

23 October 2026

Treasury

Submitted via Treasury portal

Dear Treasury,

Proposals to improve regulatory visibility of the MIS sector through enhanced data collection

The Financial Advice Association Australia (FAAA) welcomes the opportunity to make a submission to the Treasury on enhanced data collection for MISs. The FAAA supports enhanced registration data collection and recurrent data collection for MISs.

One point that we would like to make at the outset is that we do not agree that there should be any unregistered MISs. No matter whether the target clients are retail or wholesale, we believe that all MISs should be registered. We also make the important point that a retail registered MIS can invest in an unregistered MIS. For that reason, even retail MISs are often extensively exposed to unregistered MISs. If we expect every Australian company to be registered, then it is not unreasonable to expect every MIS to be registered. An alternative regulatory approach could be to prevent registered MISs from investing in unregistered MISs, however it is our view that the most robust solution in terms of consumer protection would be to ensure the registration of all MISs.

We appreciate that the Government may be hesitant about introducing new obligations on MISs that may impose additional cost and complexity. It should always be the case that additional obligations are not lightly imposed, and the benefits must outweigh the often not insignificant costs. However in the case of MISs we believe that this is an acceptable consequence in achieving increased capacity for ASIC to oversee the MIS sector. ASIC's powers in this area are currently less than in other equivalent jurisdictions, and the benefits of reducing the risk of collapses of the nature of Shield and First Guardian would outweigh the additional costs.

We also suggest that ASIC could play a role in the formal approval of new MISs. We understand why ASIC may be reluctant to do this and appreciate that there are other controls in operation such as the DDO regime. However we are still concerned that MISs can be put into the marketplace that expose Australian investors to excessive risks, while many investors assume that "Registered with ASIC" means "Approved by ASIC". We believe that there is merit in considering what additional role ASIC could play in the review of high risk MISs before they are approved for issue to investors.

On 27 February 2026, the FAAA provided a submission in response to Treasury's consultation on 'Enhancing oversight and governance of managed investment schemes'. We recognise that this current consultation does not address many of the issues raised in the February 2026 consultation paper, including the compliance framework, external directors, avoidance of related party transactions and financial requirements. We believe that many of these proposals are also important to progress, in order to reduce the risks of significant client loss through the MIS sector.

We have detailed our responses to each of the consultation questions in the section below.

1. Are the proposed guiding principles appropriate for guiding future data collection and sharing arrangements?

We believe that the guiding principles are appropriate. However we note that the implications of increased regulatory burden needs to be considered in the context that these reforms could substantially enhance consumer protections by enabling earlier intervention to avert large scale investment collapses. We believe that the guiding principles could place more focus on consumer protection, in the context that this should sensibly be based around consumer protections that make a meaningful difference where the benefit exceeds the cost.

There are a number of existing providers that collect extensive data on MISs and it would make sense to build on what is already collected rather than commence a new regime. The approach must be based upon a single notification to Government and Government agencies, with no duplication in data collection. Any data collection must of course be electronic or at least in machine readable format.

2. What additional data, if any, should be collected at the point of registration? Conversely, are there data fields that are currently collected that should be removed or streamlined?

We support the proposal to improve baseline regulatory visibility of registered MISs through enhanced registration data. In addition to the proposed data requirements, we recommend the inclusion of the following data:

- Intention to invest in wholesale/unregistered trusts and expected extent of such investment.
- Relevant experience of the investment managers.
- Exposure to related parties (including funds, service providers or in any other capacity).
- Marketing and distribution plan, including any intention to use lead generators, be included on superannuation fund or investment platform menus, provide sponsorship, pay fees to marketing entities and where financial advice is expected to be applicable, the expected breadth of licensees involved.

3. Does providing additional data at the point of MIS registration significantly increase regulatory burden for REs? If so, how could this be mitigated?

We think that the provision of this information is reasonable for an MIS that is seeking to attract retail investor money and potentially putting that money at risk. We do not think that the provision of this data on the plans for the fund would be excessively burdensome - the articulation of this information should be readily possible for any entity that is seeking to raise investor funds.

4. How should any obligation to keep registration information up to date be designed to minimise unnecessary burden?

The requirement to keep registration data up-to-date could be included in the recurrent data collection exercise as an obligation to update any registration data that is no longer applicable.

5. Should there be recurrent data collection for registered MISs? If not supportive of a recurrent data collection, is there an alternative way that ASIC could access timely, regular and reliable data on MISs to support a risk-based approach to oversight and enforcement?

The FAAA strongly supports the collection of recurrent data for registered MISs. We support the collection of data on a more frequent basis than annual and that the data should be provided on a timely basis.

An alternative or additional approach would be the regular collection of data on new MISs as they are established to ensure that they are progressing as originally planned and that they are not diverging materially from the original plan. This could involve the collection of data at the first, second, third and fifth anniversary.

6. How often should recurrent data be collected? Is the proposed quarterly collection appropriate?

We can support a quarterly approach, however would also be supportive of a six monthly approach. Doing it on a six monthly basis might better align with accounting timeframes and provide a more meaningful opportunity for trends to emerge in between reports. This is a bit of a difficult balancing issue, however speed of submission of the data following the end of the period is an equally important factor.

7. Which data fields would be most valuable for identifying emerging risks?

One of the significant factors with Shield and First Guardian was their very high rate of growth. A high rate of growth might be expected for an MIS that is well established and has a strong track record of delivering above market rates of return. A newer MIS that is growing rapidly, particularly in the absence of evidence of out-performance, would likely stand out as a case that would warrant investigation.

For this reason, we would recommend that data is collected on investment performance.

In assessing this question, we need to consider the different risks that are likely to be the point of focus. We could expect these risks to include the following:

- Investment risk, or potential exposure to fraud.
- Inappropriate distribution practices.
- Broader breaches of the law.

One consideration is that where fraud is involved, the warning signs may be hidden by deliberately inaccurate reporting. This is a risk that would need to be further considered.

In our 27 February 2026 submission on 'Enhancing oversight and governance of managed investment schemes', we listed the following risk factors in question 20.

- Rapid growth or decline in the amount of invested assets.
- High turnover of clients.
- An over-exposure to higher risk assets.
- A high turnover of fund assets.

- An over-reliance on one distribution channel or a small number of licensees.
- A high volume of complaints.
- A high volume of material write-offs or write down of investment assets.
- A failure of governance, demonstrated by infrequent board or compliance committee meetings.
- High turnover of key personnel.

In the same submission, in response to question 21, we listed the following data points that we felt should be captured:

- Asset amount at the end of the year, and the range during the year.
- Percentage/amount of portfolio in each asset class at the end of the year and the range during the year.
- Percent of funds held in illiquid assets.
- Percent of total fund investments that have been acquired during the year.
- Percentage and amount of assets in related party products.
- Percentage and amount of assets of the fund invested in other funds, including unregistered funds.
- Clients at the end of the year along with new clients in the year and departed clients.
- Percent of total and new investments by each of the top five advice licensees by assets under management
- Complaints data (both IDR and EDR) at the MIS level.
- Details of any material write off or write down of investment assets.
- Number of board meetings and compliance committee meetings, and attendance.

Another approach would involve doing a retrospective investigation of some of the recent fund collapses such as Shield and First Guardian to identify attributes that would be strong indicators of elevated risk. One factor that was relevant with Shield and First Guardian was the extremely high level of spend on social media activity. The extent that this could be linked to a particular MISs, might be a good indicator of increased risk.

8. Is it possible for the RE of a MIS to report on the source of investor funds, that is have funds come from an investor directly, a SMSF, a superannuation fund or wealth platform or via a wealth manager?

This should be possible, however we consider that funds invested via a financial adviser would be a separate measure as to whether the funds are being invested by an investor directly, by an SMSF or via a superannuation fund or other form of investment platform. Financial advisers may be involved in advising a client who invests their money directly or via an SMSF. If the investment is via a super fund or another investment platform, it may not be obvious to the MIS that a financial adviser is involved.

9. What are the barriers to this proposal, and what is industry's capacity to adapt its data reporting to changing government requirements, recognising this capacity will vary across the sector?

We are not aware of any reasonable barriers to this proposal. Of course, this program will take time to set up. While data collection will be important, even more important will be the analysis and action plans – that is, what will ASIC do with the data. These matters should be considered and developed at the same time as the data collection plan.

10. Should Investor Directed Portfolio Services (IDPS) platform providers be included in the scope of a recurrent registered MIS collection? Would it be feasible for there to be a recurrent data collection at a portfolio level for all types of managed accounts? What would be an appropriate definition of ‘managed account’ to ensure relevant arrangements are properly captured?

We believe that IDPS products and managed accounts should all be included in the recurrent registered MIS data collection scope. We appreciate that in the case of IDPSs, the investor is investing in underlying investment options. We are also aware that often a managed account will invest in other funds, including ETFs. The form or structure of the investment will impact the data that is available on the underlying investor. We would recommend the broadest definition of managed accounts be used.

11. What would be appropriate data fields for agencies to collect at a portfolio level for managed accounts?

We suggest that the same reporting obligations should apply to managed accounts just as it does to MISs as the consumer risks are similar.

12. Should MISs offered exclusively to wholesale investors be required to notify ASIC when the MIS commences or terminates?

As stated above, we are of the view that all MISs, including those that are offered exclusively to wholesale investors, should be registered with ASIC. We are aware of the significant differences between retail and wholesale clients, and the consumer protections that apply, however this should not be the basis for allowing MISs to exist without being registered and without the regulator having any awareness of them. We have noted above the additional point that many retail MISs invest in wholesale MISs.

Thus notification obligations, or a more formal registration, should apply to all MISs, including those that are currently described as unregistered.

13. What baseline information should be in scope of the notification regime?

We would recommend that the same data is collected for unregistered MISs as is collected for registered MISs. We do not believe that the collection of this data is unreasonable.

14. Would it be feasible to collect limited and targeted recurrent data on unregistered MISs?

It should be feasible to collect data on unregistered MIS, although we note that this will most likely take longer to set up as there are not already extensive data pools on these products as is the case for retail funds.

15. What information would be most useful for assessing interconnectedness and transmission of risk between unregistered MISs, registered MISs, superannuation funds, platforms and private market investments, including private credit funds?

It is critical that the data captures the extent to which registered MISs are invested in unregistered MISs (unless and until all MISs are registered). We also suggest that it is important to understand the

extent to which an MIS is invested in a related MIS (both registered and unregistered). We believe that it would be useful to know how many other MISs are investors in that scheme and what percentage of total assets they represent.

16. Stakeholders are invited to comment on whether the existing terminology for MIS—including ‘registered’ and ‘unregistered’—remains appropriate. If not, what alternative terminology should be considered?

As stated previously, we believe that all MISs that Australians are able to invest significant amounts of money in, should be registered with ASIC. If the registration of all MISs was to happen, then the terminology could be modified to reflect retail MISs and wholesale MISs.

17. Are there international jurisdictions or organisations that provide effective public-facing dashboards for MIS data, and what features contribute to their usefulness?

While this is not our area of expertise, we are aware of data gathering regimes in Ireland and Luxembourg that are generally well-regarded. Broadly in the EU, the Alternative Investment Fund Managers Directive (AIFMD II) is being adopted across EU member states and includes greater disclosure and reporting obligations (including on loans, fees, liquidity, leverage etc).

18. To what extent would public access to MIS data improve market outcomes, including competition, pricing and investor outcomes? Are there any negative effects that could arise from public access?

We would support public access to a register of MISs that included annual information on factors such as the amount invested, the number of investors, the type of investments (i.e. asset classes and growth/defensive split) and historical investment performance. This is information that would assist investors in considering the different investment options available to them.

We would argue that the disclosure should be at the level of investment asset class, rather than specific investments to avoid any risk of access to commercially sensitive information.

There would be an additional public benefit in such a register as investors would be able to identify whether an investment being promoted to them was legitimate – particularly if all MISs available to the public were required to be registered. We are aware of many scams including fake websites that purport to be those of reputable fund managers – a public register including legitimate website links would help to reduce the impact of these scams.

19. Are there specific data types that should be prioritised for public release based on their demonstrated value?

As stated above, we suggest that total invested funds, number of investors, type of investments (i.e. asset classes and growth/defensive split) and investment returns are all important information that should be publicly available.

20. What categories of MIS data are commercially sensitive or confidential, and should not be made public?

As stated above, we do not think that it should be necessary to disclose specific investments (i.e. actual companies and the amount invested). Many managers, particularly active managers, consider

this data to be commercial in confidence and even when released to investors and research houses, it is generally with a time lag.

21. Noting the various functions and data collection powers of the relevant agencies, is there a particular agency that would be best placed to lead any recurrent MIS data collection?

Whilst we are not familiar with other determinants such as data gathering systems or other attributes that provide insight on the efficiency of the data gathering process, we suggest that ASIC, as the agency responsible for the regulatory oversight of MISs, should be the agency responsible for the collection of data. This will ensure that they receive the information in as timely a manner as possible and that they have the greatest opportunity to analyse the data and modify the data requirements.

22. Is a post-implementation review after three years appropriate? If not, what timeframe would better balance the need for stability with the need for ongoing assessment?

A post implementation review after three years would be a sensible approach.

23. What criteria or metrics should be used to assess whether the data collection framework is working as intended?

We believe that the framework could be assessed as working as intended if the following occurs:

- ASIC has access to data that indicates which funds are demonstrating attributes that suggest excessive risk and that ASIC can prioritise investigative activity.
- Evidence indicates that ASIC has taken action against MISs where unacceptable risks are identified.
- Consumers have increased confidence in the ability of ASIC to identify excessive risk MISs and intervene earlier.
- Consumers are accessing data that can assist them in assessing the investment options that they are considering.

Any future fund collapses should be formally reviewed and an assessment undertaken as to whether the collapse was reasonably predictable, what indicators the regulator had access to and were they handled appropriately, and does the collapse suggest additional or alternative data points that need to be collected and analysed in the future. If some data points were found to be consistently irrelevant to the risk of collapse, collection could be discontinued, ensuring ongoing cost and complexity is managed. Ideally this would be undertaken by an independent body.

Conclusion

The FAAA appreciates the opportunity to make a submission on proposals to improve regulatory visibility of the MIS sector. We strongly support proposals to improve the collection and analysis of data on both registered and unregistered MISs, which we believe could help reduce the frequency and scale of MIS collapses and the resultant consumer detriment.

If you have any questions about our feedback, please do not hesitate to contact me on 02 9220 4500 or sarah.abood@faaa.au.

Yours sincerely,



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