



15 October 2025

Australian Securities and Investments Commission
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By email: simplificationconsultativegroup@asic.gov.au

Dear Simplification Team

ASIC consultation - Regulatory Simplification REP 813

The Australian Financial Markets Association (**AFMA**) welcomes the opportunity to provide feedback on the ASIC Regulatory Simplification consultation REP 813.

1. Introductory comments

AFMA agrees with the observations made by the ASIC Chair, in the forward to the paper, particularly the observation that “we don’t do simplification well in Australia”. While the challenges of simplification have been long recognised the outcome of well-intentioned efforts to simplify the law have had the opposite effect. This has often been due to the sheer scale and layering of existing requirements.

The need for effective regulation of financial services is indisputable and AFMA recognises the social and economic infrastructure provided by government is an essential ingredient to an effective and competitive financial system. However, it is important that regulation is targeted, proportionate, and avoids unnecessary intervention, particularly in wholesale financial markets where the discipline of the market allows it to operate effectively.

In 2020 the then Reserve Bank Governor observed on the predisposition in Australia to respond to problems that emerge in society through additional regulation, which comes at a cost to economic dynamism¹. Significant policy decisions have been made without appropriate analysis of the posited market failure or testing of the proposed solution. Financial services law has grown dramatically, but not always in a coherent way, meaning compliance and legal uncertainties exist in great multiplicity. A more disciplined and better targeted approach to policy would enable financial entities to manage their business with a primary focus on service quality and competitiveness, without compromising regulatory objectives.

¹ Reserve Bank Governor Philip Lowe - Evidence to Senate Select Committee on COVID-19, 28 May 2020

The current landscape reflects the cumulative effect of fragmented policymaking and regulation, rather than the failure of any single regime. While there are areas of regulation that are notable in the difficulties they present, this is more correctly diagnosed as a systemic problem in policy making and regulation, that leads to a seemingly endless stream of compounding regulation. It is the accumulation of layers of often duplicative but incoherent regulation which is suffocating the financial services sector and hindering productivity and economic growth.

2. AFMA June Submission on Simplification

AFMA overall is generally supportive of the proposals set out in Report 813, which have a retail consumer protection focus. While supportive of ASIC's efforts in this direction, we note that AFMA members are principally participants in wholesale capital markets and do not, by and large, provide services or products to retail customers. Therefore, AFMA, as an organisation, applies a wholesale lens to the appropriateness of policy and regulatory settings which are, at times, designed with retail issues in mind. Our emphasis on where reform is needed is seen through this prism and our members who manage financial market activity in this country.

In this context we are incorporating by reference our *Wholesale Market Suggestions for ASIC Simplification Project* from June this year (Attached) as it represents our priority issues that ASIC should pursue.

These suggestions cover substantive issues with current regulation administered by ASIC. In brief these touch on the following priorities which we continue to encourage ASIC to take account in its simplification work.

A. Communication & Consistency

- Improve ASIC's internal coordination and transparency in information requests.
- Provide clear rationale for regulatory engagements and ensure firms are not overloaded with duplicative or poorly timed requests.

B. Coherent Guidance & Consultation

- Make Regulatory Guides (RGs) the single authoritative source for guidance.
- Ensure guidance is practical, up-to-date, and developed with robust industry consultation.
- Use practical examples and case studies and make guidance accessible for AI systems.

C. Cross-Border Coordination

- Establish data sharing arrangements with global regulators to reduce duplicate reporting, especially for OTC derivatives.

D. Licensing Reform

- Streamline licence variation processes and clarify requirements for platform/infrastructure providers.
- Better align AFSL and ACL regimes for dual licensees.

E. Market Integrity Rules (MIRs)

- Amend MIRs to focus on commerciality and practicality.
- Ensure MIRs are updated in line with legislative.

F. Breach Reporting

- Introduce materiality thresholds for reportable situations.
- Provide clearer guidance and relief for minor or inadvertent breaches.

G. Industry Funding Levy

- Move to a forward-looking funding model and simplify levy calculations.

H. OTC Derivative Reporting

- Allow minor corrections without notification to ASIC to reduce compliance burden.

I. Equity Capital Market Efficiencies

- Simplify disclosure requirements, shorten IPO exposure periods, and make post-offer stabilisation easier.
- Reform sell-side research guidance to align with global standards.

J. Operational Improvements

- Overhaul ASIC's online portals for efficiency.
- Appoint a single liaison officer per entity.
- Include all regulatory changes in a forward-looking regulatory grid.

3. Observations on Report 813

3.1. Section 1

Members have welcomed ASIC's efforts to redesign its website. To further enhance usability, we suggest embedding direct links to relevant guides, FAQs, and forms, particularly those related to breach reporting, within the associated topic pages. This would enable users to locate end-to-end information more efficiently and reduce the risk of outdated or incomplete references being used in practice.

3.1.1. Roadmaps

The roadmaps are seen as a handy guide for novices but not as an informative tool for existing small-company directors or financial advice providers who already possess such basic information.

We suggest that bringing disparate information together would provide the greatest benefit. The biggest hurdle for a new start-up company, for example, is the different requirements across all of the existing (and fragmented) legislation and regulations. Seeing the roadmap as a navigation tool to bring many matters to be borne in mind together in a coherent form would be of real and practical help to many users, including professionals.

In relation to style we support a balanced and proportionate approach to regulatory guidance that incorporates both principles-based and prescriptive elements. A principles-based approach, being inherently outcomes focused, provides for flexibility in mature sectors, enabling entities to meet regulatory objectives in ways best suited to their business models and risk profiles. Conversely, prescriptive guidance is often more appropriate in emerging, complex, or higher-risk areas where greater clarity and consistency are required. However, overly prescriptive rules in mature sectors can constrain effective compliance and divert focus from achieving the underlying outcomes. We therefore encourage ASIC to prioritise a principles-based approach wherever feasible and to engage

with industry to identify areas where additional clarity or practical guidance, rather than prescription, would most effectively support sound regulatory outcomes.

AFMA also advocates for consolidation into a single form of guidance, rather than maintaining both information sheets and regulatory guides, with preference of using regulatory guides over information sheets, as they are designed to interpret the rules and provide authoritative clarification, rather than merely setting out “regulatory expectations”. In practice, information sheets are seen as “regulatory expectations” or “best practices” and are not “rules”, but because they are published documents, there is a reasonable perception within industry that deviation from them, even where justified, may not be acceptable to ASIC, particularly in enforcement or other contentious contexts. Consolidating guidance into a single, formal series of regulatory guides would enhance clarity, transparency, and regulatory confidence.

3.2. Section 2

Regarding the proposals outlined in Question 2, AFMA considers the ‘consolidation of dispersed guidance materials’ should be a key priority. This involves grouping related issues around core obligations, key themes, and areas of ASIC focus. For example, for Market Participants, guidance on topics such as Conflicts of Interest; Short selling; Electronic trading; expectations on Representatives is currently spread across multiple sources including the Corporations Act, Market Integrity Rules, Regulatory Guides, legislative instruments, waivers, industry letters and more. Consolidation of these materials into a coherent structure would greatly enhance navigability and reduce duplication. This would be particularly beneficial for small AFSLs which do not have dedicated legal and compliance teams and often face challenges in locating and interpreting relevant requirements. This initiative should deliver the greatest practical impact in improving regulatory understanding and compliance efficiency.

3.3. Section 3

Feedback on the licensing portal merger with the regulatory portal indicates that the current functionality remains clumsy, and the interface presents as dated. Ongoing development is needed to enhance usability and align the system with contemporary technology and user experience standards.

3.4. Section 4

The regulatory burden associated with the Reportable Situations regime has been well documented by industry (e.g. Section 7 of the AFMA submission on Simplification with regard to the response to Question 16).

Regarding substantial holding notices, AFMA notes that the anticipated legislation is now before Parliament and looks forward to engaging with ASIC on its implementation and the development of accompanying guidance, as well as the practical aspects of these changes.

AFMA remains committed to ongoing engagement with ASIC on simplification as this is a high priority matter for our members, particularly with regard to the matters set out in our June submission. Please contact [REDACTED] either on [REDACTED] or by email [REDACTED] regarding this letter.

Yours sincerely

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