

[REDACTED]

From: [REDACTED]
Sent: Wednesday, 6 August 2025 4:57 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: Digital disclosure – instruments and RG221 – FSC [SEC=OFFICIAL]

[REDACTED] [REDACTED]

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Dear [REDACTED]

Thank you for the opportunity to provide feedback on ASIC's consultations regarding the remake of ASIC Instruments 2015/647 and 2015/649 and the proposed updates to RG 221, as well as the proposed changes to RG 168. Please find the FSC's response below.

RG 221 – Digital Disclosure

The FSC wishes to draw attention to a regulatory gap for IDPS operators who are excluded from the publish and notify relief available to PDS-regulated products. While RG 221 facilitates electronic delivery for PDSs, periodic statements, ongoing disclosures and information provided on request, it does not extend to IDPS operators. Consequently, platform operators must continue to meet disclosure obligations in paragraphs 23 and 24 of the IDPS Instrument without the flexibility to publish and notify digitally. It is unclear whether making information available via a website satisfies the obligation to "give" or for clients to "receive" a document. This inconsistency creates compliance uncertainty and limits the efficiency and cost-saving potential of digital disclosure for IDPS operators, despite their adherence to disclosure obligations through an IDPS Guide.

On the proposed changes to Section D of RG 221, we seek clarification on whether the guidance in Table 1 is intended as mandatory or remains best practice. We recommend the removal of the example in Item 4, which suggests using software or technology to monitor whether emails have been opened, as this exceeds the Corporations Regulation requirement to be satisfied that the person has received the statement. Clients can receive but choose not to open or read an email, and tracking email opens risks conflating receipt with active engagement. For Item 5, we recommend reinstating guidance on factors that determine a reasonable link accessibility period, noting that while a two-year period is generally reasonable, it may be shortened if the disclosure is superseded or extended if the content remains current for longer.

RG 168 – Product Disclosure Statements

The FSC recommends that PDSs be required to include a clear and measurable investment return objective, consistent with the approach outlined in ASIC Report 779, to support effective monitoring and comparison of investment performance. We also recommend that liquidity disclosures be presented clearly within the PDS itself, without cross-referencing additional documents, and that these disclosures include a definition of whether the fund is considered liquid and the typical timeframe for meeting withdrawal requests.

Where adviser disclosure content is removed from RG 168, the FSC recommends that this content be fully replicated in RG 175 to avoid guidance gaps. For example, current paragraph 168.32 should be incorporated into RG 175, as there are elements of RG 168 not currently reflected in RG 175 that remain relevant for advisers.

The FSC appreciates ASIC's engagement on these matters and looks forward to continuing discussions to ensure the final guidance is practical, proportionate and supports efficient disclosure to consumers.

Kind regards

Financial Services Council

Suite 30.01, Level 30, 9 Castlereagh Street | Sydney NSW 2000, Australia | ABN: 82 080 744 163
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