



ASIC
Australian Securities &
Investments Commission

CONSULTATION PAPER 388

Net tangible assets requirement for responsible entities

March 2026

About this paper

This consultation paper seeks views from responsible entities of registered managed investment schemes (registered schemes), fund operators and other interested stakeholders.

We are consulting on options to potentially increase the net tangible assets (NTA) requirement that applies to responsible entities and other fund operators under [ASIC Corporations \(Financial Requirements for Responsible Entities, IDPS Operators and Corporate Directors of Retail CCIVs\) Instrument 2023/647](#). We are also seeking feedback on NTA requirements for other Australian financial services (AFS) licensees to inform any future ASIC work.

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 paper was issued on 18 March 2026 and is based on the legislation as at the date of issue.

Disclaimer

The proposals, explanations and examples in this paper do not constitute legal advice. They are also at a preliminary stage only. Our conclusions and views may change as a result of the comments we receive or as other **circumstances change**.

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The consultation process

You are invited to comment on the proposals in this paper, which are only an indication of the approach we may take and are not our final policy.

As well as responding to the specific proposals and questions, we also ask you to describe any alternative approaches you think would achieve our objectives.

We are keen to fully understand and assess the financial and other impacts of our proposals and any alternative approaches. Therefore, we ask you to comment on:

- the likely compliance costs;
- the likely effect on competition; and
- other impacts, costs and benefits.

Where possible, we are seeking both quantitative and qualitative information. We are also keen to hear from you on any other issues you consider important.

Your comments will help us develop our policy on the appropriate NTA requirements for responsible entities and other AFS licensees. In particular, any information about compliance costs, impacts on competition and other impacts, costs and benefits will be taken into account if we prepare a Regulation Impact Statement: see Section E, 'Regulatory and financial impact'.

Making a submission

You may choose to remain anonymous or use an alias when making a submission. However, if you do remain anonymous we will not be able to contact you to discuss your submission should we need to.

Please note we will not treat your submission as confidential unless you specifically request that we treat the whole or part of it (such as any personal or financial information) as confidential.

Please refer to our privacy policy at www.asic.gov.au/privacy for more information on how we handle personal information, your rights to seek access to and correct personal information, and your right to complain about breaches of privacy by ASIC.

Comments should be sent by 17 April 2026 to:

NTA requirements—Consultation feedback
Regulatory Reform and Implementation
Australian Securities and Investments Commission
GPO Box 9827
Melbourne VIC 3001
email: rri.consultation@asic.gov.au

What will happen next?

Stage 1	18 March 2026	ASIC consultation paper released
Stage 2	17 April 2026	Comments due on the consultation paper
Stage 3	31 July 2026	Release our position on the NTA requirement for responsible entities and response to the consultation

A Background to the proposals

Key points

Responsible entities of registered managed investment schemes (registered schemes) must comply with the net tangible assets (NTA) requirement. This consultation paper sets out our proposals for potentially increasing that requirement.

In light of recent scheme collapses, we have focused our review on the NTA requirement for responsible entities (and similar requirements that apply to other fund managers) to ensure that the policy intention of the requirement continues to be upheld. However, we are also taking this opportunity to seek feedback on the appropriateness of the NTA settings for other AFS licensees to inform any future ASIC work.

The NTA requirement for responsible entities

- 1 Responsible entities of registered schemes must comply with the NTA requirement as part of satisfying their obligation to have available adequate resources (including financial, technological and human resources) to provide the financial services covered by their AFS licence and carry out supervisory arrangements: see s912A(1)(d) of the *Corporations Act 2001* (Corporations Act).
- 2 The NTA requirement for responsible entities is currently set out in [ASIC Corporations \(Financial Requirements for Responsible Entities, IDPS Operators and Corporate Directors of Retail CCIVs\) Instrument 2023/647](#) and Appendix 2 of Regulatory Guide 166 *AFS licensing: Financial requirements* ([RG 166](#)).

Non-concessional NTA requirement

- 3 A responsible entity must hold minimum NTA of the greater of \$10 million or 10% of average revenue (non-concessional NTA requirement). The following exceptions apply:
 - (a) the responsible entity does not currently operate any registered schemes; or
 - (b) another exception, based on use of an external custodian or the type of fund assets, applies (see Section C for further explanation of the exceptions).

Concessional NTA requirement

- 4 If an exception described in paragraph 3 applies, the responsible entity is subject to an alternative test (concessional NTA requirement). Under this requirement, the responsible entity must hold minimum NTA of the greater of:
- (a) \$150,000;
 - (b) 0.5% of the average value of fund assets (up to \$5 million); or
 - (c) 10% of average revenue.

Liquidity component

- 5 The NTA requirement has a liquidity component, which applies regardless of whether the concessional or non-concessional requirement applies. Under the liquidity component, responsible entities must hold:
- (a) at least 50% of their NTA requirement in cash or cash equivalents (with a minimum of \$150,000); and
 - (b) 100% of their NTA requirement in liquid assets.

Objectives of the NTA requirement

- 6 The established objectives of the NTA requirement are to:
- (a) ensure the responsible entity has adequate financial resources to meet operating costs (including costs of compliance with the Corporations Act);
 - (b) align the responsible entity's interests with the interests of scheme members, by ensuring it is an entity of substance and shareholders have sufficient equity in the business to ensure success;
 - (c) provide some level of assurance that, if the responsible entity fails, there is sufficient money for the orderly transition to a new responsible entity or to wind up each scheme; and
 - (d) impose a liquidity component to ensure that a responsible entity can call on its NTA to help it meet any immediate and unexpected expenses (see [Explanatory Statement to ASIC Class Order \[CO 13/760\]](#) and [Explanatory Statement to Instrument 2023/647](#)).
- 7 The financial requirements for responsible entities are not intended to address market or credit risks, or to prevent entities from becoming insolvent or failing. They are also not designed to compensate clients for unexpected losses: see [RG 166](#) at RG 166.15 and RG 166.18–RG 166.19.

Operational risk financial reserve (ORFR) requirement for superannuation trustees

- 8 The NTA requirement for responsible entities is different to the ORFR requirement that applies to superannuation trustees (i.e. registrable superannuation entity (RSE) licensees). The primary purpose of the ORFR requirement is to provide an unrestricted commitment of financial resources to address losses, including potential losses, arising from operational risks in a timely manner: see the Australian Prudential Regulation Authority's (APRA) Prudential Practice Guide [SPG 114 Operational risk financial requirement](#). The trustee may use the ORFR to compensate members who lose money as a result of operational risk events. The trustee may also hold the ORFR as a reserve within the fund or as trustee capital.

Purpose of our review

- 9 We last amended the financial thresholds in the NTA requirement for responsible entities on 1 July 2013, when Superseded Class Order [\[SCO 13/760\]](#) *Financial requirements for responsible entities and operators of investor directed portfolio services* came into effect.
- 10 We consider it an appropriate time to review the NTA requirement for responsible entities in light of recent scheme collapses. We consider that it is important to ensure that we continue to uphold the policy intention of the NTA requirement and that responsible entities are an entity of substance.
- 11 We recognise that there are other AFS licensees with NTA requirements and some licensees that are not currently subject to an NTA requirement. Our review also covers the NTA requirement that applies to investor directed portfolio service (IDPS) operators and corporate directors of retail corporate collective investment vehicle (CCIVs). We are also taking this opportunity to seek general feedback on the appropriateness of the NTA settings for other licensees to inform any future ASIC work: see Section D.
- 12 The NTA requirement for responsible entities is a component of the broader compliance obligations that apply to responsible entities under the Corporations Act. Increasing the NTA requirement alone will not prevent collapses of managed investment schemes or fully compensate investors who suffer loss from significant events.
- 13 Treasury is separately reviewing options to strengthen governance and financial requirements for responsible entities of registered schemes.

Note: See Treasury, [Enhancing oversight and governance of managed investment schemes](#) [consultation], 10 February 2026.

- 14 Treasury's consultation paper sought feedback on whether the existing legislative framework for setting financial requirements for responsible entities remains appropriate. This included whether more specific financial resource requirements for responsible entities or clear objectives for the existing financial resource requirements should be specified in primary legislation or regulations. We will liaise with Treasury in relation to the outcomes and timing of its separate review.

Feedback we are seeking

- 15 We are seeking feedback on the following issues:
- (a) Options for potentially increasing the NTA requirement for new and existing responsible entities. We have set out three possible options in Section B:
 - (i) Option 1—Increase the financial thresholds in the NTA requirement in line with the consumer price index (CPI).
 - (ii) Option 2—Increase the \$150,000 minimum under the concessional NTA requirement.
 - (iii) Option 3—Increase the \$5 million cap under the concessional NTA requirement.
 - (b) Whether having a concessional NTA requirement based on types of assets or use of a custodian remains appropriate (see Section C).
 - (c) Whether we should amend the NTA requirements for IDPS operators and corporate directors of retail CCIVs if we make changes to the NTA requirement for responsible entities (see Section D).
 - (d) Whether we should introduce or change the NTA requirements for other AFS licensees (see Section D).

B Options for increasing the NTA requirement for responsible entities

Key points

We are seeking feedback on three possible options for increasing the NTA requirement for new and existing responsible entities. We may decide to adopt one or a combination of the options described in this section.

Our proposed options range from increasing the NTA requirement in line with CPI to changes that involve adjusting the minimum NTA requirement or the \$5 million cap under the concessional NTA requirement: see Options 1–3 at proposals B1–B3.

We are also seeking feedback on whether we should change the liquidity component (see proposal B4) and the appropriate transition period for any increase to the NTA requirement (see proposal B5).

Option 1—Increase in line with CPI

Proposal

B1 Under Option 1, we would increase the financial thresholds in the NTA requirement for responsible entities to reflect cumulative CPI growth since 2013.

This would (in approximate terms) raise the:

- (a) \$150,000 NTA minimum to \$200,000;
- (b) \$500,000 NTA minimum to \$700,000;

Note: The \$500,000 NTA minimum forms part of the concessional NTA requirement for responsible entities that hold Tier \$500,000 class assets (see Section C).

- (c) \$5 million cap that applies to the average value of fund assets limb of the concessional NTA requirement to \$6.9 million; and
- (d) \$10 million NTA minimum to \$13.8 million.

Your feedback

B1Q1 Please provide your feedback on this option, including reasons in support of your views.

B1Q2 Do you agree that applying a CPI-linked increase to the financial thresholds specified in the NTA requirement is appropriate to support the objectives of the NTA requirement? If not, why not?

B1Q3 Are there alternative measures to CPI that you consider more appropriate for this purpose? Please provide details.

- B1Q4 For existing responsible entities, what effect would this option have on your business (including the amount of capital you hold and compliance costs)? Is this proposal likely to affect fees for scheme members? Please provide specific details and dollar estimates.
- B1Q5 Would it be appropriate for ASIC to introduce an ongoing indexation mechanism (e.g. periodic CPI adjustment) for increasing the financial thresholds in the NTA requirement? Why or why not?
- B1Q6 What impact will this proposal have on competition?
- B1Q7 Do you see any practical difficulties with this approach? If so, please provide details.

Rationale

- 16 We consider that it may be appropriate to increase the financial thresholds specified in the NTA requirement for responsible entities to reflect CPI increases, given that they have remained unchanged since 2013. Our aim with this proposal is to help ensure responsible entities continue to hold adequate financial resources to meet the objectives described in paragraph 6, taking into account the change in the value of money over time.
- 17 If adopted alone, this approach would restore the real value of the minimum financial thresholds while preserving the remaining elements of the NTA requirement for responsible entities.

Option 2—Increase the \$150,000 minimum under the concessional NTA requirement

Proposal

- B2 Under Option 2, we would increase the \$150,000 minimum for responsible entities under the concessional NTA requirement:
- (a) to a higher fixed dollar amount of up to \$1 million; or
 - (b) by applying this limb of the NTA formula on a per scheme basis, so a responsible entity must hold minimum NTA of the greater of:
 - (i) \$150,000 per scheme operated;
 - (ii) 0.5% of the average value of fund assets (up to \$5 million); or
 - (iii) 10% of average revenue.

Your feedback

- B2Q1 Please provide your feedback on this option, including reasons in support of your views.
- B2Q2 Do you prefer proposal B2(a) or B2(b)? Please provide reasons.
- B2Q3 If we adopt proposal B2(a), what should the fixed amount be? What is the basis for this?

- B2Q4 Do you agree that this proposal is appropriate to support the objectives of the NTA requirement? If not, why not?
- B2Q5 For existing responsible entities, what effect would this proposal have on your business (including the amount of capital you hold and compliance costs)? Is this proposal likely to affect fees for scheme members? Please provide specific details and dollar estimates.
- B2Q6 What effect will this proposal have on competition?
- B2Q7 Do you see any practical difficulties with this approach? If so, please provide details.

Rationale

- 18 The \$150,000 NTA minimum has applied since 1 November 2012, when Superseded Class Order [\[SCO 11/1140\]](#) *Financial requirements for responsible entities* came into effect. Before this, we required responsible entities to hold at least \$50,000 NTA.
- 19 Given the time since we implemented this particular threshold, we have crafted this proposal to better ensure that responsible entities are entities of substance. The proposal also intends to ensure responsible entities hold a sufficient financial buffer to facilitate an orderly transition to a new responsible entity or wind up the scheme if the responsible entity fails, noting that the costs associated with this can be significant.
- 20 Proposal B2(a) would help align the minimum NTA requirement for responsible entities more closely with higher minimum capital requirements imposed on operators of collective investment schemes in some comparable jurisdictions. For example:
- (a) in Singapore, fund managers of collective investment schemes that are offered to investors who are not accredited or institutional investors must have minimum capital of approximately AU\$1.2 million; and
 - (b) in the United Kingdom, operators of retail Undertakings for Collective Investment in Transferable Securities (UCITS) must have minimum capital of approximately AU\$218,000, plus 0.02% of assets under management over AU\$435 million.
- Note: The capital requirements for collective investment schemes vary across jurisdictions. Some jurisdictions impose capital requirements as part of broader regimes that include additional operational risk requirements, restrictions on offering complex investments to retail clients, diversification requirements or liquidity thresholds.
- 21 Proposal B2(b) takes into account that some responsible entities operate multiple schemes. It may be appropriate to scale the current \$150,000 NTA requirement accordingly, to:
- (a) reflect operating costs associated with operating multiple schemes;
 - (b) promote commitment to the viability of each scheme; and

- (c) assist with the orderly wind up of all schemes if the responsible entity fails.

Option 3—Increase the \$5 million cap under the concessional NTA requirement

Proposal

- B3** Under Option 3, we would increase the current \$5 million cap on the average value of fund assets limb of the concessional NTA requirement to a higher dollar amount. Currently, the calculation is 0.5% of the average value of fund assets, capped at \$5 million.

Your feedback

- B3Q1** Please provide your feedback on this option, including reasons in support of your views.
- B3Q2** If we adopt this proposal, what do you think the new cap should be? What is the basis for this?
- B3Q3** Do you agree that this proposal is appropriate to support the objectives of the NTA requirement? If not, why not?
- B3Q4** For existing responsible entities, what effect would this proposal have on your business (including the amount of capital you hold and compliance costs)? Is this proposal likely to affect fees for scheme members? Please provide specific details and dollar estimates.
- B3Q5** What effect will this proposal have on competition?
- B3Q6** Do you see any practical difficulties with this approach? If so, please provide details.

Rationale

- 22 The \$5 million cap has formed part of our NTA requirement for responsible entities since 2002. Before that, from 1998 it formed part of the NTA requirement for operators of managed investment schemes in the *Corporations Act 1989* (repealed).
- 23 When we considered increasing the NTA requirement for responsible entities in 2011, we noted that a maximum NTA requirement of \$5 million may be inadequate. This was because operating risk associated with growth of funds under management does not stop above a certain threshold (i.e. \$5 million): see paragraph 30 of Appendix 1 to Report 259 *Response to submissions on CP 140 Responsible entities: Financial requirements* ([REP 259](#)). This led to the introduction of the average revenue limb of the test for determining a responsible entity's NTA requirement, which is intended to capture the operating risks of responsible entities that generate significant income.

- 24 While the average revenue limb of the test is uncapped, the average value of fund assets limb of the test under the concessional NTA requirement has remained capped at \$5 million. It may be appropriate to increase this cap to ensure responsible entities with significant funds under management hold adequate NTA.

Seeking feedback on the appropriateness of the liquidity component

- 25 The liquidity component includes the cash or cash equivalents and liquid assets requirements described in paragraph 5. It applies to both the non-concessional NTA requirement and the concessional NTA requirement.
- 26 The terms ‘cash or cash equivalents’ and ‘liquid assets’ are defined in [ASIC Instrument 2023/647](#). For example, ‘cash or cash equivalents’ can include:
- (a) money deposited with an Australian authorised deposit-taking institution (ADI);
 - (b) short-term, highly liquid assets; and
 - (c) certain undertakings and commitments by made by an eligible provider.
- 27 ‘Liquid assets’ include cash or cash equivalents (other than commitments by an eligible provider) and assets the AFS licensee can reasonably expect to realise for their market value within six months.

Proposal

- B4** We are not making a formal proposal, but we seek your feedback on questions B4Q1–B4Q4

Your feedback

- B4Q1 Do you consider the cash or cash equivalents and liquid assets requirements imposed on responsible entities remain appropriate? Please provide specific details and reasons.
- B4Q2 If we adopt Option 1 (proposal B1), should we increase the cash or cash equivalents minimum requirement (currently, \$150,000) to reflect cumulative CPI growth since 2013?
- B4Q3 If we adopt Option 2 (proposal B2) or Option 3 (proposal B3), should we make any changes to the cash or cash equivalents or liquid assets requirements? Please provide specific details and reasons.
- B4Q4 Should we continue to calculate the cash or cash equivalents and liquid assets requirements as a proportion of the NTA the responsible entity is required to hold, or should we use an alternative formula or approach? Please provide specific details and reasons.

Transition period to help responsible entities comply with any increased requirement

Proposal

B5 If we adopt any of proposals B1–B4, we propose that a transition period of six months would apply.

Your feedback

B5Q1 Do you agree that we should provide a transition period if we decide to adopt one or more of proposals B1–B4?

B5Q2 Do you agree with the transition period being six months? If not, why not?

Rationale

28 We consider that a transition period would be necessary and appropriate to allow responsible entities time to comply with any increased NTA requirement. Depending on the proposal(s) we adopt, some responsible entities may need to hold a significantly higher level of NTA.

Seeking feedback on alternative approaches

Proposal

B6 We are not making a formal proposal, but we seek your feedback on questions B6Q1–B6Q2.

Your feedback

B6Q1 Do you consider that there are alternative approaches to increasing the NTA requirement that are preferable? Please provide details.

B6Q2 Other than the objectives described in paragraph 6, are there other factors that we should consider when setting the NTA requirement for responsible entities (noting that the focus of the requirement is on ensuring responsible entities have adequate financial resources under s912A(1)(d) of the Corporations Act)?

C Appropriateness of the concessional NTA requirement for responsible entities

Key points

A responsible entity can rely on the concessional NTA requirement if:

- it meets certain requirements relating to custody of the fund assets; or
- an exception based on the type of fund assets applies.

We are seeking general feedback on whether it remains appropriate for a responsible entity to be subject to a concessional NTA requirement when it meets those requirements and whether any aspects of the requirements should be changed: see proposal C1.

Seeking feedback on the appropriateness of the concessional NTA requirement

The current concessional NTA requirement

29 Broadly, a responsible entity can rely on the concessional NTA requirement if all of the fund assets of each registered scheme operated by the responsible entity are held by:

- (a) a custodian (or a sub-custodian appointed by that custodian) who the responsible entity reasonably believes meets the financial requirements for AFS licensees authorised to provide a custodial or depository service other than as an incidental provider; or
- (b) an ‘eligible custodian’ (meaning an Australian ADI, a market participant or clearing participant or a sub-custodian appointed by one of those entities).

Note: The concessional NTA requirement also applies to IDPS operators and corporate directors of retail CCIVs.

30 Exceptions apply if the fund assets are specified ‘Tier \$500,000 class assets’ or ‘special custody assets’. To qualify for an exception, the responsible entity must meet any conditions attached to the relevant exception. For example, the concessional NTA requirement applies if all fund assets are Tier \$500,000 class assets and the person holding the assets (either the responsible entity or the custodian) holds at least \$500,000 NTA.

31 Tier \$500,000 class assets include, for example, certain real property, physical assets, and funds from members or shareholders held in a regulated trust account. Special custody assets include a variety of assets, such as

currency, chattels, over-the-counter (OTC) derivatives and private equity interests that it would not be reasonably practicable for a person other than the responsible entity to hold.

Note: For further explanation of the circumstances in which the responsible entity can rely on the concessional NTA requirement, see Appendix 2 of [RG 166](#) and s912AA(4), 912AA(5) and 912AA(7) of the Corporations Act (inserted by [ASIC Instrument 2023/647](#)).

Purpose of the current concessional NTA requirement

32 The purpose of our current approach is to ensure that the person holding the client assets is an entity of substance and has sufficient financial resources to transfer assets if it ceases to be a custodian: see RG 166.233. Accordingly, responsible entities may comply with the concessional NTA requirement when they use a custodian or sub-custodian, as described in paragraph 29.

33 However, our current approach also recognises that, in certain circumstances:

- (a) it would be unreasonably costly or impracticable for a responsible entity to retain a custodian that can meet the NTA requirement;
- (b) the custodial systems for some scheme property need not be as sophisticated as for other schemes; and
- (c) the prospect of loss of certain asset types due to custodial failure is less than for others because:
 - (i) appropriate controls can adequately address the risk; or
 - (ii) there is a low risk of misappropriation of those asset types (RG 166.234).

Possible changes to the concessional NTA requirements

34 We are seeking general feedback on whether the concessional and non-concessional NTA requirements remain appropriate. We note that the overarching purposes of the NTA requirement go beyond ensuring there is sufficient money available to transition assets to a new custodian. The purpose includes ensuring that the responsible entity has adequate resources to meet operating costs and is itself an entity of substance.

35 We also consider that holding the assets of a registered scheme is part of the operation of the registered scheme by the responsible entity, noting that the holding of those assets by a custodian does not constitute the provision of a custodial or depository service: see Regulatory Guide 133 *Funds management and custodial services: Holding assets* ([RG 133](#)) at RG 133.15. While the responsible entity must ensure that the custodian meets the standards for holding scheme property set out in RG 133, there is a question

of whether it is appropriate for responsible entities to be subject to a concessional NTA requirement because a custodian holds scheme assets.

Proposal

c1 We are not making a formal proposal, but we seek your feedback on questions C1Q1–C1Q2.

Your feedback

C1Q1 Do you consider that responsible entities should continue to be subject to a concessional NTA requirement if they meet the requirements relating to custody or fund assets described in paragraphs 29–31? Please give reasons.

C1Q2 Are there any aspects of the concessional NTA requirement that you think we should change? If so, please provide details about what you think should be changed and your preliminary views about how the change could be achieved.

D NTA requirements for other AFS licensees

Key points

We are proposing to also amend the NTA requirements for IDPS operators and corporate directors of retail CCIVs if we make changes to the NTA requirement for responsible entities, to ensure consistency: see proposal D1.

We are seeking general feedback on whether we should:

- review and consult on increasing any of the current NTA requirements for other AFS licensees (see proposal D2); and
- impose an NTA requirement on any AFS licensees that are not currently subject to an NTA requirement (see proposal D3).

Impact of our review on other AFS licensees

- 36 Our review has initially focused initially on the NTA requirement that applies to responsible entities. However, we acknowledge that other AFS licensees have NTA requirements and that it may be appropriate for ASIC to review the requirements more broadly.
- 37 At this time, we see merit in extending any changes to the NTA requirement for responsible entities to IDPS operators and corporate directors of retail CCIVs. Our aim is to ensure continued regulatory parity for these licensees.
- 38 In the future, we may consider changing NTA requirements that currently apply to other AFS licensees. For example, if we increase the NTA requirement for responsible entities in line with CPI, it may be appropriate to increase the NTA requirements for other licensees based on CPI.
- 39 We may also consider introducing new NTA requirements for AFS licensees that are not currently subject to them, to:
- (a) ensure regulatory parity across comparable business models;
 - (b) prevent regulatory arbitrage; and
 - (c) ensure that an entity has adequate financial resources.

Proposed changes to the NTA requirements for IDPS operators and corporate directors of retail CCIVs

- 40 The NTA requirements for IDPS operators and corporate directors of retail CCIVs are also set out in [ASIC Instrument 2023/647](#). These are currently equivalent to the NTA requirement that applies to responsible entities.

Proposal

- D1 If we adopt any of the proposals to increase the NTA requirement for responsible entities (see Section B), we propose to apply:
- (a) the same increased NTA requirements to IDPS operators and corporate directors of retail CCIVs; and
 - (b) any changes made to the liquidity component (see proposal B4) and the concessional NTA requirement (see proposal C1) for responsible entities to IDPS operators and corporate directors.

Your feedback

- D1Q1 Do you agree with this approach? If not, why not?
- D1Q2 Do you see any practical difficulties with this approach? If so, please provide details.
- D1Q3 For existing fund operators, if we adopt this approach, what impact would this have on your business (including the amount of capital you hold and compliance costs)? Is this proposal likely to affect fees for your clients? Please provide specific details and dollar estimates.

Rationale

- 41 Responsible entities, IDPS operators and corporate directors of retail CCIVs perform functionally similar roles as fund operators of retail collective investment schemes. We have traditionally imposed equivalent NTA requirements on these entities to promote regulatory parity. We consider it appropriate to continue to align the NTA requirements for these AFS licensees, given the similarity in roles and the policy intention of the requirements. This will also ensure consistency in any updates we make to the NTA requirements that apply in [ASIC Instrument 2023/647](#).

Seeking feedback on amending the NTA requirements that apply to other AFS licensees

- 42 Certain other AFS licensees are also subject to NTA requirements. These requirements vary, depending on the type of AFS licensee, and we impose them through ASIC legislative instrument or AFS licence conditions. We have summarised the requirements in Table 1 (for more information on these requirements, including definitions of key terms, see [RG 166](#)).

Table 1: NTA requirements for other AFS licensees

Type of provider	NTA requirement
Licensed custodial or depository service providers	<p>If your core business is to provide custodial or depository services and you are not an incidental provider, you must hold minimum NTA the greater of:</p> <ul style="list-style-type: none"> • \$10 million; or • 10% of average revenue. <p>If you are an incidental provider and you hold physical custody of the assets, you must hold minimum NTA the greater of:</p> <ul style="list-style-type: none"> • \$150,000; or • 10% of average revenue. <p>If you are an incidental provider and you do not hold physical custody of the assets, your NTA requirement is nil as long as you continue to satisfy the requirements for a separate entity to hold the assets.</p> <p>Note: There is some alignment between this test and the NTA requirement for responsible entities. A \$10 million minimum requirement also applies under the non-concessional requirement for responsible entities. Further, one circumstance in which a responsible entity can rely on the concessional NTA requirement is when the fund assets are held by a custodian that meets the financial requirements for licensed custodial or depository service providers (other than as an incidental provider): see Section C.</p>
Trustee companies providing traditional services	You must hold NTA of at least \$5 million (unless you are eligible for relief).
Issuers of margin lending facilities	<p>If you issue a standard margin lending facility, you must hold NTA of at least:</p> <ul style="list-style-type: none"> • 0.5% of the value of the secured property; and • \$5 million at all times if: <ul style="list-style-type: none"> – you hold the secured property; or – any other person holds the secured property and that person does not have at least \$5 million NTA (unless they are an eligible custodian). <p>If you issue a non-standard margin lending facility, you must hold NTA of at least:</p> <ul style="list-style-type: none"> • 0.5% of the value of any transferred securities; and • \$5 million NTA at all times if: <ul style="list-style-type: none"> – you are the transferee of transferred securities; or – any other person is the transferee of transferred securities and that person does not have at least \$5 million NTA (unless they are an eligible custodian).
Retail OTC derivative issuers	<p>You must hold minimum NTA of the greater of:</p> <ul style="list-style-type: none"> • \$1 million; or • 10% of average revenue. <p>Note: The NTA requirement for retail OTC derivative issuers is set out in ASIC Corporations (Financial Requirements for Issuers of Retail OTC Derivatives) Instrument 2022/705. This instrument is due to expire on 1 October 2027. We will assess whether the instrument should be remade prior to that date.</p>
Foreign exchange dealers	<p>Foreign exchange dealers are not currently subject to an NTA requirement. However, AFS licensees that carry on a business of entering, as principal, into foreign exchange contracts that are financial products in Australia must either:</p> <ul style="list-style-type: none"> • have \$10 million of Tier 1 capital (this is referred to as the capital requirement); or • satisfy the adjusted surplus liquid funds (ASLF) requirement for transacting with clients as principal described in Section D of RG 166.

Proposal

- D2** We are not making a formal proposal, but we seek your feedback on questions D2Q1–D2Q3.

Your feedback

- D2Q1 Given the alignment between the existing NTA requirements for responsible entities and licensed custodial or depository service providers, should we conduct a review and consult on increasing the NTA requirement for licensed custodial or depository service providers?
- D2Q2 Do you consider that we should conduct a review and consult on increasing (or otherwise amending) any of the requirements that apply to other AFS licensees outlined in Table 1? Please give reasons why or why not.
- D2Q3 If we were to increase any of the requirements in Table 1, what are your preliminary views on the approach we should adopt to increasing the requirement (noting the approaches we have proposed for responsible entities in Section B)?

Seeking feedback on imposing NTA requirements on AFS licensees that currently do not have requirements

- 43 Certain AFS licensees currently do not have to meet an NTA requirement. These include, for example, managed discretionary account (MDA) providers, operators of unregistered managed investment schemes (unless they are also a licensed custodial or depository service provider), issuers of non-cash payment facilities, financial advice licensees and crowd-sourced funding (CSF) intermediaries.

Note 1: In many cases, non-cash payment facilities are ADIs regulated by APRA and therefore would be excluded from the financial requirements set out in [RG 166](#). Non-cash payment facilities that hold client money or property and are not an ADI regulated by APRA may still be required to comply with the surplus liquid funds (SLF) requirement described in Section C of RG 166.

Note 2: CSF intermediaries are subject to the other financial resource requirements set out in [ASIC Corporations \(Financial Requirements for CSF Intermediaries\) Instrument 2017/339](#). However, a CFS intermediary that is also a responsible entity, IDPS operator, licensed custodial or depository service provider (except certain incidental providers), or retail OTC derivative issuer is not required to comply with those requirements.

Proposal

- D3** We are not making a formal proposal, but we seek your feedback to question D3Q1.

Your feedback

- D3Q1 Should we impose an NTA requirement on other categories of AFS licensees or should we maintain the status quo? Please give reasons.

E Regulatory and financial impact

- 44 In developing the proposals in this paper, we have carefully considered their regulatory and financial impact. On the information currently available to us we think they will strike an appropriate balance between:
- (a) ensuring the NTA requirement for responsible entities continues to meet its objectives; and
 - (b) imposing financial requirements that are not unreasonably burdensome on responsible entities, given the range of business models and schemes operated.
- 45 Before settling on a final policy, we will comply with the Australian Government’s Policy Impact Analysis (PIA) requirements by:
- (a) considering all feasible options, including examining the likely impacts of the range of alternative options that could meet our policy objectives;
 - (b) if regulatory options are under consideration, notifying the Office of Impact Analysis (OIA); and
 - (c) if our proposed option has more than a minor or machinery impact on business or on the not-for-profit sector, preparing an Impact Analysis (IA) or an IA equivalent (Independent Review).
- 46 All IAs are submitted to the OIA for approval before we make any final decision, or if an IA equivalent—to the OIA for agreement. Without an approved IA or agreed IA equivalent, ASIC is unable to give relief or make any other form of regulation, including issuing a regulatory guide that contains regulation.
- 47 To ensure that we are in a position to properly complete any required IA or IA equivalent, please give us as much information as you can about our proposals or any alternative approaches, including:
- (a) the likely compliance costs;
 - (b) the likely effect on competition; and
 - (c) other impacts, costs and benefits.

See ‘The consultation process’, p. 4.

Key terms

Term	Meaning in this document
ADI	An authorised deposit-taking institution—a corporation that is authorised under the <i>Banking Act 1959</i> . ADIs include: <ul style="list-style-type: none"> • banks; • building societies; and • credit unions
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
ASIC Instrument 2023/647 (for example)	An ASIC instrument (in this example numbered 2023/647)
Australian ADI	An Australian authorised deposit-taking institution—has the meaning given in s9 of the Corporations Act
average revenue	Has the meaning given in ASIC Instrument 2023/647 (see also RG 166.185 in Section E of RG 166)
average value of fund assets	Has the meaning given in ASIC Instrument 2023/647 (see also RG 166.168 in Section E of RG 166)
cash or cash equivalents	Has the meaning given in ASIC Instrument 2023/647 (see also RG 166.170 in Section E of RG 166)
CCIV	A corporate collective investment vehicle—a company that is registered as a corporate collective investment vehicle under the Corporations Act Note: This is a definition in s9.

Term	Meaning in this document
concessional NTA requirement	<p>If an exception to the non-concessional NTA requirement applies, a responsible entity must hold minimum NTA of the greater of:</p> <ul style="list-style-type: none"> • \$150,000; • 0.5% of the average value of fund assets (up to \$5 million); or • 10% of average revenue <p>Note: For further information, see paragraph 4 of this paper and Appendix 2 to RG 166.</p>
corporate director	<p>The company named in ASIC's record of the CCIV's registration as the corporate director or temporary corporate director of the CCIV</p> <p>Note: This is a definition in s1224(3) of the Corporations Act.</p>
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
CPI	Consumer Price Index
custodial or depository service	<p>The service provided under an arrangement between the provider and the client, or between the provider and another person with whom the client has an arrangement (whether or not there are also other parties to any such arrangement), under which a financial product, or a beneficial interest in a financial product, is held by the provider in trust for, or on behalf of, the client or another person nominated by the client unless the service is not a custodial service under s766E(3) of the Corporations Act</p> <p>Note: This is a definition in s766E</p>
financial advice licensee	A person that is a holder of an AFS licence that is authorised to provide financial product advice
foreign exchange dealer	A person who carries on a business of entering, as principal, into foreign exchange contracts in Australia
non-concessional NTA requirement	<p>Unless an exception applies, a responsible entity must hold minimum NTA of the greater of:</p> <ul style="list-style-type: none"> • \$10 million; or • 10% of average revenue <p>Note: For further information, see paragraph 3 of this paper and Appendix 2 to RG 166.</p>
IDPS	An investor directed portfolio service as defined in ASIC Corporations (Investor Directed Portfolio Services) Instrument 2023/669 or any instrument that amends or replaces that instrument
IDPS operator	A public company that is an AFS licensee authorised to operate an IDPS and who provides an IDPS or a function that forms part of the IDPS

Term	Meaning in this document
incidental provider	Has the meaning given in ASIC Corporations (Financial Requirements for Custodial or Depository Service Providers) Instrument 2023/648 (see also RG 166.177 in Section E of RG 166)
licensed custodial or depository service provider	A person that is a holder of an AFS licence that is authorised to provide a custodial or depository service
liquid assets	Has the meaning given in ASIC Instrument 2023/647 (see also RG 166.178 in Section E of RG 166)
liquidity component	<p>A component of the NTA requirement, which requires responsible entities to hold:</p> <ul style="list-style-type: none"> • at least 50% of their NTA in cash or cash equivalents (with a minimum of \$150,000); and • 100% of their NTA requirement in liquid assets. <p>Note: For further information, see paragraph 5 of this paper and Appendix 2 to RG 166.</p>
managed investment scheme	Has the meaning given in s9 of the Corporations Act
margin lending facility	<p>Has the meaning given in s761EA(1) of the Corporations Act, and includes:</p> <ul style="list-style-type: none"> • a standard margin lending facility; or • a non-standard margin lending facility; or • a facility declared by ASIC to be a margin lending facility under s761EA(8) of the Corporations Act
MDA provider	Has the meaning given in ASIC Corporations (Managed Discretionary Account Services) Instrument 2016/968
NTA	Net tangible assets—see RG 166.164 in Section E of RG 166 for the meaning of this term
NTA requirement	The requirement for responsible entities to hold minimum NTA, as set out in the non-concessional and concessional NTA requirements
OTC	Over the counter
registered scheme	A managed investment scheme that is registered under s601EB of the Corporations Act
retail CCIV	<p>A CCIV that satisfies the retail CCIV test in s1222K of the Corporations Act or is notified as a retail CCIV under s1222L of the Corporations Act</p> <p>Note: This is a definition in s1222J.</p>

Term	Meaning in this document
retail OTC derivative issuer	<p>An AFS licensee that:</p> <ul style="list-style-type: none"> • holds an AFS licence that authorises them to: <ul style="list-style-type: none"> – deal in a financial product by issuing derivatives; and – make a market for derivatives; • incurs actual or contingent liabilities by issuing derivatives to retail clients; and • is not: <ul style="list-style-type: none"> – a body regulated by APRA that is not required to comply with s912A(1)(d) of the Corporations Act; – a market participant; or – a clearing participant.
responsible entity	A responsible entity of a registered scheme as defined in s9 of the Corporations Act
RG 166 (for example)	An ASIC regulatory guide (in this example numbered 166)
s912A	A section of the Corporations Act (in this example numbered 912A), unless otherwise specified
special custody assets	Has the meaning given in ASIC Instrument 2023/647 (see also RG 166.182 in Section E in RG 166)
Tier \$500,000 class assets	Has the meaning given in ASIC Instrument 2023/647 (see also RG 166.183 in Section E of RG 166)
trustee company	Has the meaning given in s601RAB of the Corporations Act
traditional services	<p>Traditional trustee company services—has the meaning given in s601RAC(1) of the Corporations Act, and includes:</p> <ul style="list-style-type: none"> • performing estate management functions (as defined in s601RAC(2)); • preparing a will, a trust instrument, a power of attorney or an agency arrangement; • applying for probate of a will, applying for grant of letters of administration, or electing to administer a deceased estate; • establishing and operating common funds; and • any other services prescribed by the Corporations Regulations as traditional trustee company services

List of proposals and questions

Proposal	Your feedback
<p>B1 Under Option 1, we would increase the financial thresholds in the NTA requirement for responsible entities to reflect cumulative CPI growth since 2013.</p> <p>This would (in approximate terms) raise the:</p> <p>(a) \$150,000 NTA minimum to \$200,000;</p> <p>(b) \$500,000 NTA minimum to \$700,000;</p> <p>Note: The \$500,000 NTA minimum forms part of the concessional NTA requirement for responsible entities that hold Tier \$500,000 class assets (see Section C).</p> <p>(c) \$5 million cap that applies to the average value of fund assets limb of the concessional NTA requirement to \$6.9 million; and</p> <p>(d) \$10 million NTA minimum to \$13.8 million.</p>	<p>B1Q1 Please provide your feedback on this option, including reasons in support of your views.</p> <p>B1Q2 Do you agree that applying a CPI-linked increase to the financial thresholds specified in the NTA requirement is appropriate to support the objectives of the NTA requirement? If not, why not?</p> <p>B1Q3 Are there alternative measures to CPI that you consider more appropriate for this purpose? Please provide details.</p> <p>B1Q4 For existing responsible entities, what effect would this option have on your business (including the amount of capital you hold and compliance costs)? Is this proposal likely to affect fees for scheme members? Please provide specific details and dollar estimates.</p> <p>B1Q5 Would it be appropriate for ASIC to introduce an ongoing indexation mechanism (e.g. periodic CPI adjustment) for increasing the financial thresholds in the NTA requirement? Why or why not?</p> <p>B1Q6 What impact will this proposal have on competition?</p> <p>B1Q7 Do you see any practical difficulties with this approach? If so, please provide details.</p>

Proposal	Your feedback
<p>B2 Under Option 2, we would increase the \$150,000 minimum for responsible entities under the concessional NTA requirement:</p> <p>(a) to a higher fixed dollar amount of up to \$1 million; or</p> <p>(b) by applying this limb of the NTA formula on a per scheme basis, so a responsible entity must hold minimum NTA of the greater of:</p> <p>(i) \$150,000 per scheme operated;</p> <p>(ii) 0.5% of the average value of fund assets (up to \$5 million); or</p> <p>(iii) 10% of average revenue.</p>	<p>B2Q1 Please provide your feedback on this option, including reasons in support of your views.</p> <p>B2Q2 Do you prefer proposal B2(a) or B2(b)? Please provide reasons.</p> <p>B2Q3 If we adopt proposal B2(a), what should the fixed amount be? What is the basis for this?</p> <p>B2Q4 Do you agree that this proposal is appropriate to support the objectives of the NTA requirement? If not, why not?</p> <p>B2Q5 For existing responsible entities, what effect would this proposal have on your business (including the amount of capital you hold and compliance costs)? Is this proposal likely to affect fees for scheme members? Please provide specific details and dollar estimates.</p> <p>B2Q6 What effect will this proposal have on competition?</p> <p>B2Q7 Do you see any practical difficulties with this approach? If so, please provide details.</p>
<p>B3 Under Option 3, we would increase the current \$5 million cap on the average value of fund assets limb of the concessional NTA requirement to a higher dollar amount. Currently, the calculation is 0.5% of the average value of fund assets, capped at \$5 million.</p>	<p>B3Q1 Please provide your feedback on this option, including reasons in support of your views.</p> <p>B3Q2 If we adopt this proposal, what do you think the new cap should be? What is the basis for this?</p> <p>B3Q3 Do you agree that this proposal is appropriate to support the objectives of the NTA requirement? If not, why not?</p> <p>B3Q4 For existing responsible entities, what effect would this proposal have on your business (including the amount of capital you hold and compliance costs)? Is this proposal likely to affect fees for scheme members? Please provide specific details and dollar estimates.</p> <p>B3Q5 What effect will this proposal have on competition?</p> <p>B3Q6 Do you see any practical difficulties with this approach? If so, please provide details.</p>

Proposal	Your feedback
<p>B4 We are not making a formal proposal, but we seek your feedback on questions B4Q1–B4Q3.</p>	<p>B4Q1 Do you consider the cash or cash equivalents and liquid assets requirements imposed on responsible entities remain appropriate? Please provide specific details and reasons.</p> <p>B4Q2 If we adopt Option 1 (proposal B1), should we increase the cash or cash equivalents minimum requirement (currently, \$150,000) to reflect cumulative CPI growth since 2013?</p> <p>B4Q3 If we adopt Option 2 (proposal B2) or Option 3 (proposal B3), should we make any changes to the cash or cash equivalents or liquid assets requirements? Please provide specific details and reasons.</p> <p>B4Q4 Should we continue to calculate the cash or cash equivalents and liquid assets requirements as a proportion of the NTA the responsible entity is required to hold, or should we use an alternative formula or approach? Please provide specific details and reasons.</p>
<p>B5 If we adopt any of proposals B1–B4, we propose that a transition period of six months would apply.</p>	<p>B5Q1 Do you agree that we should provide a transition period if we decide to adopt one or more of proposals B1–B4?</p> <p>B5Q2 Do you agree with the transition period being six months? If not, why not?</p>
<p>B6 We are not making a formal proposal, but we seek your feedback on questions B6Q1–B6Q2.</p>	<p>B6Q1 Do you consider that there are alternative approaches to increasing the NTA requirement that are preferable? Please provide details.</p> <p>B6Q2 Other than the objectives described in paragraph 6, are there other factors that we should consider when setting the NTA requirement for responsible entities (noting that the focus of the requirement is on ensuring responsible entities have adequate financial resources under s912A(1)(d) of the Corporations Act)?</p>

Proposal	Your feedback
<p>C1 We are not making a formal proposal, but we seek your feedback on questions C1Q1–C1Q2.</p>	<p>C1Q1 Do you consider that responsible entities should continue to be subject to a concessional NTA requirement if they meet the requirements relating to custody or fund assets described in paragraphs 29–31? Please give reasons.</p> <p>C1Q2 Are there any aspects of the concessional NTA requirement that you think we should change? If so, please provide details about what you think should be changed and your preliminary views about how the change could be achieved.</p>
<p>D1 If we adopt any of the proposals to increase the NTA requirement for responsible entities (see Section B), we propose to apply:</p> <p>(a) the same increased NTA requirements to IDPS operators and corporate directors of retail CCIVs; and</p> <p>(b) any changes made to the liquidity component (see proposal B4) and the concessional NTA requirement (see proposal C1) for responsible entities to IDPS operators and corporate directors.</p>	<p>D1Q1 Do you agree with this approach? If not, why not?</p> <p>D1Q2 Do you see any practical difficulties with this approach? If so, please provide details.</p> <p>D1Q3 For existing fund operators, if we adopt this approach, what impact would this have on your business (including the amount of capital you hold and compliance costs)? Is this proposal likely to affect fees for your clients? Please provide specific details and dollar estimates.</p>
<p>D2 We are not making a formal proposal, but we seek your feedback on questions D2Q1–D2Q3.</p>	<p>D2Q1 Given the alignment between the existing NTA requirements for responsible entities and licensed custodial or depository service providers, should we conduct a review and consult on increasing the NTA requirement for licensed custodial or depository service providers?</p> <p>D2Q2 Do you consider that we should conduct a review and consult on increasing (or otherwise amending) any of the requirements that apply to other AFS licensees outlined in Table 1? Please give reasons why or why not.</p> <p>D2Q3 If we were to increase any of the requirements in Table 1, what are your preliminary views on the approach we should adopt to increasing the requirement (noting the approaches we have proposed for responsible entities in Section B)?</p>
<p>D3 We are not making a formal proposal, but we seek your feedback to question D3Q1.</p>	<p>D3Q1 Should we impose an NTA requirement on other categories of AFS licensees or should we maintain the status quo? Please give reasons.</p>