



THE LAW SOCIETY  
OF NEW SOUTH WALES

Our ref: BLC:JBsh171025

17 October 2025

Simplification Team  
Australian Securities and Investments Commission

By email: [simplificationconsultativegroup@asic.gov.au](mailto:simplificationconsultativegroup@asic.gov.au)

Dear Simplification Team,

### **ASIC - REGULATORY SIMPLIFICATION – REPORT 813**

The Law Society of NSW appreciates the opportunity to provide feedback to ASIC's Regulatory Simplification Report - 813. The Law Society's Business Law Committee contributed to this submission.

We note that the Report explores ideas to simplify regulation and ease regulatory burden. We are pleased to provide our views on how ASIC can make the information it provides simpler and more accessible and how it can make it easier for regulated entities and individuals to interact with ASIC and comply with regulations.

Our comments in response to the consultation questions are set out in Annexure A to this letter.

Any questions in relation to this letter should be directed in the first instance to [REDACTED], Policy Lawyer, on [REDACTED] or [REDACTED]

Yours faithfully,

[REDACTED]

[REDACTED]  
President

Attachment.

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<b>Regulatory simplification REP 813   SEP 2025</b> <b>Consultation Questions</b>	
<b>Section 1 – Improving access to regulatory information</b>	
<p>1. Has our new website improved searchability and access to useful information for you? Do you have any suggestions for further improvement?</p>	<p>The Law Society commends ASIC for its work on and commitment to improving searchability and accessibility of its website.</p> <p>While redesign efforts so far show progress has been made, in our members' experience, the website still contains a notable level of visual clutter and numerous clickable choices. We would support stronger adherence to minimalist website design strategies that ensure clarity, and that content is only published if it meets a proven user need.</p> <p>See also our suggestion in Section 3 (item 11) to improve the current fragmented user experience when interacting with ASIC by streamlining various portals and authentication flows.</p>
<p>2. Which of the proposals to enhance our guidance materials do you think will have the biggest impact and should be prioritised – or do you have other suggestions?</p>	<p>The Law Society suggests the following proposals discussed in REP 813 should be prioritised:</p> <ul style="list-style-type: none"> <li>• Update, simplify and consolidate existing ASIC guidance.</li> <li>• Group guidance thematically so users can access a comprehensive, single source of truth.</li> </ul>
<p>3. How can we present our guidance materials more clearly for different audiences (for example, consumers, small businesses, technical users and representative organisations)? Should we focus on principles-based guidance or more prescriptive guidance which outlines our expectations of complying with the law?</p>	<p>The Law Society acknowledges that ASIC engages with diverse audiences with varying needs, and this requires the development of extensive resources.</p> <p>In our experience, an audience segmentation or role-based approach to navigating a complex resource library is most effective in clearly presenting relevant material to users. We suggest providing a selection of audience focused "who are you?" style search options on ASIC's homepage to identify the user at the outset. These could be in the form of search prompts such as "I am [a <i>director of a small company</i>, or a <i>financial adviser</i>]", or distinct pathways through audience/sector groupings such as "Superannuation", "Corporations" or</p>

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“Financial reporting”. In our view, this strategy is likely to be more effective at clearly presenting guidance to relevant users than the current task-based “I am looking for” search prompt provided on ASIC’s homepage.

Presenting audience-focused options as a threshold approach personalises pathways to match the needs of the specific user, and filters a vast amount of regulatory information down to what is directly relevant to their needs. By way of example, the Australian Competition and Consumer Commission (**ACCC**) website utilises an audience segmentation approach. Our members have reported that the ACCC website is easy to navigate and effective in clearly presenting relevant resources. In the experience of our members, task-based prompts can lead to ambiguous results due to inefficient filtering. For example, the outputs expected in response to the prompt “I am looking for information on: *financial advice*” entered in the ASIC homepage search will vary depending on the audience goal. A consumer wishing to complain about an adviser or verify their credentials would require guidance that differs from a professional seeking information on licensing.

In relation to whether ASIC should focus on principles-based or prescriptive guidance, we consider that both models are equally important and that the approach ASIC might take to applying either one should be determined by the topic.

### Principles-based guidance

This model is appropriate for foundational, stable areas of law that are rarely changed (for example, common law directors’ duties) and for new or rapidly evolving areas of law (for example, technology neutral document execution, and small business restructuring). In relation to the former, this model provides flexibility and future-proofing, allowing it to be applied contextually and obviating the need for constant updates. In relation to the latter, this model allows for adapting to speed and innovation and for coping with immaturity as the regulator establishes boundaries and goals.

However, it is important to note that principles-based guidance may create ambiguity and uncertainty for some stakeholders due to the potential for a broad interpretation to be applied and a greater enforcement discretion that is conferred. In our members’ experience, small business clients lack the resources (including time, legal advice, compliance teams) to interpret broad principles and whether they have complied with them, as compared with larger firms. This may also expose small business clients to greater risk of non-compliance and

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	<p>penalties, which may, rightly or wrongly, foster a perception of arbitrary and/or potentially excessive enforcement powers.</p> <p><u>Prescriptive guidance</u></p> <p>This model is appropriate for technical issues (for example, the various disclosure requirements) or where ASIC is granting relief/class orders. It may also be appropriate in the small business context where it may serve as a “safe harbour checklist” particularly in areas of high complexity that could be reduced to a simple checklist, and non-negotiable statutory deadlines.</p>
<p>4. Do you think the small-company and financial advice regulatory roadmaps are helpful? Would you suggest any improvements?</p>	<p>In our view, the roadmaps are helpful as a high-level summation of information and compliance steps required for the subject regime. However, significant additional information must be considered by the user. We suggest inserting cross-regulator signposting and external links to assist users identify related, but non-ASIC, compliance matters.</p>
<p>5. Should we consider piloting additional roadmaps? If so, for which sectors?</p>	<p>We suggest considering the following additional roadmaps:</p> <ul style="list-style-type: none"> <li>• For companies in financial distress – a roadmap for company directors that may have formed the opinion the company is or is likely to become insolvent including information on the differences between receivership, liquidation, and other key concepts and options available in that scenario.</li> <li>• Director obligations.</li> </ul>
<p>6. Would alternative formats of the regulatory roadmaps be helpful (for example, hard-copy versions or podcasts)?</p>	<p>The Law Society supports developing roadmaps in various formats to increase reach across a diverse audience.</p> <p>Our members have also emphasised the importance of addressing the varying level of sophistication within a particular user cohort when developing the content and format of regulatory guidance. For example, a director of a small company may not be as well-equipped as a director of a public listed company to understand the scope of their responsibilities and duties.</p>
<p><b>Section 2 – Reducing complexity in regulatory documents</b></p>	
<p>7. Are our best-practice drafting principles useful? Is there anything you would change?</p>	<p>Yes, our members find the best-practice drafting principles useful. However, we consider they would be strengthened by the explicit inclusion of a commitment to plain language drafting standards. Plain language directly enhances accessibility for regulated entities (especially small businesses) and reduces the likelihood of costly misinterpretation of regulatory documents. While we acknowledge ASIC</p>

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	<p>has stated it intends to adopt the use of plain language,<sup>1</sup> making a statement of principle establishes the commitment as a foundational standard for all work and communicates it as a core organisational value.</p> <p>We also suggest ASIC considers using process flow maps (or flowcharts) as a visual tool to complement plain language text. In our members' experience, clients have found these tools particularly helpful in navigating complex procedures and decision points. The Office of the Australian Information Commissioner (<b>OAIC</b>) has utilised this technique<sup>2</sup>.</p> <p>While we do not disagree with principle 3 that general principles are more likely to remain relevant than prescriptive rules as the market environment changes, we reiterate the disadvantages of this approach, which disproportionately affect small business, as outlined in Section 1 (item 3).</p>
<p>8. Is our consolidation of financial reporting, accounting and audit instruments helpful? If not, please provide any feedback on how it could be improved.</p>	<p>The Law Society generally supports the goal of streamlining regulatory guidance through consolidation. However, this is only beneficial if existing regulatory gaps are closed. In our members' experience, the financial reporting regime may be subject to conflict of interests risks as there is an inherent pressure on auditors to minimise adverse findings against the companies that have engaged them, including by positioning some critical information in less visible parts of financial statements (such as the footnotes). Members have also reported that unlisted proprietary companies, particularly subsidiaries of larger groups, are able to avoid financial reporting obligations.</p> <p>We suggest the consolidated framework may be improved by the adoption of mechanisms to ensure appropriate transparency and efficiency to address these concerns.</p>
<p>9. Is our simplification of the platform instruments helpful? If not, please provide any feedback on how it could be improved.</p>	<p>See item 8 above.</p>
<p>10. Are there other ASIC relief or categories of instruments you consider should be simplified or consolidated? If</p>	<p>Accessibility of class orders and how they are represented could be simplified. Currently, many practitioners rely on subscription services to determine if a class</p>

<sup>1</sup> ASIC, *Regulatory Simplification - REP 813*, September 2025, online, <https://download.asic.gov.au/media/cz1fc0hi/rep813-published-3-september-2025.pdf>, 17, 27 and 38.

<sup>2</sup> See OAIC, *Privacy guidance for organisations and government agencies*, "The data breach response flowchart", online, <https://www.oaic.gov.au/privacy/privacy-guidance-for-organisations-and-government-agencies/preventing-preparing-for-and-responding-to-data-breaches/data-breach-preparation-and-response/purpose-and-structure-of-this-guide>.

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<p>consolidation were to occur, would it be most valuable for this to be organised by industry sector, topic or Corporations Act chapter?</p>	<p>order is in place. Making the consolidated, current versions of orders and instruments publicly accessible would help users.</p> <p>Our members prefer consolidation organised according to the relevant <i>Corporations Act</i> chapter. We note the chapters are divided into parts characterised by topic that are usually reasonably contained. Further, organising guidance or relief according to topics or sectors necessitates the precise identification of the applicable parts of the <i>Corporations Act</i>, as many critical concepts and defined terms (such as <i>associate</i>, <i>control</i>, and <i>entity</i>) are unique to specific topic areas under the legislation. While it would be helpful for ASIC to resolve all the conflicting concepts in the simplification process, we acknowledge this requires significant legislative review and reform.</p>
<b>Section 3 – Making it easier to interact with ASIC</b>	
<p>11. With respect to interacting with ASIC, other than the work we've outlined, is there anything else we should prioritise?</p>	<p>Our members have suggested that ASIC should adopt a case manager model for complex or high-priority complaints from the public and regulated entities. Where a complaint is deemed to warrant investigation, the assignment of a dedicated resource to the matter ensures efficiency, and clear communication throughout the process by establishing a single-point of contact and systematic tracking of progress. We note this model is used by other regulators including the Australian Financial Complaints Authority (<b>AFCA</b>) (through a case allocation framework)<sup>3</sup> and the ACCC (where a dedicated team is assigned once a complaint is escalated to an investigation).<sup>4</sup> While we recognise it is not the role of a regulator to resolve disputes, a visible, direct response in the case of serious complaints can reduce a complainant's burden and boost public confidence in the integrity of the financial system.</p> <p>We also suggest ASIC consider consolidating its digital services into a single-pass authentication gateway where a user requires only one set of credentials to access all necessary functions. This approach would streamline the compliance process by replacing multiple portals, logins, and repetitive verification steps with a unified, secure, and user-centric digital experience. Members have queried whether the MyID platform for verifying an individual's identity may also simplify interactions with ASIC.</p>

<sup>3</sup> AFCA, *AFCA complaint resolution process*, [1], online <https://www.afca.org.au/media/1229/download>.

<sup>4</sup> ACCC, *Accountability Framework for Investigations*, [5.8], online, [https://www.accc.gov.au/system/files/1553\\_Accountability%20Framework%20for%20Investigations\\_FA.pdf](https://www.accc.gov.au/system/files/1553_Accountability%20Framework%20for%20Investigations_FA.pdf).

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<p>12. Are there any services that ASIC provides that you think cannot be facilitated electronically? If so, please provide more information.</p>	<p>In our view, all current ASIC services should be deliverable in electronic form. In the event a case management model for complaints handling is adopted, as suggested in 11 above, in-person and telephone interactions may be appropriate in the course of an investigation.</p>
<p>13. With respect to how you use ASIC's registers, other than the work we've outlined, is there anything else you would like us to improve?</p>	<p>Our members suggest two possible improvements that would greatly assist users as follows:</p> <ul style="list-style-type: none"> <li>• Default Universal Search - configure ASIC's online tools to search all its registers by default, removing the need for users to select a specific register.</li> <li>• External Register Integration - implement a technical integration or data-sharing arrangement between ASIC's registers and the Australian Business Register's ABN Lookup to create a single, comprehensive source for business data.</li> </ul>
<p>14. Do you have feedback on our proposal to engage earlier with industry on data requests and revise our consultation approach?</p>	<p>The Law Society supports this proposal.</p>
<p>15. How would you prefer to interact with ASIC more generally? What can we improve?</p>	<p>We support the enhanced efficiency and accessibility offered by fully digitised processes for dealing with ASIC. However, it is important that in that interaction, the following matters are made clear to the user:</p> <ul style="list-style-type: none"> <li>• When a representative of ASIC has received/read any document/correspondence.</li> <li>• When a representative of ASIC has taken action in response to a document/correspondence.</li> <li>• What action has been taken by ASIC.</li> <li>• Whether the user needs to do or provide anything further to ASIC.</li> </ul> <p>This would be helpful not only from an expectation management perspective but also to ensure accountability in processing the interaction (for example, through timely status updates where correspondence or a document has been submitted).</p>
<p><b>Section 4 – Simplification through law reform</b></p>	
<p>16. What changes, if any, should be made to the reportable situations regime and substantial holding notices?</p>	<p>Members are supportive of initiatives to target the reportable situations regime and substantial holding notices. In our view, greater clarity on the information</p>

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	required and the rationale for the issuing of notices would streamline the process and encourage certainty.
17. Are there any other regulatory reform ideas within ASIC's remit that could simplify the application of the law, or otherwise make it easier for individuals and businesses to meet their compliance obligations?	The Law Society strongly supports ASIC's ongoing advocacy for broad legislative reform to make the entire body of corporations law clearer, simpler, and more accessible.
<b>Concluding questions</b>	
18. Of all the simplification work outlined, which do you think we should prioritise and why? Where possible, provide information or data about the cost savings that could be achieved.	<p>In order of priority:</p> <ul style="list-style-type: none"> <li>• Improving access to regulatory information and simplifying regulatory guidance is, in our view, a high priority. It is well documented that simpler regulatory guidance provides significant, multi-faceted savings for businesses, consumers, and the regulator itself through reducing the compliance burden and improving compliance and efficiency.<sup>5</sup></li> <li>• Simplification of the reportable situations and substantial holding notices regimes. Reducing unnecessary regulatory burden on the financial industry will boost productivity and market efficiency.</li> <li>• Plain language drafting is of importance. Clear communication is essential for effective regulation, enabling the public and regulated entities to understand their rights and obligations.</li> </ul>
19. Are there any costs associated with any of the options that are important for us to consider?	The Law Society acknowledges achieving these priorities may require additional funding from the Commonwealth to secure a viable, long-term system.
20. Are there any additional areas of simplification you would like us to consider?	Our members have consistently reported there is a widespread desire among business, legal, and regulatory communities to address the complexity created by disparate definitions of "small business" at the Commonwealth level. We acknowledge that ASIC supports the use of the \$10 million turnover test under the <i>Income Tax Assessment Act 1997</i> (Cth) where it relates to consumer-style protections for small business (for example, Unfair Contract Terms). Continued

<sup>5</sup> See references to the Australian Law Reform Commission, *Confronting Complexity: Reforming Corporations and Financial Services Legislation*, November 2023, 48, [2.7], [2.9]; and the Productivity Commission, "PC opens consultation on reforms for productivity inquiries", Media Release, 18 May 2025, in Andrew Godwin and Ian Ramsay, "Regulatory Simplification Context paper", Attachment A to REP 813, 4-5, September 2025, online, <https://download.asic.gov.au/media/vzjhb2kp/attachment-a-rep813-published-3-september-2025.pdf>

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	<p>reform to achieve consistency in this area would reduce administrative burden and provide regulatory clarity. This proposal does not seek to lower the existing financial reporting thresholds for “small proprietary companies” under the <i>Corporations Act</i>, which are set higher to reflect the level of public interest in a company's finances.</p>
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