Cowell Clarke
COMMERCIAL LAWYERS

FS Compliance Newsletter

JUNE 2026

Contents

Introduction

In this edition, ASIC has released new requirements for directors ID's to be provided to them and extended its no-action position to digital asset businesses to provide them with more time to apply for or vary their Australian Financial Services Licence. ACMA will regulate a new SMS Sender ID Register to increase protection against SMS scams. ASIC and APRA introduce plans to reduce the administrative burden of some regulatory requirements under the Financial Accountability Regime.

Treasury has released a consultation on proposed options to reform the superannuation performance test. ASIC has warned platform trustees to immediately improve risk monitoring practices following a review of major superannuation platform trustees. ASIC has released estimated industry funding levies for the 2025-26 financial year, with the regulator's estimated recoverable costs increasing by 19% from the previous financial year and AUSTRAC has published guidance outlining the actions required by existing reporting entities who were captured by the AML/CTF reforms.

The High Court determined that a fixed-yield digital asset product was a financial product, requiring the issuer to hold an AFSL for the duration the product was issued. The Federal Court has imposed substantial pecuniary penalties on a Licensee and its previous authorised representatives for egregious behaviour related to issuing CFD's, Mercer was fined for systemic reporting failures and directors, and compliance committee members of the Shield Master Fund manager have been sued.

Updates from the industry

New Director ID Obligations Introduced

As of 1 July 2027, companies are required to provide director's IDs to ASIC. This change will:

- Reduce the risk of fraud and identity misuse;
- Improve the accuracy of company records;
- Make it easier to identify company directors; and
- Improve the quality and usability of registry information.

The IDs will need to be provided to ASIC via company reporting processes such as the annual review or when notifying of changes to directors' details.

The full media release can be viewed here.

ASIC extends period of no-action until 30 September 2026 for digital asset businesses

On 25 June 2026, ASIC released a letter extending its sector-wide no-action position to 30 September 2026, giving digital asset firms providing financial services more time to apply for or vary their Australian financial services ("**AFS**") licence.

ASIC's no-action position will be expanded to apply to digital asset businesses operating under, or entering into the following arrangements with an AFS Licensee:

- Authorised representative arrangements; and
- Intermediary authorisation arrangements.

Clearing and Settlement (**CS**) facility licence applications will also be subject to the same deadline extension.

ASIC's extension reflects a practical response to observed transition challenges within the industry.

The full media release can be viewed here.

ASIC releases estimated industry funding levies for 2025-26

On 13 July 2026, ASIC issued its 2025-26 Cost Recovery Implementation Statement ("**CRIS**") outlining how the regulator will recover regulatory costs from licensees under the industry funding model. The CRIS outlines the estimated regulatory costs and levies for 52 subsectors within the corporate, deposit taking and credit, investment management and superannuation, market infrastructure and intermediaries, financial advice, and insurance sectors that ASIC regulates. The figures in the CRIS are estimates intended to assist entities plan and budget for the levy payments.

For the 2025-26 financial year, ASIC's total estimated recoverable costs are $400.5 million, representing a 19% increase from the previous financial year. The increase reflects additional funding required as a result of ASIC's increased regulatory, supervision and enforcement work, along with the timing of expenditure resulting from this work. ASIC noted the main driver of the significant increase was the estimated enforcement costs far exceeding that of previous years due to an increase in new matters and enforcement action.

Financial advice sector

The levy per adviser for licensees who provide personal advice to retail clients on relevant financial products has been increased approximately 26%. Such licensees are now estimated to have a minimum levy of $1,500 plus $3,037 for each adviser it authorises. The levy for licensees providing personal advice to retail clients on financial products that are not relevant is estimated at $555, a substantial increase from the $135 levy in the 2024-25 financial year.

The estimated levy for licensees providing general advice only has more than doubled, from $4,854 to $10,979, while the levy for licensees providing personal advice to wholesale clients has been estimated to increase from $543 to $548.

Investment management sector

The investment management, superannuation and related services sector also saw a significant increase of 18.6% in recoverable costs. The estimated levy for wholesale trustees is estimated to increase to $1,000 plus $6.83 per $1 million of assets above the $250 million threshold, from $4.11 per $1 million in the previous financial year. ASIC has estimated that the levy for managed discretionary account ("**MDA**") providers will increase by almost 33%, rising to $3,976 from $2,993 in the 2024-25 financial year and responsible entities levy is estimated at $7,000 plus $16.52 per $1 million of assets above the $10 million threshold.

ASIC will publish the finalised levies in December 2026, and licensees will be sent invoices between January and March 2027.

ASIC's summary of estimated costs for FY 2025-26 can be viewed here.

Introduction of SMS Sender ID Register aims to protect Australians against SMS Scams

On 1 July 2027, the SMS Sender ID Register was introduced to increase protection against text message impersonation scams.

A sender ID is the name appearing at the top of an SMS message to identify the sender, e.g. business name, organisation name or government agency. Where a Sender ID has been registered, the name will continue appearing with the SMS message. For messages using unregistered sender IDs, telco carriers are now responsible for identifying and labelling these as 'Unverified'.

The enforcing body, Australian Communications and Media Authority ("**ACMA**"), encourages unverified messages to be treated with extra caution. ACMA Chair Nerida O'Loughlin said the new register will give "*consumers a clear signal to pause and verify messages marked 'Unverified'.*" They may be fraudulent, or from legitimate businesses that have not yet registered their sender ID.

While the register grows, messages from unregistered senders are being labelled rather than blocked to give businesses time to register. There is no cut-off date for registration, however, ACMA encourages anyone who relies on branded SMS to register as soon as possible.
Industry compliance will be monitored by ACMA, with telcos facing penalties of up to $250,000 for each infringement.

The full media release can be viewed here.

APRA and ASIC release plans to reduce the FAR administrative burden

APRA and ASIC have released plans to remove key functions requirements of the Financial Accountability Regime ("**FAR**") to streamline compliance for affected entities. They aim to reduce the regulatory burden without lowering accountability standards. The proposed changes involve:

- Increasing the materiality threshold for when to notify APRA and ASIC of changes in accountability; and
- No longer requiring accountability maps to include information on accountable persons' direct reports.

These changes expect to reduce reporting for all accountable entities and accountable people, and at least half the number of updates entities will be required to make to their accountability maps.

APRA Member Therese McCarthy Hockey and ASIC Commissioner Kate O'Rourke have both stated that these changes are targeted at reducing regulatory burden as part of APRA and ASIC's contribution towards the Government's Better Regulations Reform, announced in the 2026-27 Budget.

APRA and ASIC continue to progress the reduction of the regulatory burden with:

- APRA commencing consultation on removing all reporting requirements under its fit and proper regime; and
- ASIC intending to streamline responsible manager AFS licencing requirements for FAR entities by reducing the evidence of competence requirement.

The joint changes are expected to be implemented by the end of 2026 following consultation.

The full media release can be viewed here.

Treasury consults on options to strengthen annual superannuation performance test

On 8 May 2026, the Treasury released a consultation paper proposing options to reform the superannuation performance test. This test is conducted annually by APRA and assesses the performance of a given superannuation product against two reference points: a benchmark investment return, and median administration fees and expenses for comparable products. The test aims to hold superannuation fund trustees accountable for investment performance and minimise the fees charged to ensure members receive maximum value from their superannuation. A product failing the test triggers a mandatory member notification, and two consecutive failures prohibits the trustee from accepting new members until it passes a future test.

In its current form, the superannuation performance test includes:

- an investment performance limb, which compares the product's net investment return over the pervious ten years with a benchmark return; and
- a product representative administration fees and expenses ("**RAFE**") limb, which is compares with the median RAFE for products in the same cohort.

Since its introduction in 2021, the test has appeared to significantly reduce underperforming superannuation products and improved member outcomes as:

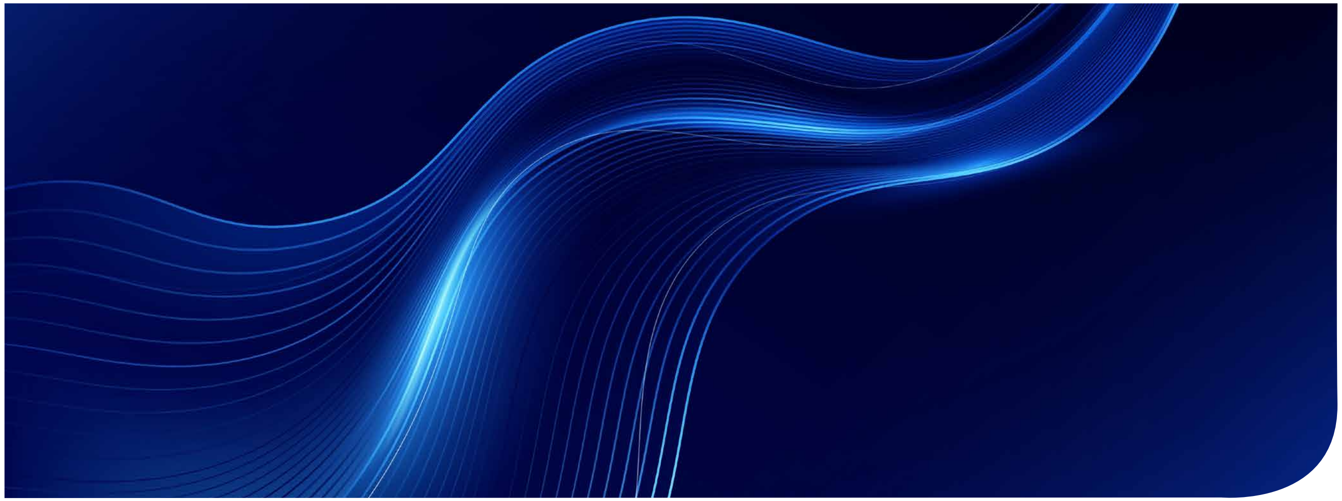
- underperforming products have declined substantially, reducing the number of affected member from 1 million in 2021 to 8,500 in 2025;
- 108 of the 123 products that failed the test since 2021 have exited the market;
- no MySuper products failed in 2025; and
- administration fees have continued to fall across all product types.

Despite these favourable outcomes, stakeholders have raised concerns that the test may no longer be fit for purpose given the increased scale and complexity of the superannuation system. Additionally, issues have arisen surrounding benchmark hugging and the inconsistent coverage of the test across products or phases of superannuation, limiting its effectiveness as a system-wide accountability mechanism. The consultation paper proposes a number of reform options, including:

- adjusting for emerging and alternative asset classes either by introducing a new emerging covered asset class or improving the existing alternatives covered asset class;
- introducing an assessment of risk-adjusted returns;
- introducing a routine review of the benchmarks; or
- externally testing directed accumulation products.

The consultation closed on 19 June 2026.

The full media release can be viewed here.



ASIC warns platform trustees that persistent failures to safeguard super savings must be addressed

ASIC has called on platform trustees to protect retirement savings following the release of an ASIC Report which details the persistent failures of six chosen platform trustees, who account for about three quarters of total funds managed by platform trustees.

Report 833 *Safeguarding super: How well are platform trustees monitoring risks to retirement savings?* ("**REP 833**") identifies gaps in the monitoring of harmful advice fee deductions, unusual fees and investment patterns, and high-risk superannuation switching activity.

ASIC's review indicates platform trustees should immediately address:

- Persistent gaps in advice fee controls, which in some cases have regressed over the past two years.
- Advice documents being infrequently checked, as half of the reviewed platform trustees did not conduct any checks for at least one of the months in ASIC's review period, despite a 75% adverse finding rate.
- Insufficient attention given to understanding the advice licensees' business models.
- Inadequate monitoring of key risk indicators, such as member churn, patterns in fees, holding limits and unusual fund flows.

APRA and ASIC have issued repeated warnings which have not produced results.

ASIC is seriously concerned by the results of this review which demonstrate that platform trustees have not learnt from the collapses of Shield Master Fund and First Guardian Master Fund and have not adapted their processes to account for the extraordinary growth of the superannuation platform sector over the past 10 years.

The full media release can be viewed here.

AUSTRAC

What you need to do to comply with the updated AML/CTF obligations

AUSTRAC has published information covering the actions required by existing reporting entities who were captured by the reforms effective from 31 March 2026.

The core responsibilities of managing money laundering and terrorism financing risks, maintaining an effective anti-money laundering and counter-terrorism financing ("**AML/CTF**") program, and reporting suspicious matters remain the same.

Businesses enrolled on or before March 31st need to:

- Update enrolment details in AUSTRAC online; and
- If you are unable to meet your updated obligations by the required date:
  - Develop and document an implementation plan to explain how you are managing AML/CTF risks during the transition, any gaps identified, and how you will manage them; and
  - Be able to demonstrate sustained effort and progress against the implementation plan and continue to manage the risks throughout the transition.

The full media release can be viewed here.

New AML/CTF laws cover more sectors for effective financial crime protection

From 1 July 2026, new sectors that are known to be targeted by organised crime are covered by Australia's AML/CTF laws.

Businesses caught by the updated rules complete transactions that can be exploited by organised crime, such as real estate agents, lawyers, conveyancers, accountants and dealers in precious metals and stones. The reforms aim to increase scrutiny on high-risk transactions to allow for early detection and disruption.

From 1 July, newly regulated businesses will need to:

- Have an AML/CTF program prepared;
- Select an AML/CTF compliance officer;
- Train staff; and
- Be ready to report.

Businesses have until 29 July to enrol with AUSTRAC.

The full media release can be viewed here.

Enforcement

ASIC successful in High Court appeal determining Block Earner product is a financial product

On 17 June 2026, a High Court appeal overturned the Full Federal Court's decision and ruled in ASIC's favour, with a unanimous decision that Block Earner's fixed-yield digital asset product, "**Earner**" is a financial product. Block Earner therefore required an AFS licence during the period Earner was offered – from March to November 2022.

The High Court was satisfied that Earner was a financial product because the investors' funds were used or intended to be used to generate a return for both the investor and the issuer. ASIC's argument that Earner was a derivative was also accepted, as the amount investors received varied depending on the value of the digital asset and exchange rates. The High Court's decision-making was based on the underlying arrangements and contractual decisions rather than how the product was marketed or labelled.

ASIC Chair Sarah Court said that "*ASIC welcomes this important decision which clarifies when products that provide a return fall within the existing financial services regulatory regime*" and reaffirmed ASIC and the High Court's aligned view that the definition of 'financial product' is deliberately broad to capture new and emerging products without legislative amendments.

The Full Court of the Federal Court will now receive this matter for ASIC's appeal against the penalty judgment of the Federal Court.

The full media release can be viewed here.

Record $300 million penalty over Union Standard's unconscionable CFD operator misconduct

On 11 June 2026, Union Standard International Group Pty Ltd ("**Union Standard**"), and former authorised representatives Maxi EFX Global AU Pty Ltd ("**EuropeFX**") and BrightAU Capital Pty Ltd ("**TradeFred**") were ordered to pay a record $300.2 million in pecuniary penalties for systematic unconscionable conduct and other contraventions of the law between 2018 and 2020 that resulted in their customers losing more than $83 million.

Union Standard, EuropeFX and TradeFred issued contracts for difference ("**CFDs**"), which allowed investors to speculate on price movements, often exposing them to significant losses.

The Federal Court found that Union Standard, EuropeFX and TradeFred:

- Deliberately targeted inexperienced and vulnerable people;
- Used aggressive sales tactics;
- Pressured customers to trade in highly risky CFD products that they could not afford;
- Discouraged customers from lodging or pursuing complaints; and
- Profited from their customer's losses in 95%-99% of cases.

As the Licensee, Union Standard was found liable for the conduct of its authorised representatives.

This is the first time a civil penalty has been imposed against an entity for failing to ensure its financial services were provided 'efficiently, honestly, and fairly'.

ASIC Chair Sarah Court intends for the outcome to send a strong message of deterrence.

The Federal Court ordered:

- $156.7 million in penalties against Union Standard;
- $114.1 million in penalties against EuropeFX; and
- $29.4 million in penalties against TradeFred.

In addition to the pecuniary penalties, the Federal Court also ordered:

- An adverse publicity order against EuropeFX;
- A permanent restraint on EuropeFX from carrying on a financial services business, or a business related to financial products or financial services, or otherwise providing financial product advice; and
- That EuropeFX refund customers' net deposits.

The full media release can be viewed here.

ASIC receives $10.3 million in penalties for Mercer Super's systematic reporting failures

On 26 June 2026, Mercer Super was ordered to pay $10.3 million in pecuniary penalties for systematically failing to report investigations into significant member services issues to ASIC. The Federal Court found that Mercer Super's systems for complying with the reportable systems regime were inadequate between October 2021 and September 2024. The Federal Court's investigations and found that Mercer Super:

- Failed to report seven reportable investigations to ASIC; and
- Reported one reportable investigation late, which included false or misleading information that understated the number of affected members.

As part of their investigation, the Federal Court also investigated their:

- failure to update member accounts which led to higher fees and less favourable insurance policies applying to members;
- failure to allocate $64 million in member funds in a timely manner; and
- failure to provide death and total and permanent disability insurance cover for eligible members.

In response, ASIC Chair Sarah Court has expressed serious concern over a superannuation trustee of Mercer Super's size and market position having such inappropriate systemic issues.

The full media release can be viewed here.

ASIC sues former directors and compliance committee members of Shield operator and manager, Keystone Asset Management

ASIC has sued former Keystone Asset Management directors and compliance committee members for their involvement in the $530 million in invested retirement savings that were lost by Shield Master Fund ("**Shield**").

ASIC alleges that former directors Paul Chiodo, Ilya Frolov, and Mark Yorston, and former compliance committee members, Jeremy Danon and Mr Frolov of Keystone Asset Management Ltd (Receivers & Managers Appointed) (In Liquidation) ("**Keystone Asset Management**") were responsible for investing scheme funds without proper safeguards. Specifically, ASIC alleges that:

- of the $530 million lost, approximately $305 million was transferred to a related property development fund controlled by Keystone Asset Management before being transferred to entities linked to Mr Chiodo and Mr Frolov;
- the funds were transferred with no basic safeguards such as proper security, valuations, oversight, or management of conflicts of interests;
- the investors' money was used for unauthorised purposes without a sufficient connection to the intended property development projects;
- payments were made to related parties and third parties without obtaining the required scheme members' prior approval; and
- there was a lack of compliance with the Shield Compliance Plan by failing to obtain valuations of the assets of Shield and manage conflicts of interest involving Mr Chiodo and Mr Frolov.

ASIC's action reflects its continuing effort to recoup Australian retirement funds lost to the Shield fund.

ASIC is seeking civil penalties, disqualification orders against the former directors, and costs.

The full media release can be viewed here.

AUSTRAC urges the wealth management sector to report suspicious matters

AUSTRAC announced in April that they had written to businesses in the wealth management sector over the "alarmingly low" rates of suspicious matter reporting ("**SMR**").

Through the course of 2025, AUSTRAC highlighted that 98% of wealth management businesses failed to submit a single SMR, and just three businesses were responsible for nearly two thirds of all SMRs submitted across the entire industry. In the course of their supervisory work it also became apparent that 92% of businesses do not consider they have a single high-risk customer.

AUSTRAC reinforced that it knows that criminals target wealth management services to launder money and conceal assets to evade tax, in particular using digital channels and stolen identities that enable cyber fraud. AUSTRAC indicated that this includes trustees of managed investment schemes and financial advisers.

AUSTRAC considers the disparity between industry risk and reporting rates is an indication that that "*many businesses do not have adequate systems or processes in place to meet their reporting obligations or to properly identify high risk customers.*"

Reporting entities should be aware that an SMR can and should still be submitted without proof of an offence, and that the identification of a high-risk customer does not automatically mean they cannot be provided with services. SMRs can provide critical evidence to support investigations into criminal activity.

AUSTRAC is urging all wealth management businesses to put in place clear, practical systems and controls to manage and mitigate risks identified and incorporating robust risk assessments and prompt reporting into those systems.

What is a suspicious matter?

You must submit an SMR to AUSTRAC it you suspect on reasonable grounds that:

- information you have about a client may be relevant to crime;
- a customer, future customer or their agent isn't who they claim to be; or
- a person is planning an ML/TF offence using a designated service.

The obligation to report a suspicious matter exists from the moment a provider starts or proposes to provide a designated service, or a client requests a designated service, whether a service is actually provided or not.

Reporting entities must monitor for unusual transactions and customer behaviour which may trigger an SMR. SMRs can be submitted through a reporting entities online AUSTRAC account.

AUSTRAC's media release can be viewed here.

Further information on suspicious matter reporting can be viewed here.

Get in touch with our team

Richard Beissel
Director
D: +61 8 8228 1140
E: rbeissel@cowellclarke.com.au

Michael Bracken
Director
D: +61 2 8255 6964
E: mbracken@cowellclarke.com.au

Emma Johnson
Senior Associate
D: +61 2 8255 6910
E: ejohnson@cowellclarke.com.au

Andrew Mutton
Senior Advisor
D: +61 2 8255 6927
E: amutton@cowellclarke.com.au

Zac Mizgalski
Associate
D: +61 8 8228 1123
E: zmizgalski@cowellclarke.com.au

Mayank Gupta
Director
D: +61 2 8255 6907
E: mgupta@cowellclarke.com.au

Monique Micklethwaite
Compliance Services Manager
D: +61 8 8228 1121
E: mmicklethwaite@cowellclarke.com.au

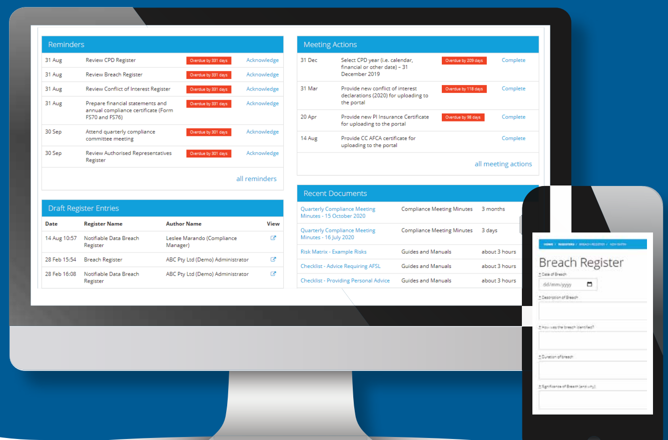
Barbara Vrettos
Senior Associate
D: +61 2 8255 6939
E: bvrettos@cowellclarke.com.au

Chloe Kowalczuk
Business Development Manager
D: +61 8 8228 1176
E: ckowalczuk@cowellclarke.com.au

Rhea Bhargava
Lawyer
D: +61 8 8255 6963
E: rbhargava@cowellclarke.com.au

Email our team with your financial services queries or about our AFSL Compliance Support

CLICK HERE



ADELAIDE
Level 9, 63 Pirie Street
Adelaide SA 5000
T: +61 8 8228 1111

www.cowellclarke.com.au

Liability limited by a scheme approved under the Professional Standards Legislation

SYDNEY
Level 2, 50 Pitt Street
Sydney NSW 2000
T: +61 2 8255 6900