



18 August 2023

By email: product.regulation@asic.gov.au

Daniel McDowell
Senior Adviser, Strategic Policy
ASIC
Level 7, 120 Collins Street
MELBOURNE 3000

Dear Daniel

EXTENSION OF THE DESIGN AND DISTRIBUTION OBLIGATIONS INSTRUMENT: NIL COMPLAINTS REPORTING

The Stockbrokers and Investment Advisers Association (SIAA) is the professional body for the stockbroking and investment advice industry. Our members are Market Participants and Advisory firms that provide securities and investment advice, execution services and equity capital-raising for Australian investors, both retail and wholesale, and for businesses. Practitioner Members are suitably qualified professionals who are employed in the securities and derivatives industry.

The history of the stockbroking profession in Australia can be found [here](#).

SIAA welcomes the opportunity to provide feedback on the proposed extension of the Design and Distribution Obligations (DDO) instrument granting relief for distributors from the obligation to report to product issuers if they receive nil complaints during a reporting period.

Stockbroking and investment advice firms distribute products such as ETFs and Managed Funds from hundreds of issuers. Each of these issuers has multiple products. SIAA members receive very few complaints about these products. Without the relief from the nil complaints reporting requirement, our members would have been required to send many hundreds of 'nil complaints' reports every quarter. Before the original relief was provided in 2021 our members were telling us that the work involved in setting up a system to communicate these reports to issuers was proving to be costly and burdensome. As a result, SIAA advocated for a change to the DDO regime to exempt distributors from the requirement to lodge nil complaints reports, as it imposed a significant and unnecessary regulatory burden upon them without providing any benefit to issuers or consumers.

We supported the making of the original legislative instrument and considered it a commonsense decision to cut unnecessary red tape. We considered that it would enable distributors and issuers to focus on complaints, rather than the fact that no complaints have been received in relation to particular products. This focus would be to the benefit of consumers.

We have been mindful of the looming expiration date for the relief instrument and raised this issue during recent Treasury roundtables held for the Quality of Advice Review. We note that the *Quality of Advice Review Final Report* recommends amendments to the DDO reporting requirements on the Corporations Act to remove the requirement for relevant providers to report to the product issuer where there have been no complaints due to its finding that the requirement creates a compliance burden with no apparent benefit. We agree with the independent reviewer and support the recommendation.

However, while the government has accepted the recommendation to amend the DDO reporting requirements in the Corporations Act, we acknowledge that changes to the Corporations Act are unlikely to be made before the expiration of the current relief and we agree that it is necessary to extend the operation of the instrument to retain certainty for industry ahead of any law reform. Accordingly, we strongly support the extension of the expiry of the instrument until the start of October 2028.

Conclusion

If you require additional information or wish to discuss this matter in greater detail, please do not hesitate to contact SIAA's policy manager, Michelle Huckel, at michelle.huckel@stockbrokers.org.au.

Kind regards

A handwritten signature in black ink, appearing to be 'JF' with a stylized flourish and a small 'x' at the end.

Judith Fox
Chief Executive Officer