

23 October 2026

The Treasury
via portal: <https://consult.treasury.gov.au/c2026-800586>

Enhanced data collection for managed investment schemes

The Super Members Council welcomes the opportunity to respond to Treasury's consultation on enhanced data collection for managed investment schemes (MISs).

The collapses of Shield and First Guardian exposed a system that saw the danger too late. Both were registered MISs, sold to retail investors through advice and platform networks, with money moved on into related-party vehicles. The blind spot was in the registered, retail-facing part of the system, where the gatekeepers and accountability around the listing and sale of these products failed. Australians who trusted the financial system with savings built over a working lifetime now face devastating losses. With around \$1 billion in retirement savings invested across the two schemes, the case for earlier regulatory action is compelling. The warning signs must be identified before harm reaches people's life savings, not after the money is gone.

SMC supports regulators having the timely, reliable and sufficiently granular information they need to identify emerging risks, target supervision, and intervene sooner. Treasury should proceed with stronger registration and tiered quarterly reporting for registered MISs, where the connection to retail investor protection is clearest. For unregistered wholesale MISs, Treasury should first clearly identify the information gaps in the existing framework, explain why they matter, and demonstrate how the proposed reporting would enable regulatory action that reduces harm. The framework should also operate on a collect-once, basis, with information shared safely across agencies and duplicative reporting removed.

The rationale and intended regulatory use of some proposals would benefit from further clarification, particularly in relation to unregistered schemes. The MIS consultation paper draws together distinct objectives, namely consumer protection supervision, visibility of risk in private markets and national statistics which should be clearly distinguished in the design of the framework. Each requires different data, at a different frequency, from different entities. The case for enhanced reporting by registered MISs rests on Shield and First Guardian, which were failures of retail investor protection, and SMC strongly supports this. The case for recurrent reporting by unregistered MISs is different, but there may nevertheless be a case for proportionate reporting where it addresses an identified information gap or risk. Treasury's argument rests on the interconnection between registered and unregistered schemes, which is a different risk requiring different tools, and the paper does not yet demonstrate that recurrent reporting across the wholesale sector would have prevented either collapse. Treasury should state the primary purpose of each proposal and design the dataset around it, so that the scope of the collection is driven by the problem and the regulatory or statistical action the information is intended to support. SMC can see a case for proportionate reporting by unregistered MISs, provided the information has a defined use, duplication is avoided, and the costs ultimately borne by profit-to-member super fund members are kept to the minimum necessary.

In designing the requirements for unregistered MISs, Treasury should carefully consider how compliance costs will ultimately be allocated, including where they may be passed through to investors. Profit-to-member funds are already meeting part of the cost of these failures through the CSLR, with further costs potentially arising from related financial-resource requirements and investment-governance reforms. SMC funds invest in unregistered wholesale vehicles on behalf of their members, and any reporting imposed on those vehicles is ultimately paid for by members. SMC accepts proportionate reporting requirements as a balanced cost of better visibility, but these obligations should be limited to what is necessary to address a demonstrated risk, avoid duplication and support a defined regulatory purpose. Any material new requirements should also be supported by an appropriate regulatory impact assessment.

Better data is necessary, but visibility alone will not protect people. Treasury should explain what interventions better information would enable, whether ASIC's existing powers are sufficient to act when risks are detected, and what complementary reforms are needed to address conflicted transactions, harmful distribution practices and weak accountability. Data and transparency measures



should complement, rather than substitute for, effective conduct, governance and accountability obligations. Each transparency obligation should therefore have a clearly identified purpose and regulatory use.

SMC broadly supports Treasury's proposed direction. Our six recommendations apply a clear principle: reporting should be strongest where Australians' retirement savings face the greatest risk, and each new obligation should have an identified use. Treasury should proceed with enhanced registration and tiered quarterly reporting for registered MISs, establish basic visibility of unregistered MISs through commencement and cessation notifications, and reserve any further recurrent reporting for identified higher-risk cohorts where Treasury can demonstrate the information gap, the regulatory response it would support and the resulting consumer protection benefit. The test for a successful framework should be whether it gives regulators both the information and the practical capacity to prevent another Shield or First Guardian.

About the Super Members Council

We are a strong voice advocating for the interests of more than 12.5 million Australians who have over \$1.9 trillion in retirement savings managed by profit-to-member super funds. Our purpose is to protect and advance the interests of those millions of super fund members throughout their lives, advocating on their behalf to ensure super policy is stable, effective, and equitable. We produce rigorous research and analysis and work with Parliamentarians and policy makers across the full breadth of Parliament.

SMC recommends that Treasury:

- 1) Proceed with tiered reporting for registered MISs: quarterly for time-sensitive risk and flow data, and less frequently for stable data. Define the interventions the data will support, test the proposed fields against the Shield and First Guardian fact patterns and address related governance, conflict and distribution risks at their source
- 2) State the primary purpose of each proposal and co-design each data field with industry against that purpose, require a clear regulatory or statistical use and avoid duplication. Source-of-funds reporting should sit with the MIS operator or intermediary holding the information, not super funds.
- 3) Legislate a collect-once framework requiring ASIC and APRA to reuse and share government data, adopt common definitions and streamline duplicate reporting.
- 4) Introduce commencement and cessation notifications for unregistered MISs before considering recurrent reporting. Any further reporting should target demonstrated data gaps and higher-risk cohorts, with a clear intervention pathway and proportionate impact assessment, and keep the costs to super funds members whose funds overwhelmingly use unregistered MIS to a minimum and were not part of the Shield and Guardian collapses in any way.
- 5) Avoid settings that drive products or investors into wholesale channels and ensure wholesale investor definitions and sophisticated investor thresholds remain fit for purpose.
- 6) Publish a basic scheme register that identifies the population of MISs and clearly distinguishes between registered and unregistered schemes. Publish aggregated sector data by default and fund-level data only for a clear public-interest purpose and with appropriate safeguards.



Proposal 1: Proceed with targeted registration data for registered MISs

SMC supports proposal 1 as it would give ASIC a clearer baseline view of a registered MIS's intended structure, operations and risk profile, supported by updates when material changes occur. Registration is the appropriate point to collect this information because it should largely be available to the responsible entity at establishment.

The registration dataset should include structured quantitative information about each scheme's investment design, including its return objective, strategic asset allocation and permitted asset-class ranges. These fields may reveal unrealistic or internally inconsistent strategies more effectively than high-level narrative descriptions. This is particularly important because the Design and Distribution Obligations regime does not involve systematic ASIC review of every PDS. Collecting the information in a standardised form would allow ASIC to compare schemes and identify potential risk indicators at registration.

The registration dataset should be designed around a simple test: each field must give ASIC a clearer baseline view of a scheme's structure or intended risk profile and must not already be available through registration, disclosure, Design and Distribution Obligations or other regulatory reporting. Treasury should define what constitutes a material change and align updates with existing disclosure and notification cycles wherever possible. Co-design with responsible entities and other affected parties, supported by clear guidance and adequate transition, will improve data quality while ensuring the new obligations remain proportionate and decision useful.

SMC supports the ABS maintaining a comprehensive population tracker of investment vehicles, including the identification of new vehicles, where it is developed as shared government infrastructure to improve survey design and reduce reporting burden. The tracker should draw on existing administrative and regulatory information wherever possible, use common identifiers and definitions across agencies, and deliver demonstrable reductions in duplicate collections and survey content. This statistical purpose is clear as is the market integrity and public benefit, but distinct from supervision, and should not by itself drive the scope or frequency of supervisory collections.

Proposal 2: Support quarterly reporting for registered MISs

SMC supports Proposal 2 and the introduction of a recurrent data collection framework for registered MISs. More consistent, timely and granular information would strengthen ASIC's and the ABS's visibility of the sector, help identify emerging risks and support earlier intervention to protect retail investors, including ordinary Australians who are saving for their retirement. SMC also supports a collect-once model under which one government agency collects the information from industry and shares it lawfully with other relevant agencies.

Treasury should work with industry to tier collection according to the nature, volatility and regulatory purpose of each field. Time-sensitive indicators such as flows, liquidity and leverage should be reported quarterly where recency is necessary to detect and mitigate consumer harm. Stable scheme characteristics could instead be reported annually, maintained through registration data or updated when a material change occurs. Less frequent or event-driven reporting should apply only where it would not compromise regulatory visibility or consumer protection.

Recurrent reporting should include actual performance against stated return objectives and strategic asset allocation, together with leverage and derivatives exposures. Standardised quantitative data would allow ASIC to identify material deviations, implausible return assumptions and potentially high-risk strategies in prevailing market conditions, including through appropriate analytical tools. Treasury should test these fields against the Shield and First Guardian fact patterns and specify the supervisory response that an identified risk indicator would trigger.

The collection should use common definitions, clear data ownership and lawful information sharing, with strong confidentiality and data-security safeguards. Treasury should identify the existing ABS forms and fields that will be retired or streamlined and show which entities will experience a net change in reporting burden. The broader collect-once framework is addressed below.

The framework must also address layered investment structures in which an unregistered MIS invests into, or sits beneath, a registered MIS. Treasury should identify the entity best placed to report each data point and ensure the same underlying exposure is not reported repeatedly at different levels of the structure. Any look-through requirement should be limited to information that is available to the reporting entity, necessary for a defined purpose and not already reported by another scheme, platform, trustee or government agency.



The reporting framework should provide a reconciled view of funds under management across MISs and related investment products, including separately managed accounts and managed discretionary accounts. It should identify, using consistent classifications and common identifiers, the immediate source and destination of funds across APRA-regulated superannuation funds, SMSFs, non-superannuation investments, listed investment products and other relevant channels. Treasury should design the framework so that the same underlying investment is not counted repeatedly as it passes through trustees, platforms, MISs and underlying vehicles. Reporting responsibility should sit with the entity best placed to hold each data point, and existing government information should be reused wherever possible.

Treasury should set out an intervention framework alongside the data collection. This should identify the risk indicators the collection is intended to reveal, the agency responsible for monitoring them, the supervisory or enforcement responses available when thresholds are met and how effectiveness will be evaluated. Success should be measured by whether the framework enables earlier identification and action, rather than by the volume of information collected or published. As a practical test, Treasury should map the proposed fields against the Shield and First Guardian fact patterns, showing which indicators would have signalled risk, when, and what supervisory action would then have been available. That test is likely to show that the decisive failures, including related-party transfers and payments to lead generators, are best addressed at their source through the governance reforms Treasury consulted on earlier this year, including banning trustees for hire, restrictions on related-party transactions, and the lead generation and member protection reforms SMC has proposed. Data collection should complement those reforms, not substitute for them. The history of financial services collapses and misselling in Australia, including during the Royal Commission¹, has shown that transparency measures do not solve for conduct risk. In fact, the behavioural finance research shows it can exacerbate conduct risk, because disclosing the data give a false sense of security and even exoneration.²

Source-of-funds information

SMC supports improved visibility of whether money from APRA-regulated super funds is channelled into MISs through advisers, platforms or other intermediaries, as this could help regulators respond to higher-risk switching. Reporting should sit with the MIS operator or intermediary best placed to identify the immediate source of an investment, based on clear definitions and a reliable tracing method. It should not create additional obligations for super funds or require entities to obtain member-level information they do not hold.

Treasury should test the proposed data pathways with platforms, responsible entities and trustees before implementation, including whether aggregated or immediate-source information would meet the regulatory purpose. It should also assess whether rollover information already collected through SuperStream could identify flows from APRA-regulated funds to platforms and SMSFs, with lawful sharing between the ATO, APRA and ASIC

Proposal 3A: Establish a simple notification regime for unregistered MISs

The proposals for unregistered MISs respond to a different problem from Shield and First Guardian. Treasury's case rests on growing interconnection between registered and unregistered schemes. The relevant risk is retail money moving from a registered scheme into an unregistered vehicle beneath it. That risk is best addressed where retail money enters the system, through look-through reporting at the registered layer and the restrictions on related-party transactions Treasury has already consulted on, not by recurrent reporting across the whole wholesale sector. The proposals also sit alongside ASIC's work on private markets, which recommended a notification regime for wholesale funds. Profit to member funds are substantial wholesale investors and take their trustee duties seriously. They apply strong governance and oversight to the vehicles they invest in and have a direct interest in sound valuation and liquidity practices across the sector. SMC supports baseline notification on that basis.

The settings for registered schemes also matter here. Registered schemes offered only to wholesale investors may retain registration because institutional and overseas investors value the Corporations Act governance and investor protections. Reporting obligations should not discourage these schemes from remaining registered, as this would reduce regulatory visibility. For unregistered wholesale MISs,

¹ [The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. Final report volume 1](#)

² The Dirt on Coming Clean: Perverse Effects of Disclosing Conflicts of Interest [Daylian M. Cain](#), [George Loewenstein](#). The Journal of Legal Studies, Volume 34, Number 1 Jan 2005.



the same proportionality principle supports establishing baseline visibility before considering further reporting. There is currently no simple, consolidated means of identifying the broader MIS population and distinguishing registered from unregistered schemes. Tax information may not provide a reliable proxy for registration status, as similar tax treatment can apply across registered and unregistered structures. A basic scheme register should therefore clearly identify each scheme's registration status and bring together the available information on both populations.

A simple commencement and cessation notification requirement would close a genuine baseline visibility gap at comparatively low cost. It would allow ASIC to identify the population of Australian-domiciled unregistered MISs and relevant foreign schemes marketed to Australian wholesale investors without prematurely imposing a detailed recurrent reporting regime across a diverse wholesale sector.

Proposal 3B: Require a demonstrated case for recurrent reporting by unregistered MISs

SMC supports closing the baseline visibility gap for unregistered MISs. However, Treasury has not yet clearly established the case for recurrent reporting across the entire sector. Before proceeding, it should identify the specific information that regulators cannot currently obtain, explain why those gaps create material risk, and show how the proposed data would support an intervention that reduces harm. This is particularly important because unregistered schemes are generally only available to wholesale investors and may already be subject to regulation according to their underlying assets and activities, including taxation, foreign investment, critical infrastructure, competition and substantial-holding requirements. Treasury should also state whose harm the unregistered proposals are intended to prevent - wholesale investors, retail investors exposed indirectly through registered schemes or platforms, or the stability of private markets. Each implies a different dataset.

Wholesale MISs span private equity, venture capital, property, agriculture, private credit and other structures with different valuation, liquidity and operating models. A standardised recurrent collection may be costly, difficult to compare and of limited supervisory use unless it targets a defined risk and supports a clear regulatory response. Treasury should also assess whether ASIC has the powers and practical capacity to act on the information collected. The proposed fields for unregistered schemes largely replicate the dataset proposed for registered schemes, which suggests the collection has been designed by extending the retail regime rather than from an identified wholesale risk. Material differences between the obligations applying to registered and unregistered MISs could also encourage migration towards unregistered structures or vehicles outside the proposals, such as corporate collective investment vehicles, companies and incorporated limited partnerships, reducing rather than improving visibility. Treasury should seek to minimise opportunities for regulatory arbitrage when finalising the framework.

Treasury should implement Proposal 3A first and use the resulting information, together with data already held by ASIC, APRA, the ABS and other agencies, to assess the size, composition, connections and risk profile of the unregistered MIS population. ASIC can then use targeted information-gathering powers for higher-risk segments or structures. Where all investors in an unregistered scheme are APRA regulated superannuation funds, Treasury should first recommend drawing on information that APRA already collects from those Trustees. Any subsequent recurrent regime should be confined to specified cohorts and fields with a demonstrated supervisory use, supported by an explanation of the intervention the information would enable and a regulatory impact assessment that separately examines smaller and specialist operators.

If Treasury demonstrates a case for recurrent reporting by specified higher-risk cohorts of unregistered MISs, it should prioritise structured fields with a clear supervisory use, such as return objectives, strategic asset allocations and ranges, actual performance, leverage and derivatives exposures, rather than broad narrative descriptions.

Prevent migration into wholesale channels and modernise the sophisticated investor test

The interaction between registered and unregistered MIS settings must be considered as a whole. If obligations on registered schemes are materially greater, products may be restructured or distributed through wholesale channels. Advisers and promoters may also have stronger incentives to classify clients as sophisticated investors, moving people outside retail protections even where their experience and capacity to assess complex investments are limited.



The existing asset and income thresholds are a proxy for wealth, not financial sophistication, and may capture people without the knowledge or risk appetite needed to navigate wholesale markets. Entry into those markets can involve the loss of important safeguards available to retail clients, including access to AFCA and potential CSLR coverage. Government should progress its review of retail and wholesale investor definitions as a complementary reform and ensure the sophisticated investor gateway remains fit for purpose.

Legislate a collect-once framework across ASIC and APRA

Funds, schemes and intermediaries should not provide equivalent information more than once. Before creating a collection, the responsible agency should assess information already held across government and whether it can be reused, including APRA-held information on MIS exposures through regulated super funds. This discipline should be embedded in legislation rather than left to administrative practice. The framework should require lawful inter-agency sharing, common identifiers and definitions, review of existing holdings before new obligations are imposed, and the retirement or streamlining of overlapping collections. Clear accountability for a primary collector would help ensure collect-once becomes a genuine reduction in burden rather than an additional reporting layer.

Publish only what is useful, reliable and safe

Public transparency can improve understanding of the sector, but detailed fund-level information may be commercially sensitive, misleading without context or harmful to investors and counterparties in stressed conditions. Publication must therefore be purpose-led and subject to clear safeguards.

Standardised, reliable MIS information may also support superannuation trustees in undertaking investment due diligence and meeting disclosure obligations. Treasury should assess this secondary benefit when designing the dataset, while ensuring that regulatory reporting does not displace trustees' own investment governance responsibilities or require publication of information that is meaningful only in a supervisory context.

Treasury should publish a basic scheme register covering registered and unregistered MISs, with each scheme clearly classified by registration status, together with aggregated sector information by default. The register should use a common identifier where possible and draw on registration, notification and other information already held across government, rather than creating a duplicative information requirement.

Fund-level data should be released only where publication serves a defined consumer or market-transparency purpose and after consultation on confidentiality, market sensitivity, quality and comparability. Investment strategies, benchmarks, counterparty positions, liquidity pressures and other commercially sensitive information should not be published where disclosure could prejudice investors, distort markets or reveal proprietary information. Regulators may collect such information for supervisory purposes without making it public.

Particular care is required where published information relates to an unregistered MIS used as an underlying vehicle within a diversified superannuation investment option. Viewed in isolation, an individual vehicle may appear concentrated, illiquid or otherwise higher risk even though it represents only one component of a broader portfolio. Treasury should identify the intended audience for each published dataset, test whether the information can be interpreted reliably without portfolio context and avoid fund-level publication where it is likely to create a misleading impression. Treasury has an opportunity to replace fragmented and reactive oversight with a framework that helps regulators identify risks and act before Australians lose retirement savings. SMC stands ready to support a proportionate, purpose-led approach.