160);
- (c) voting rights (see RG 148.161–RG 148.162); and
- (d) whether the investor may be adversely affected if the investor does not continue to use the platform with an AFS licensee or authorised representative adviser acting for them (if applicable) (see RG 148.156).

RG 148.151 Such disclosure should cover:

- (a) what the rights are;
- (b) the difference in entitlement to these rights, including whether these rights are available to your platform's investors; and
- (c) implications to the investors where the rights are not available to them as an investor through your platform.

## Consumer warning acknowledgement

RG 148.152 To ensure that platform investors' attention is drawn to the issues in RG 148.150, a platform operator must also include in the application form for a platform a consumer warning acknowledgement, to be signed by the investor.

RG 148.153 The consumer warning acknowledgement must be located close to where the investor signs or, if submitted electronically, close to where they 'accept' or 'agree to' the investment. It should include:

- (a) a list of the key areas of difference between using the platform and investing in the financial products or securities through the platform and investing directly; and
- (b) cross-references (including page or paragraph references as appropriate) to where further information on these issues can be located in the IDPS Guide or PDS (as relevant).

RG 148.154 We expect that the consumer warning acknowledgement will cover, at a minimum, whichever items listed in RG 148.150 that are applicable to the operation of the relevant platform and the investments that are made available to investors within that platform. We note that RG 148.150 is not an exhaustive list, and we expect you to include in this consumer warning acknowledgement any material differences in relation to investors' rights between using the platform and investing through the platform and investing in the financial products directly.

RG 148.155 For example, a consumer warning acknowledgement may contain wording such as:

I/we acknowledge that by investing through [**Name of platform**], I/we do not have access to some of the rights and entitlements that would otherwise be available to me/us as a retail investor if I/we invested in the underlying financial products directly.

I/we understand that this includes not having the same rights as direct retail investors **or not having access to:**

- cooling-off rights (p. x of the IDPS Guide);
- withdrawal rights (p. x); and
- voting rights (p. x).

RG 148.156 Where applicable, this consumer warning acknowledgement should also include, with page references to the IDPS Guide or PDS (as relevant), that investors may be adversely affected if they do not continue to receive financial product advice—for example, if they are not allowed to use the platform.

## Cooling-off rights

RG 148.157 We expect a platform operator to make clear and prominent disclosure in the IDPS Guide or PDS (as relevant) that cooling-off rights for financial products acquired through the platform may not be available to retail clients. It may be necessary for the platform operator to explain that:

- (a) direct retail clients in certain financial products may have cooling-off rights under s1019B—that is, a retail client has the right to return the financial product to the issuer and receive the amount paid, less certain fees and less (or plus) market movements;
- (b) in contrast, cooling-off rights are typically not available to investors in a platform; and
- (c) the lack of statutory cooling-off rights is of particular importance for those financial products that have only infrequent or restricted redemption windows—prospective investors in such products should specifically consider liquidity in determining whether to invest. However, even in the case of other products, withdrawal may incur fees that would not be applicable where investors exercise the cooling-off right.



- RG 148.158 The PDS for an IDPS-like scheme and any confirmation of acquisition of an interest in an IDPS-like scheme must also disclose the responsible entity's obligations under the modified cooling-off regime as specified in [ASIC Instrument 2023/668](#).

### Withdrawal rights

- RG 148.159 A platform operator must make clear and prominent disclosure in the IDPS Guide or PDS (as relevant) that:
- (a) withdrawal rights for financial products acquired through the platform may not be available when a PDS or disclosure document (as relevant) becomes defective before issue; and
  - (b) the product issuer would not be required to return the investment or provide the investor with other options such as notification of an option to withdraw under s724 (for disclosure documents) or s1016E (for PDSs).

- RG 148.160 In practice, we expect a platform operator to, where practicable:
- (a) ensure that any notification of the option to withdraw and any accompanying disclosure they receive is given to investors who may have had a right to exercise a withdrawal option if they had acquired the relevant financial products or securities directly as soon as possible, but no later than five days from when the platform operator received such notification;
  - (b) give investors access to any supplementary or replacement disclosure and inform them of how it may be accessed; and
  - (c) act on the investor's instructions as to how to exercise the option (if provided).

This information should be disclosed in the IDPS Guide or PDS (as relevant).

### Voting rights

- RG 148.161 We expect a platform operator to make clear and prominent disclosure in the IDPS Guide or PDS (as relevant) of its voting policy, including information on voting practices on company and scheme resolutions and other corporate actions.
- RG 148.162 If an IDPS operator's voting policy does not allow voting by investors in certain circumstances, or altogether, the voting policy must state this and this restriction will be disclosed prominently in the IDPS Guide. In these circumstances, the IDPS operator must disclose in the IDPS Guide that voting rights are not available when investing through the platform and include a consumer warning acknowledgement referred to in RG 148.152–RG 148.156.

## Access to dispute resolution schemes

- RG 148.163 A platform operator must make clear and prominent disclosure in the IDPS Guide or PDS (as relevant) about who investors may complain to about different types of complaints. Specifically, the disclosure should explain that:
- (a) for complaints related to platform operation, investors should approach the platform operator;
  - (b) for complaints related to investments acquired through the platform, investors should approach the product issuers or sellers; and
  - (c) for complaints about financial product advice about using platforms and investments acquired through them, investors should approach the AFS licensee for whom the relevant adviser was acting.

## Selection of investments

- RG 148.164 A platform operator must disclose in the IDPS Guide or PDS (as relevant) details of the process by which investments are selected for inclusion on the platform. We consider that this is critical for an investor to understand the process involved in determining the list of available investments because it may have a material influence on the investor's decision to use the particular platform and access specific products through it.
- RG 148.165 We require a platform operator to explain how it selects investments for its platform, including the methodology it uses and any significant factors that it takes into consideration in making its selection. For example, disclosure may explain:
- (a) that an investment or due diligence committee is used and the number of internal and external members of that committee;
  - (b) the factors that influence the selection of specific investments—for example, the extent to which market conditions, liquidity, asset allocation and diversification, research recommendations and the standard risk measures are determinative;
  - (c) how often the investment menu is reviewed;
  - (d) whether any conflicts of interest exist between product issuers seeking to include products on a platform's investment menu and platform operators, and how these are managed;
  - (e) whether there are any administrative or technological factors that influence selection; and
  - (f) the extent to which selection is constrained by the range of products issued by or associated with related entities of the platform operator.

- RG 148.166 Where there is any material change to the investment policy or any other material changes or significant events, we would expect the platform operator to notify existing investors in the platform:
- (a) for IDPS operators—through an updated IDPS Guide made available to investors (which may include incorporation by reference where permitted);
  - (b) for responsible entities of IDPS-like schemes that are not disclosing entities—through notification to existing investors in the platform under s1017B(1A); and
  - (c) for responsible entities of IDPS-like schemes that are disclosing entities—through publication of a disclosure meeting the requirements of s675.

## Fees and costs information

- RG 148.167 The IDPS Guide must comply with Sch 10 to the *Corporations Regulations 2001* (Corporations Regulations as modified by [ASIC Corporations \(Disclosure of Fees and Costs\) Instrument 2019/1070](#)) as if it were a PDS for a registered scheme. Similarly, a PDS for an IDPS-like scheme must disclose fees and charges in a format that complies with the modified Sch 10 to the Corporations Regulations.

Note: We provide guidance on fees and costs disclosure obligations in [Regulatory Guide 97](#) *Disclosing fees and costs in PDSs and periodic statements* (RG 97).

- RG 148.168 We think that these fees and costs disclosure requirements will ensure that potential and existing investors are given key fees and costs information about investing through a platform.
- RG 148.169 RG 97 sets out our guidance and expectations for the IDPS Guide or PDS (as relevant) to explain and illustrate (by worked examples) the cumulative impact of fees and costs for the platform. The examples might also incorporate typical fees for advice.
- RG 148.170 We consider that costs incurred for investment products that an investor holds through the platform are not management costs of the platform. This is because these financial products are, in the relevant sense, assets of the platform being assets that people use the platform to invest in, as distinct from financial products that are means through which investment in the assets underlying those products can be made.
- RG 148.171 Accordingly, unlike costs incurred in financial products through which investment in the assets underlying those financial products can be made, where the scheme includes that investments will be made directly or indirectly in those assets, costs in those financial products are costs that a person would incur if they had invested in the assets directly themselves and, as such, are excluded from being management costs.

## Updated disclosure

- RG 148.172 If your IDPS Guide met our requirements when prepared, but a change occurs after that time that would affect the information required in the IDPS Guide, you can provide updated disclosure to investors by providing a supplementary IDPS Guide.
- RG 148.173 An updated IDPS Guide should be made available to investors. A platform operator must not give to an investor an IDPS Guide after the operator becomes aware that a material change has occurred to the information in it, except as permitted for certain changes that are not materially adverse from the viewpoint of the investor, or it becomes misleading or deceptive or likely to mislead or deceive.

## Retaining copies of disclosure documents

- RG 148.174 You must keep each form of the IDPS Guide or supplementary IDPS Guide for seven years after it is last given in compliance with the requirements of [ASIC Instrument 2023/669](#). During this time, you must also keep a copy of each document that you refer to in the IDPS Guide and say in each IDPS Guide that it is available from you on request, free of charge, as well as any updated information relating to that IDPS Guide.

## Specific requirements for IDPS-like schemes

- RG 148.175 For an IDPS-like scheme, we expect responsible entities to have regard to the provisions of Pt 7.9.

Note: The shorter PDS regime, under Div 4 of Pt 7.9 of the Corporations Regulations, does not apply to IDPS-like schemes.

## E Obligations if providing financial product advice on platforms

### Key points

If you are carrying on a business that includes making recommendations or statements of opinion about using a platform or investing through a platform, you will be providing financial product advice under s766B.

This section covers:

- when a financial product adviser on platforms is exempt from providing a PDS (see RG 148.178–RG 148.179);
- complying with the duty to act in the best interests of the client (the best interests duty) (see RG 148.180–RG 148.184);
- managing conflicts of interest (see RG 148.185–RG 148.189); and
- content of advice and providing a Statement of Advice (SOA) (see RG 148.190–RG 148.200).

### Providing financial product advice

RG 148.176 The client's rights in a platform are a financial product. Therefore, opinions or recommendations intended to influence, or that could reasonably be regarded as intended to influence, a decision about using a platform will be financial product advice.

Note: In this section, references to 'client' mean 'retail client' as defined in s761G of the Corporations Act and Div 2 of Pt 7.1 of Ch 7 of the Corporations Regulations.

RG 148.177 If you are carrying on a business that includes making recommendations or statements of opinion about using a platform or acquiring financial products and/or securities through a platform, you will be providing financial product advice under s766B and you must:

- (a) hold an AFS licence;
- (b) be a representative of an AFS licensee with appropriate authorisation for that financial product advice; or
- (c) fall within an exemption under s911A(2).

### Exemption from providing a PDS

RG 148.178 AFS licensees or authorised representatives that are not an IDPS operator are not required to give a client a PDS for an IDPS if they give the client an IDPS Guide, which complies with [ASIC Instrument 2023/669](#), at the time they would have had to give a PDS—that is, when they make a

recommendation to acquire an interest in an IDPS under s1012A or offer to arrange for the issue of an interest in an IDPS under s1012B(3)(A)(ii).

RG 148.179 The exemption applies only if:

- (a) the AFS licensee or authorised representative has given an IDPS Guide for the IDPS at, or at any time before, a PDS would otherwise have to be given; and
- (b) as far as the licensee or authorised representative is aware, the IDPS Guide complies with our requirements for an IDPS Guide at the time the PDS would otherwise be required to be given.

## Complying with the best interests duty

RG 148.180 If you provide personal financial product advice about whether to use (or switch to) a platform or about investments to be held (or that are held) through a platform, you will need to comply with the conduct and disclosure requirements in Pts 7.7 and 7.7A.

RG 148.181 The best interests duty and related obligations in Div 2 of Pt 7.7A of the Corporations Act require advice providers, when providing personal advice to retail clients, to:

- (a) act in the best interests of their clients (s961B(1));
- (b) provide appropriate advice (s961G);
- (c) warn the client if advice is based on incomplete or inaccurate information (s961H); and
- (d) prioritise the client's interests (s961J).

Note 1: For further information about the best interests duty, see [Regulatory Guide 175 Licensing: Financial product advisers—Conduct and disclosure](#) (RG 175).

Note 2: For further guidance on preparing and providing suitable personal financial product advice, see our guidance in Section B of RG 175.

RG 148.182 Advice providers that provide advice about using platforms and investing through them must act in the best interests of their clients. We expect that advice given about platforms and investing through them will cover the key features of a platform, including how it is different from investing directly in the same financial products and/or securities, and the impact of matters listed in the consumer warning acknowledgement, requiring acknowledgement (or agreement in the case of electronic submission) by the client.

RG 148.183 We consider that advice about platforms and investing through them can be scaled. When providing advice on subject matter such as investing through platforms, it should be made clear in the Statement of Advice (SOA) what advice has been provided and what advice has not been provided (as relevant to the subject matter of the advice), the implications of this, and why that

approach was taken. This is especially important in the context of determining whether a platform is an appropriate option for the client.

Note: For more on giving information, general advice and scaled advice, see [Regulatory Guide 244](#) *Giving information, general advice and scaled advice* (RG 244).

- RG 148.184 Advice given about using a platform needs to be prioritised in the interests of the client if there is a conflict between the client's interests and the interests of the advice provider, or any of their associates, where the advice provider knows, or reasonably ought to know, about the conflict: see s961J.

## Managing conflicts of interest

- RG 148.185 Platform operators typically have associations with other parties in the product distribution chain that may give rise to conflicts of interest, including AFS licensees whose representatives provide advice (e.g. licensed dealer groups). These relationships may influence:
- (a) the actual selection of investments available through platforms by investors; and/or
  - (b) advisers to recommend the use of platforms (as opposed to direct investment), or one platform over another.
- RG 148.186 We expect a platform operator to take reasonable steps to work with other parties in the product distribution chain to identify relationships and arrangements that may give rise to conflicts of interest in relation to the provision of financial services, and to ensure that appropriate and robust measures are in place to manage those conflicts. We expect a platform operator to document these conflicts of interest as they affect the platform operator and its representatives, and to manage them, to enable the platform operator to meet its duties.

Note: For further details of our expectations of platform operators in managing conflicts of interest, see [RG 181](#) and RG 148.42–RG 148.44.

- RG 148.187 We expect that AFS licensees responsible for providing financial product advice about platforms and investments through them to take the same approach.
- RG 148.188 We consider it good practice to document any measures in place to manage such conflicts as part of written agreements governing the relationships of those in the product distribution chain.
- RG 148.189 We expect any material conflicts will need to be carefully managed by all AFS licensees in the product distribution chain, and their representatives, through a combination of internal controls, disclosure and, in some cases, avoidance of the conflicts altogether. This will provide confidence that the conflict will not result in a failure to meet the licensee's or representative's duties.

## Content of advice and providing a Statement of Advice

RG 148.190 Giving advice about using a platform and investing through it—including acquiring, holding and disposing of financial products and securities through the platform—raises similar regulatory issues to giving advice about other financial products. The provisions of the Corporations Act regulating financial product advice, including the requirement for an SOA to be given in certain circumstances, apply to advice about a platform. These requirements help ensure that clients are able to assess any advice they receive on whether to use (or switch to) a platform and invest through it. For example, the fees and costs associated with investment through a platform and any tax and cost implications in switching can be material and should be addressed in the SOA.

RG 148.191 We would expect an SOA (or a portion of an SOA) relating to a platform to include advice about why a particular platform and/or particular investments are recommended, including:

- (a) the service offered by the platform and how that service will benefit the client in comparison to the client investing directly or through one or more other platforms—where relevant, this should also describe why particular features of the recommended platform and/or particular investments are suitable to the client;
- (b) the range of investments offered through the platform, how they were selected for inclusion on the platform and whether they are appropriate for the client;
- (c) the fees and costs associated with the platform and how they relate to other fees and costs, including fees and costs connected with the investments to be acquired through the platform and fees and costs connected with your, or your AFS licensee's, service;
- (d) any significant tax implications from using the platform; and
- (e) any significant implications if the client later wishes to leave the platform or is required to leave the platform in case of not opting in to receiving financial product advice or otherwise.

Note: For further guidance on preparing and providing an SOA, see our guidance in Section D of [RG 175](#).



### **Consideration of investment selection processes and policies on investors who do not opt in to continue to receive financial product advice**

- RG 148.192 We expect advice providers, as part of their consideration of whether one platform should be selected over another, to assess the following types of factors concerning the platform:
- (a) the existence of an investment or due diligence committee and the number of internal and external members of that committee;
  - (b) factors that influence the selection of specific investments on the platform menu, such as the extent to which market conditions, liquidity, asset allocation and diversification, research recommendations and the standard risk measures are determinative;
  - (c) whether there are any administrative or technological factors that influence selection;
  - (d) the extent to which selection is constrained by the range of products issued by or affiliated with related entities of the platform operator; and
  - (e) the platform operator's policies on how they will deal with investors who do not opt in to continue to receive financial product advice from advice providers and the implications for investors.
- RG 148.193 Disclosure of this information in an IDPS Guide or PDS (as relevant) alone is not enough to ensure informed investor decision making in these circumstances. We expect advice providers will consider the disclosure of investment selection processes of platform operators in providing personal advice to clients and recommending the use of one platform over another, or any platform at all, as well as any risks associated with using the platform and investing through it.
- RG 148.194 We consider this to be information that will relate to the basis of advice that a client would reasonably require to decide whether to act on advice about:
- (a) whether or not to use a platform, rather than invest directly in financial products or securities;
  - (b) which platform to use; and
  - (c) which financial products or securities to invest in through the platform.

### **Disclosure of remuneration**

- RG 148.195 The SOA must include disclosures about any benefits or remuneration that you, as the providing entity preparing the SOA, or any of your associates might receive and any other interests you or they have that might be reasonably capable of influencing you in providing the advice. This information must be included in as much detail as a person would require as a client to decide whether to act on the advice.

- RG 148.196 The fees and costs should be set out as follows:
- (a) for your services—in the SOA;
  - (b) for investment through the platform—in the IDPS Guide or PDS (as relevant); and
  - (c) for financial products and/or securities acquired within the platform—in the PDS or Ch 6D disclosure document (as relevant).
- RG 148.197 We think it will generally help clients if you identify in the SOA the total fees and costs for investments that you recommend be made through a platform to enable a client to understand the cumulative impact of all fees and costs.
- RG 148.198 Product issuers like platform operators are prohibited from giving to AFS licensees whose representatives provide advice (e.g. licensed dealer groups)—and such licensees are prohibited from receiving—conflicted remuneration subject to certain exceptions. There is a presumption that volume-based benefits are conflicted remuneration: s963L. It is up to the party that is seeking to prove that a volume-based benefit is not conflicted remuneration to rebut the presumption and show that the benefit is not one that could reasonably be expected to influence the financial product advice.
- RG 148.199 Non-volume-based benefits can also be conflicted remuneration (although not covered by the presumption in s963L), such as an annual flat fee for inclusion in an AFS licensee’s approved product list of financial products that may be recommended to clients.
- RG 148.200 A platform is prohibited from accepting volume-based shelf space fees from fund managers: s964A(1). There is a presumption that a benefit is a volume-based shelf space fee if it is wholly or partly dependent on the total number or value of a fund manager’s financial products available on a platform: s964A(2). The platform operator can rebut this presumption to the extent that it can be proved that all or part of the benefit is:
- (a) a reasonable fee for the services provided by the platform operator to the fund manager (see s964A(3)(a)); or
  - (b) a discount or rebate paid to the platform operator by the fund manager where the value of the discount or rebate ‘does not exceed an amount that may reasonably be attributed to efficiencies gained by the fund manager’ because of the volume of business they have been able to generate by placing their product on the platform (s964A(3)(b)).

## Key terms

Term	Meaning in this document
advice	Financial product advice
advice provider	A person to whom the obligations in Div 2 of Pt 7.7A of the Corporations Act apply when providing personal advice to a client. This is generally the individual who provides the personal advice. However, if there is no individual that provides the advice, which may be the case if advice is provided through a computer program, the obligations in Div 2 of Pt 7.7A apply to the legal person that provides the advice (e.g. a corporate licensee or authorised representative)
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services  Note: This is a definition in s9.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
authorised representative	A person authorised by an AFS licensee, in accordance with s916A or 916B of the Corporations Act, to provide a financial service or services on behalf of the licensee  Note: This is a definition in s9.
best interests duty	The duty to act in the best interests of the client when giving personal advice to a client as set out in s961B(1) of the Corporations Act
best interests duty and related obligations	The obligations in Div 2 of Pt 7.7A of the Corporations Act
Ch 6D (for example)	A chapter of the Corporations Act (in this example numbered 6D), unless otherwise specified
Ch 6D disclosure document	A prospectus, short form prospectus, profile statement or offer information statement, as referred to in s705, that would be able to be used for an offer of securities to the investor in the platform
[CO 13/763] (for example)	An ASIC class order (in this example numbered 13/763)  Note: Legislative instruments made from 2015 are referred to as ASIC instruments.

Term	Meaning in this document
complaint	<p>An expression of dissatisfaction made to or about an organisation—related to its products, services, staff or the handling of a complaint—where a response or resolution is explicitly or implicitly expected or legally required</p> <p>Note: This is the definition given in AS/NZS 10002:2014.</p>
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	<i>Corporations Regulations 2001</i>
CSF	Crowd-sourced funding
CSF offer	<p>An offer of ordinary shares that is made under the CSF regime in Pt 6D.3A of the Corporations Act</p> <p>Note: See s738B of the Corporations Act.</p>
CSF offer document	A document setting out the terms of a CSF offer that complies with s738J of the Corporations Act
CSF platform	A website or other electronic facility provided by the CSF intermediary to host a CSF offer
custodian (in relation to a platform)	A person (who may be the platform operator, but not the platform investor) who holds property through a platform
disclosure document	For an offer of securities, this includes a prospectus, a profile statement and an offer information statement
dispute	Has the same meaning as complaint
Div 3 (for example)	A division of the Corporations Act (in this example numbered 3), unless otherwise specified
financial product	<p>Generally, a facility through which, or through the acquisition of which, a person does one or more of the following:</p> <ul style="list-style-type: none"> <li>• makes a financial investment (see s763B);</li> <li>• manages financial risk (see s763C);</li> <li>• makes non-cash payments (see s763D)</li> </ul> <p>Note: See Div 3 of Pt 7.1 of the Corporations Act for the exact definition. In addition to the general categories above, this specifies certain things as being included or excluded from the definition.</p>

Term	Meaning in this document
financial product advice	<p>A recommendation or a statement of opinion, or a report of either of these things, that:</p> <ul style="list-style-type: none"> <li>• is intended to influence a person or persons in making a decision about a particular financial product or class of financial product, or an interest in a particular financial product or class of financial product; or</li> <li>• could reasonably be regarded as being intended to have such an influence.</li> </ul> <p>This does not include anything in an exempt document</p> <p>Note: This is a definition in s9 of the Corporations Act.</p>
financial service	Has the meaning given in Div 4 of Pt 7.1 of the Corporations Act
financial services business	<p>A business of providing financial services</p> <p>Note: This is a definition in s761A of the Corporations Act. The meaning of 'carry on a financial services business' is affected by s761C.</p>
Financial Services Guide (FSG)	<p>A document required by s941A or 941B to be given in accordance with Div 2 of Pt 7.7 of the Corporations Act</p> <p>Note: This is a definition in s9.</p>
financial services provider	A person who provides a financial service
general advice	<p>Financial product advice that is not personal advice</p> <p>Note: This is a definition in s9 of the Corporations Act.</p>
IDPS	An investor directed portfolio service as defined in <a href="#">ASIC Corporations (Investor Directed Portfolio Services) Instrument 2023/669</a> or any instrument that amends or replaces that instrument
IDPS Guide	A document provided by an IDPS operator instead of a PDS to help retail clients decide whether they should use the IDPS
IDPS-like scheme	An investor-directed-portfolio-services-like scheme as defined in <a href="#">ASIC Corporations (Investor Directed Portfolio Services Provided Through a Registered Managed Investment Scheme) Instrument 2023/668</a> or any instrument that amends or replaces that instrument
nominee and custody service	A nominee and custody service as defined in <a href="#">ASIC Corporations (Nominee and Custody Services) Instrument 2016/1156</a> or any instrument that amends or replaces that instrument
nominee and custody service operator	An operator of a nominee and custody service
NTA	Net tangible assets as defined in <a href="#">RG 166</a>

Term	Meaning in this document
operator (of a nominee and custody service)	A body corporate that is a holder of an AFS licence that is authorised to provide a custodial or depository service
operator (of a platform)	A public company that is a holder of an AFS licence that is authorised to operate a platform or a function that forms part of the platform
personal advice	<p>Financial product advice given or directed to a person (including by electronic means) in circumstances where:</p> <ul style="list-style-type: none"> <li>the person giving the advice has considered one or more of the client's objectives, financial situation and needs; or</li> <li>a reasonable person might expect the person giving the advice to have considered one or more of these matters</li> </ul> <p>Note: This is a definition in s9 of the Corporations Act.</p>
platform	<p>An investor directed portfolio service (IDPS) and IDPS-like scheme</p> <p>Note: This term does not extend to nominee and custody services, superannuation master trusts or other superannuation funds, self-managed superannuation funds, or managed discretionary accounts as defined in <a href="#">RG 179</a>.</p>
platform operator	An operator of an IDPS or the responsible entity of an IDPS-like scheme
Product Disclosure Statement (PDS)	<p>A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act</p> <p>Note: See s9 for the exact definition.</p>
Pt 7.7 (for example)	A part of the Corporations Act (in this example numbered 7.7), unless otherwise specified
registered scheme	A managed investment scheme that is registered under s601EB of the Corporations Act
representative of an AFS licensee	<p>Means:</p> <ul style="list-style-type: none"> <li>an authorised representative of the licensee;</li> <li>an employee or director of the licensee;</li> <li>an employee or director of a related body corporate of the licensee; or</li> <li>any other person acting on behalf of the licensee</li> </ul> <p>Note: This is a definition contained in s910A.</p>
retail client	A client as defined in s761G and 761GA of the Corporations Act and Ch 7, Pt 7.1, Div 2 of the Corporations Regulations
RG 166 (for example)	An ASIC regulatory guide (in this example numbered 166)

Term	Meaning in this document
s766E (for example)	A section of the Corporations Act (in this example numbered 766E), unless otherwise specified
scaled advice	Personal advice that is limited in scope
Statement of Advice (SOA)	<p>A document that must be given to a retail client for the provision of personal advice under Subdivs C and D of Div 3 of Pt 7.7 of the Corporations Act</p> <p>Note: See s9 for the exact definition.</p>
superannuation master trust	A superannuation fund that has an obligation to give documents to retail clients under s1012IA of the Corporations Act
transactional functions	<p>Either:</p> <ul style="list-style-type: none"> <li>the acquisition and disposal of financial products or securities through the platform or nominee and custody service in accordance with the instructions of the investor or otherwise in accordance with the terms of the contract; or</li> <li>the maintenance of records of investments of investors for the purposes of consolidated reporting functions under the platform or nominee and custody service</li> </ul>

## Related information

### Headnotes

advice provider, Australian financial services licence, AFS licence, AFS licence conditions, AFS licensee, best interests duty and related obligations, CSF offer, financial product advice, Financial Services Guide, FSG, IDPS, IDPS-like scheme, IDPS Guide, investor directed portfolio service, nominee and custody service, platform operator, platform, PDS, Product Disclosure Statement, Statement of Advice

### Legislative instruments and pro formas

[\*ASIC Corporations \(Nominee and Custody Services\) Instrument 2016/1156\*](#)

[\*ASIC Corporations \(Disclosure of Fees and Costs\) Instrument 2019/1070\*](#)

[\*ASIC Corporations \(Shorter PDS and Delivery of Accessible Financial Products Disclosure by Platform Operators and Superannuation Trustees\) Instrument 2022/497\*](#)

[\*ASIC Corporations \(Financial Requirements for Responsible Entities, IDPS Operators and Corporate Directors of Retail CCIVs\) Instrument 2023/647\*](#)

[\*ASIC Corporations \(Financial Requirements for Custodial or Depository Service Providers\) Instrument 2023/648\*](#)

[\*ASIC Corporations \(Investor Directed Portfolio Services Provided Through a Registered Managed Investment Scheme\) Instrument 2023/668\*](#)

[\*ASIC Corporations \(Investor Directed Portfolio Services\) Instrument 2023/669\*](#)

[\[CO 14/1252\]](#) *Technical modifications to Schedule 10 of the Corporations Regulations*

[PF 209](#) *Australian financial services licence conditions*

### Regulatory guides

[RGs 1–3](#) *AFS Licensing Kit*

[RG 78](#) *Breach reporting by AFS licensees and credit licensees*

[RG 97](#) *Disclosing fees and costs in PDSs and periodic statements*

[RG 98](#) *ASIC's powers to suspend, cancel and vary AFS licences and make banning orders*



[RG 104](#) *AFS licensing: Meeting the general obligations*

[RG 105](#) *AFS licensing: Organisational competence*

[RG 126](#) *Compensation and insurance arrangements for AFS licensees*

[RG 132](#) *Funds management: Compliance and oversight*

[RG 133](#) *Funds management and custodial services: Holding assets*

[RG 166](#) *AFS licensing: Financial requirements*

[RG 167](#) *Licensing: Discretionary powers*

[RG 175](#) *Licensing: Financial product advisers—Conduct and disclosure*

[RG 179](#) *Managed discretionary accounts*

[RG 181](#) *Licensing: Managing conflicts of interest*

[RG 184](#) *Superannuation: Delivery of product disclosure for investment strategies*

[RG 221](#) *Facilitating digital financial services disclosures*

[RG 244](#) *Giving information, general advice and scaled advice*

[RG 246](#) *Conflicted and other banned remuneration*

[RG 261](#) *Crowd-sourced funding: Guide for companies*

[RG 262](#) *Crowd-sourced funding: Guide for intermediaries*

[RG 271](#) *Internal dispute resolution*

## **Information sheets**

[INFO 213](#) *Marketplace lending (peer-to-peer lending) products*

## **Legislation**

*Corporations Act 2001*, Chs 5C and 6D, Pts 7.7, 7.7A, 7.8 and 7.9, s601ED, 601FA, 601FC, 675, 708, 724, 738B, 738J, 738ZA, 738ZC, 738ZE, 761G, 766B, 911A, 912A, 912DAA, 961B, 961G, 961H, 961J, 963L, 964, 964A, 989B, 1012A, 1012B, 1012D, 1012IA, 1015C, 1016E, 1017B, 1017E, 1019B, 1020D, 1020F, 1021O and 1021J

*Corporations Regulations 2001*, Pt 7.9 Div 4, Sch 10

## Consultation papers

[CP 83](#) *Review of ASIC policy on investor directed portfolio services*

[CP 176](#) *Review of ASIC policy on platforms: Update to RG 148*

[CP 189](#) *Future of Financial Advice: Conflicted remuneration*

[CP 264](#) *Remaking ASIC class order on nominee and custody services and proposed changes to platforms policy*

[CP 367](#) *Remaking ASIC class orders on financial requirements: [CO 13/760], [CO 13/761] and ASIC Instrument 2022/449*

[CP 369](#) *Remaking ASIC class orders on platforms: [CO 13/762] and [CO 13/763]*

## Reports

[REP 351](#) *Response to submissions on CP 176 Review of ASIC policy on platforms: Update to RG 148*

## Media releases

[12-49MR](#) *ASIC consults on regulatory approach to platforms*

[13-153MR](#) *New ASIC guidance for platforms a boost for investors*

[13-154MR](#) *New financial requirements for custodians*

[16-230MR](#) *ASIC consults on 'sunsetting' class order about nominee and custody services and proposed changes to platforms policy*

[22-024MR](#) *ASIC consults on proposals to remake PDS, superannuation dashboard and FSG legislative instruments*

[22-142MR](#) *ASIC remakes relief on PDSs, superannuation dashboards and FSGs*

## ASIC forms

[Form FS01](#) *Application for AFS licence*