Law Council
OF AUSTRALIA

29 May 2026

Australian Securities and Investments Commission
GPO Box 9827
Melbourne VIC 3001

By email: rri.consultation@asic.gov.au

Dear Sir/Madam

Proposed remake of relief from dollar disclosure and AFS licensing requirements for general advice in exempt documents (Consultation Statement 51)

1. The Superannuation Committee of the Legal Practice Section and the Financial Services Committee of the Business Law Section of the Law Council of Australia (together, the **Committees**) appreciate the opportunity to provide feedback on the proposed remaking of *ASIC Corporations (Disclosure in Dollars) Instrument 2016/767* (**ASIC Instrument 2016/767**).

2. ASIC Instrument 2016/767 provides exemptions from requirements to disclose in a Product Disclosure Statement (**PDS**), Statement of Advice or periodic statement certain information in Australian dollars, which would otherwise be required by the *Corporations Act 2001* (Cth).

3. The Committees take this opportunity to comment below on an issue in relation to which greater clarity in fees and costs disclosure obligations would be welcome.

Inconsistent fee disclosure requirements for PDSs

4. Section 1013D(1)(m) of the Corporations Act requires that, unless in accordance with the regulations and a determination by ASIC,[1] information required by section 1013D(1)(d) about the cost of the product must be disclosed in dollars.

5. However, Division 4C of Part 7.9 of the *Corporations Regulations 2001* (Cth) requires the fees and costs of most superannuation products, managed investment products, foreign passport fund products and securities in a CCIV (collectively, **Schedule 10 Products**) to comply with Schedule 10 to the Corporations Regulations—noting that Schedule 10 is replaced in its entirety by *ASIC Corporations (Disclosure of Fees and Costs) Instrument 2019/1070*, as amended.

6. We draw ASIC's attention to clause 204(1), which states that clauses 204, 205 and 206 in Schedule 10 are subject to regulations 7.9.15A, 7.9.15B and 7.9.15C of the Corporations Regulations. Clause 204(1) could be interpreted as requiring amounts

[1] As amended by regulation 7.9.15A of the Corporations Regulations.

set out in the Fees and Costs Summary to be disclosed in dollars unless the regulations and an ASIC determination provide otherwise. On the other hand, clauses 204(2) to (6) permit fees and costs to be presented as percentages and ranges.

7. The Committees believe that the current statutory regime creates ambiguity and confusion because:

   (a) clause 204 appears both to require compliance with the dollar disclosure rules —by providing in clause 204(1) that the rules for completing the Fees and Costs Summary are subject to regulations 7.9.15A, 7.9.15B and 7.9.15C—and to contemplate disclosure of amounts as percentages or ranges, without explaining how those two sets of rules interact;

   (b) none of the exemptions in ASIC Instrument 2016/767 applies to the Schedule 10 Products; and

   (c) for the Schedule 10 Products, most fees and costs can only be described as a percentage (eg of net asset value, of a contribution or withdrawal amount) and so, in practice, can only comply with clause 204 by setting out percentages or ranges.

8. The Committees also note that, while Regulatory Guide 97 *Disclosing fees and costs in PDSs and periodic statements* (**RG 97**) lists Regulatory Guide 182 *Dollar disclosure* as related guidance, the commentary in RG 97 on completion of the Fees and Costs Summary (from paragraph 365) does not refer to the priority given to the dollar disclosure rules, does not explain how those rules apply to the Fees and Costs Summary, and instead repeats the rules in clause 204 relating to percentages and ranges.

9. The Committees' view is that the rules in clauses 204 to 206 regarding disclosure of percentages and ranges are well known, widely applied and work well in the context of fees and costs disclosure for the Schedule 10 Products.

10. As a result, the Committees recommend that ASIC make notional amendments to address the technical inconsistencies between the dollar disclosure rules and fees and costs disclosure in PDSs for Schedule 10 Products by excluding the application of the dollar disclosure rules to the disclosure of those fees and costs.

11. The Committees also note that Schedule 10 already mandates both an "Example of annual fees and costs" and "Cost of product information", which provide dollar amount examples of the fees and costs in the Fees and Costs Summary. There would arguably be no mischief in making these amendments.

General observations

12. The Committees otherwise have no concerns about the existing provisions of ASIC Instrument 2016/767 or A*SIC Corporations (Financial Product Advice—Exempt Documents) Instrument 2016/356*, both of which are due to sunset on 1 October 2026, or the changes ASIC seeks to make as part of remaking those instruments until 2031.

13. However, maintaining the status quo by remaking the instruments, rather than amending the primary legislation, perpetuates what the Committees consider to be an unsatisfactory level of complexity in the operation of Chapter 7 of the Corporations Act, and makes it difficult for users of the legislation to navigate and understand. The Committees would prefer to see uncontroversial exemptions that have been in place for many years incorporated into the primary legislation as part of Treasury's ongoing stewardship of its portfolio laws. This would also free up ASIC resources for other important regulatory activities.

Contact

14. The Committees appreciate the opportunity to contribute to this consultation. If you require further information or clarification, please contact [redacted]

Yours sincerely

[redacted]