

17 April 2026

NTA requirements—Consultation feedback
Regulatory Reform and Implementation
Australian Securities and Investments Commission
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Melbourne VIC 3001

Email: rri.consultation@asic.gov.au

Dear ASIC,

Consultation – Net tangible asset requirements for responsible entities

The Financial Advice Association of Australia¹ (FAAA) welcomes the opportunity to provide feedback to ASIC on the Net tangible asset requirements for responsible entities consultation paper.

The FAAA supports the application of capital and liquidity requirements for responsible entities (REs). It is important for the stability of Managed Investment Schemes (MISs), that the RE has sufficient capital in order to remain solvent during a range of challenges. The question is one of how much capital they need to have and what scale of events they should be capable of surviving.

The Australian investment market has observed a number of recent collapses, that have had a substantial impact upon consumers and more broadly on the financial services market. Unfortunately, whilst we have some awareness of the reasons for these collapses, we have little insight into the capital backing of these entities and ultimately what happened with respect to this capital.

The most prominent collapses have involved Shield (RE - Keystone Asset Management), First Guardian (RE - Falcon Capital), Australian Fiduciaries Ltd and Global Capital Property Fund (GCPF). GCPF was a company, rather than an MIS, so the issues and implications with capital backing are even less clear. We do not know if Keystone Asset Management, Falcon Capital or Australian Fiduciaries Ltd operated under the concessional or non-concessional NTA requirements. We do not know how much capital they had or what happened to that capital.

¹ The Financial Advice Association of Australia (FAAA) is the largest association representing the financial advice profession in Australia, with over 10,000 members. It was formed in 2023 following the merger of the two leading financial planning/advice bodies in Australia – the Financial Planning Association (FPA) and the Association of Financial Advisers (AFA). With this merger, a united professional association that advocates for the interests of financial advisers and their clients across the country was created.

Evidently an RE with up to \$30m of fund assets, who is assessed under the concessional model only needs \$150,000 of NTA. An RE with \$500m in fund assets would only need \$2.5m of NTA. These are not high levels of capital for the quantum of funds involved.

Given what we know about Shield and particularly First Guardian, it is evident that no reasonable amount of capital would be sufficient to withstand what happened to these MISs. Capital backing can never be a complete solution in the case of such large collapses

FAAA Feedback

Option 1—Increase in line with CPI

Whilst there is a genuine argument that capital requirements should be increased in line with CPI, it is highly unlikely that a CPI adjustment would make any meaningful difference when it comes to those recent major collapses. The FAAA would support CPI indexation, provided the starting levels of capital were appropriate. We believe that CPI is a useful measure for adjusting NTA requirements over time. Increasing NTA requirements will have some impact upon competition, as the higher the requirements, the more difficult it will be for new entrants to join the market and will potentially impact the ability for existing operators to expand. This impact on competition needs to be considered in the context of the risk of client detriment by allowing inadequately capitalised entities to operate.

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

The FAAA would argue that the history of fund failure would demonstrate that existing NTA requirements are inadequate, however this is not based upon hard evidence from the marketplace with respect to those entities that have failed. Thus, it is difficult to recommend an alternative higher minimum amount of NTA.

We support a model where the required level of NTA increases as fund assets grow.

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

The FAAA agrees that there is merit in increasing the \$5m cap. This currently applies to an entity with \$1bn of fund assets, meaning that no additional NTA would be required for REs with even more fund assets. That is not a lot of capital for MISs with a large amount of investor funds.

Seeking feedback on the appropriateness of the liquidity component

Whilst we support the need for a liquidity component, in the absence of market data on cases where funds have failed, we are unable to comment on the effectiveness of this measure. We are not aware of any REs that have recently failed, despite having adequate NTA, due to issues with liquidity.

Transition period to help responsible entities comply with any increased requirement

We agree that it is appropriate to have a transition period for those REs who would be required to increase their NTA. Six months is a reasonable period for this transition, however ASIC would need to have a strategy for how they intend to deal with REs who were unable to resolve any issues with their NTA or liquidity in the period that was allowed.

Appropriateness of the concessional NTA requirement for responsible entities

Once again, we are limited in our capacity to respond to these questions by a lack of understanding of whether the REs in relation to Shield, First Guardian and Australian Fiduciaries were assessed on either the concessional or non-concessional test. Neither do we know on what basis they were assessed as concessional or non-concessional. We would go further and challenge whether the utilisation of a custodian would make a material difference in the protection of investors in such collapses. Did either Shield, First Guardian or Australian Fiduciaries employ a custodian and if so then what role did they play in protecting the interests of the investors?

In the absence of a sound argument for the benefit of those who qualify for the concessional NTA basis, having a lower NTA requirement, we are unable to suggest that this is appropriate.

NTA requirements for other AFS licensees

We appreciate that a range of other NTA requirements apply to other businesses and that NTA requirements do not apply for some licensees. We are unable to comment on the capital requirements for most of these other businesses such as custodians, trustee companies, margin lenders, OTC derivative issuers and foreign exchange dealers.

We accept that it is appropriate to review the capital requirements for these other AFS licensees, however we recommend that any consideration of changes be done on the basis of evidence demonstrating a need for change.

Conclusion

The FAAA is supportive of a review of the NTA obligations for REs and other licensees. We would like to see this review undertaken on the basis of transparent evidence of the failure of the existing requirements and more information on those entities that have failed, what capital they had, what happened to that capital and any broader learnings from those cases.

If you have any questions about our submission, please do not hesitate to contact me on (02) 9220 4500 or phil.anderson@faaa.au.

Yours sincerely,



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