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Perpetual Limited  
ABN 86 000 431 827

Angel Place,  
Level 18, 123 Pitt Street  
Sydney NSW 2000  
GPO Box 4172  
SYDNEY NSW 2001  
Australia

Phone 02 9229 9000  
Fax 02 82561419

[www.perpetual.com.au](http://www.perpetual.com.au)

Jacqueline Rush  
Senior Policy Adviser  
Australian Securities and Investments Commission  
GPO Box 9827  
MELBOURNE VIC 3001  
By email: [IDRSubmissions@asic.gov.au](mailto:IDRSubmissions@asic.gov.au)

Dear Jacqueline

## CONSULTATION PAPER 311 – INTERNAL DISPUTE RESOLUTION: UPDATE TO RG 165

Perpetual Limited (Perpetual) welcomes the opportunity to comment on ASIC's proposals to update their existing IDR requirements in Regulatory Guide 165 *Internal Dispute Resolution* (RG 165) to:

- Align your guidance with the legislative changes introduced by the AFCA Act;
- Reflect the guidelines for effective complaint management in AS/NZS 10002:2014; and
- Refine elements of our previous guidance based on our experience in administering the requirements in RG 165.

Perpetual has only responded to questions where it wishes to make a comment.

### Question B1Q1

Do you consider that complaints made through social media channels should be dealt with under IDR processes? If no, please provide reasons. Financial firms should explain:

(a) how you currently deal with complaints made through social media channels; and

(b) whether the treatment of social media complaints differs depending on whether the complainant uses your firm's own social media platform or an external platform.

In 2016, Perpetual updated its Complaints Handling Policy at that time to comply with AS/NZS 10002:2014. In our Complaints Handling policy, "Complaint" is defined as "an expression of dissatisfaction made to or about Perpetual, related to its products, services or Employees or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected. Complaints may be received by phone, fax, mail, email, in person or via social media channels."

(a) Our digital team monitors social media channels daily (including Twitter, Facebook and LinkedIn) picking up references to Perpetual. Any expressions of dissatisfaction are forwarded to the relevant business unit head and the Corporate Communications team for action, including following the Complaints Handling policy. In instances of high risk, social media complaints and dissatisfaction are documented separate from our social monitoring tool for further reference.

(b) We also monitor external social media platforms (including Google Reviews) and have set up framework in place to escalate negative reviews to the relevant business unit head and the Corporate Communications team for action.

We already follow our complaints handling process for complaints that are made on social media if the complainant is identifiable and a response is expected.

## Question B2

B2Q1 Do you consider that the guidance in draft updated RG 165 on the definition of 'complaint' will assist financial firms to accurately identify complaints?

B2Q2 Is any additional guidance required about the definition of 'complaint'? If yes, please provide:

(a) details of any issues that require clarification; and

(b) any other examples of 'what is' or 'what is not' a complaint that should be included in draft updated RG 165.

Perpetual would like more guidance in the updated RG 165 on what is and what is not a complaint.

Perpetual considers that a requirement to adopt the definition of 'complaint' under AS/NZS 10002:2014 without an accompanying recognition that 'feedback' is distinguishable from a 'complaint' will operate harshly upon financial firms. AS/NZS 10002:2014 distinguishes 'expressions of dissatisfaction made to or about an organisation....' from 'opinions, comments and expressions of interest or concern, made...to or about the organisation...'.<sup>1</sup> Financial firms have reasonable expectations of being contacted by clients with expressions of concern during times of high activity. Consider the following example:

Perpetual receives a significant increase in calls after the end of financial year and other distribution periods mainly due to (increase of approximately 25%):

- Clients misunderstanding the distribution process for managed funds;
- The delay in unit prices being available for each fund during distribution periods;
- Client following up their statement/pension Centrelink schedule; or
- Clients seeking information on when distributions will appear in their accounts.

About half of calls to the call centre during this period can be attributed to the above (approximately 3500 calls between July-August). These are not genuine complaints but rather expressions of concern arising from misunderstanding managed funds, how unit prices are calculated and how distributions are made.

In addition, in the traditional trustee company services business, where a trust is structured with income and capital beneficiaries, competing interests exist. A trustee must remain impartial. In the current economic environment with historically low cash rates, income beneficiaries are likely to be dissatisfied when comparing their income entitlements to historical years.

Requiring financial firms to capture all such expressions of concern as complaints goes beyond the intent of AS/NZS 10002:2014, which provides organisations with discretion about whether to manage such feedback as a complaint.<sup>2</sup> While Perpetual agrees that financial firms should not categorise an expression of dissatisfaction as feedback for the reasons given in draft paragraph RG 165.32, Perpetual questions whether ASIC's consumer protection objective cannot be achieved by ensuring financial firms are able to receive both feedback and complaints.

Perpetual suggests language to the following effect be included in the draft updated RG 165.

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<sup>1</sup> AS/NZS 10002:2014, Definitions, cl 4.

<sup>2</sup> Cl. 4.5

We recognise that applying this definition may result in increased administration burdens and compliance costs in capturing and maintaining records of minor concern. Therefore, where feedback is dealt with to the customer's complete satisfaction *by the end of the first business day* after the feedback was received, you will not be required to apply the full IDR process.

Alternatively, Perpetual suggests that some examples are provided in draft paragraph RG 165.35(b) of 'simple requests for information'. For example:

- (i) requests when fund information, such as when unit prices will be available; or
- (ii) requests about the timing of distributions or member statements.

#### Question B4Q1

Do you agree that firms should record all complaints that they receive. If not, please provide reasons.

Perpetual **disagrees** that all complaints should be recorded.

Our view is that if a Complaint is resolved to the Complainant's satisfaction at the point of first contact or by no later than the end of the next business day after receipt, then it does not need to be referred to our internal dispute resolution process. It is recorded on the client's file only and, as it is not in dispute, it is not recorded on the complaints register.

In our represented persons business, which is classified as a traditional trustee company service, expressions of dissatisfaction are received on a regular basis which relate to the non-approval of expenses and advancement of funds (by example). In making these determinations we are acting in the best interests of our represented clients.

#### Question B5Q1

Do you agree that financial firms should assign a unique identifier, which cannot be reused, to each complaint received? If no, please provide reasons

Perpetual agrees and currently captures complaints in our enterprise wide risk management system (RSA Archer) and that system automatically generates a unique identifier.

#### Question B6Q1

Do you agree with our proposed requirements for IDR data reporting? In particular:

(a) Are the proposed data variables set out in the draft IDR data dictionary appropriate?

(b) Is the proposed maximum size of 25 MB for the CSV files adequate?

(c) When the status of an open complaint has not changed over multiple reporting periods, should the complaint be reported to ASIC for the periods when there has been no change in status?

Perpetual **disagrees** with some of the data set that you are proposing to capture, in particular, around the complainant demographics.

Perpetual is not required to capture in the first instance unnecessary personal information such as gender, age and whether of Aboriginal or Torres Strait Islander descent. We cannot then request this information from our clients at the time the client makes a complaint. An IDR complaints register is also not the appropriate place to store this sort of personal information (from a *Privacy Act* perspective).

Furthermore, collecting this unnecessary personal information will not provide us with any more insight into the root cause of the complaint.

Perpetual considers the collection of complainant demographic data to be AFCA's role. ASIC Regulatory Guide 139 *Approval and oversight of external dispute resolution schemes* supports the view that it is the scheme, not the financial firm, who is responsible for collecting complainant demographics with respect to the complaints lodged with the scheme.<sup>3</sup> Perpetual does not consider that the regulatory benefit of the financial firm collecting this type of data will outweigh the compliance costs of obtaining updated consents from existing clients and reviewing privacy disclosures across Product Disclosure Statements, application forms and websites to update privacy disclosures for sensitive information, such as ethnic groups. Instead, ASIC can achieve the regulatory benefits of identifying systemic issues and serious misconduct by requiring AFCA to collect this data from complainants themselves.

Perpetual also doesn't agree that it should be mandatory to include whether it is possible systemic issue or regulatory breach. Often the person inputting the complaint would not be able to make this assessment. If it is determined to be an "issue", the complaint would also be entered as an issue and our normal breach assessment policy followed to determine whether it is systemic and/or a regulatory breach requiring reporting to ASIC. This field should be optional.

Perpetual also seeks to clarify the parameters of the IDR data reporting. For example,

- Does the six-month reporting period apply to the date received or date closed?
- Is it expected the reports to be categorised by complaint status?
- Will reporting begin as at the effective date of the revised RG165, or will there be a requirement to provide historic data, such as all open complaints?

Perpetual **agrees** that 25MB for the CSV file is adequate for reporting six-monthly periods. However, this is dependent on the requirement to record all complaints (refer to responses to B2 and B4Q1).

Perpetual **agrees** that where complaints have not changed over multiple reporting periods the complaint should remain in the data set, as there would be an administrative burden to exclude those specific complaints.

### **Question B7Q1**

What principles should guide ASIC's approach to the publication of IDR data at both aggregate or firm level.

We note ASIC intends to conduct a separate, targeted consultation about its approach to publishing firm level IDR data. Despite this, Perpetual provides the following preliminary comment.

**Perpetual disagrees that IDR data should be published especially at a firm level.** There is no clear rationale that publishing firm level data will improve consumer protection outcomes. We consider the IDR data reporting requirements will provide ASIC with the information it needs to identify problematic financial firms to guide its supervisory and monitoring activities.

### **Question B11Q1**

Do you agree with our proposals to reduce the maximum IDR timeframes? If not, please provide:

- (a) Reasons and any proposals for alternative maximum IDR timeframes
- (b) If you are a financial firm, data about your complaint resolution times by product line.

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<sup>3</sup> RG 139.149.

Perpetual believes that the time frames for superannuation trustee could be reduced to 45 days but all other complaints (e.g. managed investments) should not be reduced to 30 but should remain at 45 days. This would make all managed investments (including superannuation) consistent.

However, Perpetual strongly **disagrees with the proposal to reduce the maximum timeframes for traditional trustee company services (TTCS)**. Traditional trustee complaints are generally much more complex, cover elongated periods and take a lot longer to resolve. By example, one recent complaint we had in TTCS related to investment growth of a trust since 1945. Perpetual had to retrieve boxes from archived storage facilities and attend the State library to obtain microfiche data which significantly delayed the process. Another example of a recent complaint relates to the management of a trust from committal in 1975. These complaints require a substantial amount of time to thoroughly investigate, allowing the complainant(s) the fairest opportunity of an accurate response and outcome.

In FY19 TTCS complaints took on average 54 days to resolve. 40% of these complaints were resolved between 46-90 days. By reducing the time for a substantive response to 45 days, it will dwarf the ability to provide accurate responses to complaints and ultimately result in dissatisfaction from the complainant leading to more AFCA referrals.

### Question B15Q1

[Do the transition periods in Table 2 provide appropriate time for financial firms to prepare their internal processes, staff and systems for the IDR reforms? If not, why not?](#)

Table 2 requires financial firms to record prescribed complaint data for every complaint received by the firm by 30 June 2020.

Perpetual **disagrees** this date is appropriate time and request this date be pushed out to 30 June 2021. Otherwise, there may not be enough time for financial firms to implement the required system changes to record this new data set.

As stated earlier, Perpetual's complaints register is housed in RSA Archer. The system will need to be reconfigured to comply with the data set referred to in the data dictionary. 30 June 2020 is not enough time to build additional fields in the system and then test in UAT and production. 30 June 2021 would be a more realistic time frame.

Yours sincerely

Emma Tetley

Head of Group Compliance