

FS Compliance Newsletter

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Introduction

In this edition, ASIC has revealed its key issues outlook for 2026, highlighting the areas in Australia's financial system identified as emerging risks. ASIC has outlined its intention to conduct surveillance of AFS licensees who recommend or offer managed accounts to retail clients and their compliance with the general and advice conduct obligations.

ASIC has taken further steps to assist those affected by the Shield and First Guardian Master Fund collapse by providing a link to a dedicated consumer website to help investors with support, resources and assistance in making a complaint to AFCA.

The Federal Court has imposed substantial pecuniary penalties on a licensee for cyber security failures following ASIC enforcement action. ASIC has permanently banned a former financial advisor who engaged in misleading and deceptive conduct. Treasury has released a consultation paper on a proposed system of labelling sustainable financial products as well as options to improve the oversight and governance of Managed Investment Schemes.

AUSTRAC has released AML/CTF program starter kits to assist newly regulated Tranche 2 businesses understand and meet their compliance obligations.





Updates from the Industry

ASIC reveals its key issues for 2026

ASIC has released its Key Issues Outlook for 2026, with the regulator outlining the major pressures and trends shaping Australia's financial system. The outlook, released on 27 January 2026, highlights 10 areas in which ASIC has identified risks which are most likely to emerge and upon which it will focus its attention during 2026.

Increased exposure of retail clients to private credit markets

ASIC has identified expanding retail client access to private credit and other private market products facilitated by a range of factors including decreased investment thresholds and investment platforms (including superannuation) enabling participation in products that may be more complex, less transparent and difficult to supervise.

ASIC indicated that these factors create significant risks for retail investors including mis-selling, unsuitable product selection and inadequate disclosure. In this

regard, in November 2025 ASIC also released [Report 823: Advancing Australia's evolving capital markets](#) ("Report 823") outlining ASIC's regulatory roadmap and plans to address the deficiencies within private markets.

Loss of retirement savings through investment in high-risk products and high-pressure sales tactics and inappropriate financial advice

ASIC has outlined that high-pressure sales tactics, such as aggressive marketing, lead-generation and "cookie-cutter" advice, have driven some consumers to switch their superannuation into complex and high-risk investments. To prevent these unsuitable switches of superannuation and to empower consumers to better identify risks to their retirement savings, ASIC is working to address legal and regulatory gaps and deliver education campaigns to consumers.

Advanced technology harming consumers

The rapid adoption of new technology, including agentic AI, has enabled new forms of conduct that exploit consumer choice and behavioural bias. ASIC research has found that the management of AI governance risks among businesses varies in effectiveness and the risks consumers face from automated decision making, AI-driven interactions and scams are amplified by this advanced technology.

Cyber-attacks and data breaches and/or inadequate operational resilience and crisis management

Australian Cyber Security Hotline reporting data has revealed an increase in cyber security incidents and threat notifications reinforcing the need for operational resilience and cyber risk management frameworks. The expanded capacity of threat actors, reliance on third parties, digitisation and outdated systems have escalated cybersecurity risks for businesses. ASIC has urged directors and licensees to maintain robust risk management framework, ensure operational

resilience, test crisis response processes and rectify any vulnerabilities with third-party service providers.

Regulatory gaps relating to emerging financial sector participants

Rapid innovation connected with digital assets, payments, and users of AI continues to create risks for consumers unfamiliar with new products including by being affected by unlicensed advice, misleading conduct, and the exploitation of unclear regulatory boundaries where it is unclear if a new class of product or service is captured under the current licensing regime.

Additionally, ASIC listed the following issues as priority areas for 2026:

- poor insurance claims handling (extreme weather events);
- delays or failures in the CHES replacement project;
- poor quality financial reporting in superannuation financial reports (inconsistent investment disclosures, limited expenses transparency, and insufficient audit evidence for valuations); and
- increased risk appetite in the banking sector from net interest margins may be driving riskier strategies.

Conclusion

Licensees should expect increased surveillance and ASIC activity in respect of the areas highlighted and consider their own governance processes and procedures, in the context of the focus areas and consider any recommendations made by ASIC to implement any necessary improvements.



[The full media release can be viewed here.](#)

ASIC commences review of lead generation services by advice licensees

On 18 February 2026, ASIC announced it has commenced a review of advice licensees using lead generation services as part of their business model to encourage consumers to switch their superannuation. Lead generation, in this context, is a marketing technique designed to create consumer interest in a financial product or service with the intention of persuading customers to purchase that product or service.

This review is part of ASIC's ongoing regulatory program addressing financial advice practices that inappropriately recommend consumers engage in unnecessary superannuation switching. ASIC is concerned that practices associated with some lead generation services in financial advice and superannuation may unnecessarily expose consumers to a risk of significant losses. ASIC has warned that licensees bear the risks associated with the conduct of the lead generating services they engage.

To help mitigate risks to consumers, ASIC has commenced a review to identify financial advice businesses that use lead generation services, to understand the nature of these arrangements and where appropriate, take disruptive or enforcement action. In this regard, ASIC is publishing a list of:

- 'known entities' involved in lead generation that have acted as referral partners; and
- advice licensees or corporate authorised representatives that have acquired leads since 1 July 2024.

The naming of the entities in this list should not be construed as an indication by ASIC that a contravention of the law has occurred or implies any irregular behaviour.

ASIC has warned consumers to exercise additional caution when engaging with businesses that use lead generation for superannuation products, including:

- offering a free 'super health check';
- offering to find and consolidate 'lost super' for free; or
- using high pressure sales tactics including promises of high or unrealistic returns.

Lead generators and licensees who utilise these services are on notice that ASIC will consider taking enforcement action where it detects contraventions of the law.



[The full media release can be viewed here.](#)



ASIC's review of Licensees offering and recommending managed accounts

ASIC's Corporate Plan 2025-26 identifies that surveillance of Australian Financial Services ("AFS") licensees who recommend and offer managed accounts to retail clients will be undertaken. Surveillance will allow ASIC to consider AFS licensees' compliance with its general obligations as well as the advice conduct obligations.

Highlighting this area as a strategic priority is likely a result of the increasing number of AFS licensees building in-house products and ASIC's concerns with vertical integration, conflicts of interests and ensuring any recommendations made to clients are in their best interests and appropriate for the client.

For example, ASIC Report 824, a review of SMSF establishment advice, concluded that financial advisers are recommending that a client establish an SMSF to facilitate investment into an in-house managed account offering and that this recommendation was not always in the client's best interests.

Focus areas of the surveillance will include an AFS licensees' governance framework, its management of conflicts of interest, and the outcomes for consumers.

In a recent October 2025 keynote address by ASIC Commissioner Alan Kirkland, ASIC indicated that planning and scoping for the surveillance is underway and will include surveillance of:

- How licensees are managing compliance with their general obligations – not only the obligation to manage conflicts of interest - but also the core requirement to act "efficiently, honestly and fairly".

- How financial advisers (and their Licensees) comply with their obligations to act in the best interests of their client and provide appropriate advice when recommending managed accounts.
- Examining the conflicts of interests that may be present and how these conflicts are being addressed by advisers (and Licensees) and are being managed.

With reference to ASICs priority areas, examples of issues that are likely to be explored through surveillance include:

- Where a Licensees' own separately managed account ("SMA") and managed products are inadequately tailored to the client.
- Where a client is recommended an appropriate in-house product, despite the fact that a better, external option exists.
- The extent to which advisers are benefitting from recommending their own products.
- Where the SMA or managed product is operated by an in-house or related party investment entity, the fairness and transparency of sales targets, agreements or potential inducements or benefits related to SMA recommendations.
- Whether structures are in place to delineate or manage product and service functions, to mitigate the risk of a conflict arising.

Licensees that are considering adopting or have adopted this model (including SMAs) should examine their own governance arrangements. In particular, the management of conflicts, including the conflict priority rule whereby their clients' interests must be prioritised over their own, fee structures and ensuring that any recommendations made to the client to invest in an SMA or managed account is in the clients' best interests and appropriate for the client.

Enforcement

ASIC takes further steps to support investors impacted by First Guardian and Shield collapse

ASIC has taken further action to support investors impacted by the Shield Master Fund ("**Shield**") and First Guardian Master Fund ("**First Guardian**") collapse. As of 5 February 2026, less than 2,000 out of the approximately 11,000 Australians who invested a total of \$1.1 billion in the Shield and First Guardian funds have lodged complaints with AFCA.

As a result, to ensure investors understand the impact of the collapse and have guidance in relation to making a complaint to AFCA, ASIC will begin sending information to First Guardian and Shield investors including by providing a link to a dedicated consumer [website](#) operated by Super Consumers Australia that provides investors with:

- independent support and resources in relation to the Shield and First Guardian collapse;
- guidance on how to lodge a complaint with AFCA to seek compensation, including deadlines for submitting a complaint; and
- information on how to access support services if they are experiencing financial hardship.



The full media release can be [viewed here](#).

Licensee ordered to pay substantial pecuniary penalties for cyber security failures

On 9 February 2026, FIIG Securities Limited ("**FIIG**") was ordered to pay \$2.5 million in pecuniary penalties for failures to protect thousands of clients from cyber security threats. This is the first time the Federal Court has imposed civil penalties for cyber security failures under the general AFS licensee obligations, setting a clear expectation for licensees to implement adequate cyber risk management systems and maintain robust cyber resilience policies and procedures.

FIIG admitted it failed to comply with its AFS licencing obligation to implement adequate cyber security measures and that had it complied with its own procedures it would have enabled FIIG to detect and respond to the data breach sooner and more effectively. The Federal Court found these failures worsened a 2023 cyber-attack in which 385 gigabytes of confidential client data was stolen and highly sensitive client data was leaked onto the dark web.

Specifically, the Court found that between 13 March 2019 and 8 June 2023, FIIG failed to:

- allocate the necessary financial resources to have suitably qualified and experienced people available, or implement adequate technological resources to manage cyber security;
- implement adequate cyber security measures, including multi-factor authentication, strong passwords and access controls for privileged accounts, appropriate configuration of firewalls and security software, regular penetration testing and vulnerability scanning;
- have a structured plan to ensure key software systems are updated to address security vulnerabilities;

- have qualified IT personnel monitoring threat alerts and respond to cyber attacks;
- provide mandatory cyber security awareness training to staff; and
- have an appropriate cyber incident response plan tested at least annually.

In addition to a \$2.5 million pecuniary penalty the Federal Court ordered FIIG to pay \$500,000 towards ASIC's costs as well as undertake a compliance programme involving the engagement of an independent expert to ensure adequate management of its cyber security and cyber resilience systems.

ASIC has identified cyber security as a key issue for 2026 and expects licensees to prioritise cyber resilience and invest in individuals, systems and governance procedures which are fit-for-purpose in relation to the size of the entity and sensitivity of the client information held.



[The full media release can be viewed here.](#)

Former investment manager sentenced in insider trading case

On 23 January 2026, former investment manager Rodney Forrest was sentenced to six years imprisonment, with a non-parole period of three years, after being convicted of insider trading and procuring others to trade in over \$3 million of Platinum Asset Management Limited ("**Platinum**") shares. Mr Forrest plead guilty to the charges in August 2025.

The facts were that in August 2024, Mr Forrest secretly accessed the computer of the former Regal chairman Michael Cole without permission and photographed confidential takeover documents ('Pitch Deck') regarding

the potential takeover of Platinum by Regal Partners Limited ("**Regal**"). Mr Forrest subsequently traded and procured others to trade in Platinum shares before leaking details of the takeover proposal to the media. After the information was made public Platinum's shares jumped by 12.5% and Mr Forrest his shareholding, making over \$300,000 profit for himself.

Mr Forrest pleaded guilty to the charges in August 2025 and admitted that while in possession of the inside information he:

- acquired \$2.69 million worth of Platinum shares between 29 August to 10 September 2024;
- procured two individuals and an entity to trade in Platinum shares between 6 September to 16 September 2024; and
- leaked the inside information to the media.

ASIC's market surveillance team detected Mr Forrest's suspicious trading activity in September 2024. This marks the first outcome for ASIC's new specialist insider trading team and ASIC Chairman Joe Longo stated that the prosecution of insider trading will remain an enduring priority for ASIC.



[The full media release can be viewed here.](#)



ASIC permanently bans former NSW financial adviser following conviction for dishonesty offences

ASIC has permanently banned David Valvo, a former NSW financial adviser, from providing any financial services, (including controlling an entity that carries on a financial services business and performing any function involved in the operation of a financial services business) following his conviction for dishonesty offences which took effect on 22 January 2026 and has been recorded on ASIC's banned and disqualified register.

Between July 2019 and January 2020, Mr Valvo dishonestly obtained approximately \$110,000 from the superannuation accounts of his clients by submitting ad hoc adviser fee forms which purported to authorise withdrawals from the client superannuation accounts but had not been consented to, approved, nor signed. Mr Valvo was sentenced to a five year suspended sentence on the grounds that he complies with good behaviour conditions and makes pecuniary penalty and reparation payments to those affected.



[The full media release can be viewed here.](#)

ASIC permanently bans an adviser who engaged in misleading and deceptive conduct

On 4 February 2026, ASIC permanently banned Patrick Nong from providing financial services and controlling an entity or performing any function relating to carrying on of a financial services business. Mr Nong was employed by 360 Financial Strategists Pty Ltd and provided financial advice as an authorised representative of AMP Financial Planning Pty Ltd.

ASIC banned Mr Nong for engaging in misleading or deceptive conduct, or conduct that is likely to mislead or deceive, relating to a financial product or financial service. In this regard, on three occasions, Mr Nong signed documents on behalf of a number of clients without their consent which resulted in fees being paid out of their superannuation account. ASIC found that the dishonest behaviour of Mr Nong was for his own personal benefit, specifically to maintain his employment, and constituted a gross breach of his client's trust.

Mr Nong's employment with 360FS has been terminated and AMPFP has revoked his authorisation, and he is no longer an Authorised Financial Services Representative.



[The full media release can be viewed here.](#)

Federal Court orders penalty over TMD failures

The Federal Court has ordered Australian Unity Funds Management Limited (“**AUFM**”) to pay a \$7.125 million pecuniary penalty for breaching its design and distribution obligations (“**DDO**”) by failing to confirm the suitability of one of its products for retail investors.

AUFM, as responsible entity of the Australian Unity Select Income Fund (“**Fund**”), failed to take reasonable steps to ensure that interests in the Fund were only distributed to investors matching the criteria outlined in the Fund’s three Target Market Determinations (“**TMDs**”).

As a result, hundreds of retail investors were able to invest in the Fund even though the product may not have been suitable for them under those TMDs. AUFM also admitted that it had issued interests in the Fund to retail clients:

- on 89 occasions without requiring them to complete a questionnaire to determine whether they fell within the target market described in the TMDs; and
- on 239 occasions without reviewing the submitted questionnaires to determine whether they fell within the target market described in the TMDs.

ASIC Deputy Chair Sarah Court said that “this outcome sends a clear message to product issuers that there are significant consequences for failing to take reasonable steps to ensure that investors are within a product’s target market before they issue interests in the product, and emphasised that DDO failures can expose investors to products that are not appropriate to their objectives, financial situation or needs and create the potential for financial loss.

The Court commented that the explanation by AUFM that the person tasked with ensuring compliance with the DDO regime (the DDO Project Manager) did not have appropriate experience or training ‘reflects poorly on the ‘compliance culture’ of AUFM at the time. It suggests that AUFM did not take its regulatory obligations sufficiently seriously’.



[The full media release can be viewed here.](#)

BPS Financial to pay penalties over crypto Qoin Wallet

On 27 January 2026, the Federal Court ordered BPS Financial Pty Ltd (“**BPS Financial**”) to pay a total of \$14 million in pecuniary penalties stemming from the promotion and operation of its Qoin Wallet crypto product (“**Qoin Wallet**”). BPS Financial promoted the Qoin Wallet as a non-cash payment facility linked to a digital crypto token called Qoin, as a product that facilitated the viewing of Qoin balances and provided a system for sending and receiving Qoin.

In May 2024, the Federal Court found that:

- the Qoin wallet constituted a ‘financial product’ in the form of a non-cash payment (“**NCP**”) facility;
- BPS Financial unlawfully carried on a financial services business by issuing and providing financial advice about the Qoin Wallet without holding an AFS license (“**unlicensed conduct**”); and
- BPS Financial published misleading and deceptive representations about various aspects of the Qoin Wallet product including the ability for Qoin tokens to be exchanged for other crypto assets, the growing number of Qoin merchants and the official approval and registration status of the Qoin Wallet.

In 2025, the Federal Court found that BPS Financial had engaged in unlicensed conduct during a 10 month period in which it was operating as an authorised representative (“**AR**”) of PNI Financial Services Pty Ltd (“**PNI**”) because:

- BPS could only rely on the AR exemption where its activities were in their capacity as an AR and not on their ‘own behalf’; and
- BPS had been acting on its own behalf as opposed to as an AR of PNI when engaging in the unlicensed conduct.

The Court ordered BPS Financial is to pay total penalties of \$14 million, made up of:

- \$2 million for unlicensed conduct, and
- \$12 million for misleading and deceptive conduct in connection with making false and misleading statements.

In addition to the pecuniary penalties, the Court ordered that BPS Financial:

- be permanently restrained from making any false or misleading representations regarding the ability of Qoin tokens to be exchanged for fiat or other crypto assets, the number of holders of the Qoin Wallet and the official approval or registration status of the Qoin Wallet;
- be restrained for 10 years from carrying out a financial services business;
- publish an adverse publicity notice on the Qoin Wallet application; and
- pay most of the costs incurred by ASIC for the proceeding.



[The full media release can be viewed here.](#)



Consultation

Treasury releases Managed Investment Scheme consultation

On 10 February 2026, Treasury released the consultation paper 'Enhancing oversight and governance of managed investment schemes.'

The paper proposes numerous options to improve the operation and regulation of Managed Investment Schemes ("MISs") including:

- strengthen the regulatory framework for compliance particularly in relation to committees and compliance plans such as requiring a detailed description of the nature of the scheme and its investment strategy, and information outlining how significant risks will be identified, monitored and managed;
- require responsible entities ("REs") of registered MISs to have a majority of external directors and remove the option of having a mandatory compliance committee instead
- prohibit REs of registered MISs from conducting related party transactions, with limited exceptions;
- amend the framework for setting financial requirements for REs, such as setting more specific requirements.;
- increase ASIC's data collection powers on the retail MIS sector; and
- require alerts to be completed by superannuation trustees regarding superannuation switching.

The consultation paper seeks views from stakeholders on proposals for enhancing MIS governance and oversight by ASIC, as well as improving ASIC's visibility of superannuation switching. Submissions on the consultation paper closed on 27 February 2026 and must be made through the Treasury website.



[The full media release can be viewed here.](#)

Compensation Scheme of Last Resort - enhancing professional indemnity insurance

The consultation period for submissions in response to a consultation paper, issued by Treasury in December 2025, on 'Enhancing the effectiveness of financial service professional indemnity insurance' ended on 13 February 2026. The paper sought feedback on proposals to enhance the effectiveness of professional indemnity insurance in responding to compensation claims.

Treasury undertook a post-implementation review of the Compensation Scheme of Last Resort (CSLR) to investigate ways of ensuring that Australians who suffer financial loss through misconduct have a credible and sustainable avenue for redress including the utility of professional indemnity insurance (PII) to better respond to compensation claims to support the ongoing sustainability of the CSLR.

The consultation process covers providers of financial products and services that use PII to meet their licensing obligations under the Corporations Act and the National Credit Act, with particular emphasis on the PII available

to licensees providing products or services that are in-scope of the CSLR, that is, licensees providing:

- personal advice on relevant financial products to retail clients;
- credit activities other than credit provision (such as mortgage broking and debt management);
- securities dealing; and
- credit provision.



[The full media release can be viewed here.](#)



Treasury releases consultation on a proposed system for labelling sustainable financial products

On 13 February 2026, Treasury released a consultation paper on a proposed system to label sustainable financial products.

The consultation paper follows a previous consultation, which ran between 18 July and 29 August 2025.

The first round of consultation revealed broad support for the introduction of a labelling regime that applies specifically to financial products that market themselves as sustainable, rather than extending to all financial products. Stakeholders also emphasised that the scope of any regime should promote flexibility to support future product innovation, while also remaining appropriately targeted to avoid unnecessary regulatory burden and unintended consequences.

The current consultation is seeking feedback on how financial products can be labelled 'sustainable' and



marketed in a way that is clear, accurate and not misleading. The development of a labelling framework is intended to improve regulatory clarity over financial products marketed as 'sustainable', facilitate informed investment decision-making, reduce the risk of misleading or deceptive practices and increase overall investment appetite.

Treasury is seeking further feedback on the policy design of the regime, including:

- the scope of products captured by the sustainable investment product labelling regime;
- any consumer-facing disclosure requirements;
- the use of thresholds in the regime; and
- further design and evidentiary assessment issues.

Treasury will be aiming to design an evidence-based intervention that can better provide investors with the right information that is informative, accessible and meaningful to support investor decision making.

Submissions on the consultation paper close on 13 March 2026 and must be made through the Treasury website.

 [The full media release can be viewed here.](#)

Regulation

AUSTRAC releases AML/CTF program starter kits for Tranche 2 businesses

AUSTRAC has released anti-money laundering program starter kits designed to assist small businesses in newly regulated sectors to understand their obligations and prepare for the reforms. These starter kits are designed to assist these newly regulated businesses create an AML

CTF program and to meet their compliance obligations and manage money laundering and terrorism financing ("ML/TF") risks while minimising the time and cost of compliance.

From 1 July 2026 new services and entities, known as Tranche 2 businesses, providing certain services will be under the regulation of AUSTRAC. This includes certain designated services typically provided by the following businesses:

- real estate professionals;
- dealers in precious stones, metals and products;
- lawyers;
- conveyancers;
- accountants; and
- trust and company service providers.

The starter kit documents provide step-by-step guidance in relation to the development, customisation and implementation of an AML/CTF program and includes practical tools to assist businesses in complying with their obligations. The starter kits include a risk assessment, AML/CTF policies, processes and procedures and a document library with numerous client forms in relation to onboarding and conducting due diligence.

 [The full media release can be viewed here.](#)

AML/CTF Reforms commence 31 March 2026

On 31 March 2026, a number of significant changes will be made to Australia's anti-money laundering and counter-terrorism financing ("**AML/CTF**") regime. These changes aim to simplify and modernise the current regime and ensure that Australia continues to meet the international standards set by the Financial Action Task Force ("**FATF**").

Current Reporting Entities

The changes will affect all reporting entities that are currently regulated by AUSTRAC under the AML/CTF Act, including financial advisers, fund managers, non-cash payment providers, derivative issuers, and cryptocurrency exchanges.

Tranche 2 Entities

The changes will also draw a number of additional entities (referred to as 'tranche 2 entities') into the AML/CTF regime on 1 July 2026. The types of businesses that are likely to be tranche 2 entities include accountants, real estate agents, property developers, and trust and company service providers.

Reporting Groups

Under the upcoming AML/CTF regime, reporting entities will be able to form 'reporting groups'. Members of a reporting group will be able to share one AML/CTF Program and centralise their compliance functions. One example of where this may be beneficial is where a current reporting entity (e.g. a financial advice practice) is part of a corporate group that will soon include a tranche 2 entity (e.g. an accounting firm).

AML/CTF Programs

The requirements that apply to AML/CTF Programs, including those in respect of ML/TF risk assessments, corporate governance, KYC procedures, and ongoing customer due diligence are changing significantly.

A reporting entity may retain its existing AML/CTF Program or adopt a new AML/CTF Program. If a reporting entity chooses to retain its existing AML/CTF Program, it will need to be updated to comply with the upcoming AML/CTF regime. The extent of the updates required will depend on how compliant the AML/CTF Program currently is and how well it is working.

Regardless of whether a reporting entity updates an existing AML/CTF Program or adopts a new AML/CTF Program, the change must be made before 31 March 2026, so that the reporting entity is in a position to comply from 31 March 2026.

Please contact Compliance@CowellClarke.com.au if you would like us to:

- assist with the preparation of a new AML/CTF Program that complies with the upcoming AML/CTF regime;
- review of your current AML/CTF Program to consider the extent of changes required to meet the upcoming regime; or
- discuss the impact of the changes or your AML/CTF needs more broadly.



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