



Consultation Paper CP 219:
Keeping superannuation websites up to
date

February 2014

AIST Submission

Options for dealing with uncertainty about the updating obligation

A1Q1: Please provide your feedback in relation to Option 1 by responding to the detailed proposals set out in Section B of this paper.

AIST supports ASIC giving RSE licensees a 'safe harbour', so that they are taken to comply with the updating obligation if they update the RSE's website within the time set out in the draft class order, with ASIC also providing additional guidance.

AIST note and support ASIC use of class orders to achieve the two broad objectives of consistency and definite principles. Option 1 is consistent with the explanation given in ASIC Regulatory Guide *RG 51: Applications for relief*.

The approach proposed by ASIC will ensure that RSE licensees clearly understand and are able to reasonably meet the time requirements to fulfil their obligations under section 29QB of the SIS Act.

AIST supports this time being 10 **business days** (in contrast to the 14 day proposed by ASIC) for most items, but submits that for some documents a different period is appropriate and necessary.

AIST main points are that:

- Where a significant event notice or material change notice is sent to members, the website summary of such notices be updated within **six business days**; and
- Where a Product Disclosure Statement (PDS), RSE annual report, Financial Services Guide (FSG) or RSE licensee financial statement are *first given to relevant recipients*, the RSE's website should be **updated by the end of the next business day**.
- The release time for the summary of proxy voting should be **90 days** from the first day of the current financial year.

A1Q2: Do you think that ASIC should adopt Option 2, under which ASIC would not issue a class order, but give guidance on the updating obligation? Please give reasons for your answer.

No. A class order provides greater certainty and clarity. ASIC issues instruments to modify or clarify the operation of certain provisions, and that is appropriate in this case.

A1Q3: Do you think that ASIC should adopt Option 3, under which ASIC would not issue a class order nor give guidance on the updating obligation? Please give reasons for your answer.

No.

A1Q4 Would you prefer ASIC to adopt an approach other than Options 1, 2 or 3? If so, please outline the approach you consider ASIC should take, and give your reasons.

No. AIST supports Option 1, as qualified by the comments in this submission.

Option 1: Safe harbour for RSE licensees

B1Q1: Do you have any comments on ASIC's general approach to:

- (a) providing a safe harbour for RSE licensees; and
- (b) the general time of 14 days for updating website information?

AIST supports ASIC giving RSE licensees a 'safe harbour', and generally supports this time being 10 *business days*.

Ten business days provides more consistency than 14 calendar days, and is more efficient and easier to administer. This in turn will reduce the incidence of error.

B2Q1: Do you agree with the proposed seven-day period for updating the RSE's website summary of significant event or material change notices?

AIST submits that a slightly longer period is warranted and required.

B2Q2: If not, please state the period you prefer and give your reasons.

AIST submits that where a significant event notice or material change notice is sent to members, the website summary of such notices should be updated within *six business days*.

Six business days provides more consistency than seven calendar days, and is more efficient and easier to administer. This in turn will reduce the incidence of error.

Same day: PDS, RSE annual report, FSG, RSE licensee financial statement

B3Q1: Do you agree with ASIC's proposal that RSE licensees are taken to comply with the updating obligation if they post a PDS, RSE annual report, FSG or RSE licensee financial statement to the RSE's website on the day the document is first given to a relevant recipient?

AIST submits that a slightly longer period is warranted and required.

B3Q2: If not, what time do you consider that RSE licensees should have to post such documents to the RSE's website and still be taken to comply with the updating obligation? Please give your reasons.

AIST submits that the RSE's website should be *updated by the end of the next business day*. From the time these documents are *first given to relevant recipients*.

This period provides more consistency than on the same day, and is more efficient and easier to administer. This in turn will reduce the incidence of error.

Both 'on the same day' and 'within 24 hours' can be ambiguous and confusing, and hence may be difficult to fulfil.

Tables illustrating how the class order will work

B4Q1: If we were to publish tables similar to Table 1 and Table 2, would this help you in complying with your updating obligation? Please give reasons for your answer.

Yes. The tables illustrating how the class order would work provide significant and useful guidance to RSE licensees.

The use of a clear Trigger event is particularly useful, and AIST suggests that it be used by ASIC in other guidance material.

B4Q2: Do you think ASIC should give any other guidance in relation to the updating obligation? If so, please give details of the guidance you seek and state why you think it is needed.

Yes, AIST submits that the class order should also clarify the following matters:

Remuneration benefits (Regulation 2.37(1) Items 5-7 and 9-16)

AIST notes that these items require disclosure of benefits paid during the most recently completed financial year or years.

However, disclosure on the first day of the financial year for benefits paid in the previous financial year may not be possible given that (in relation to bonuses) the exact amount may not be known for quite some time given certain hurdles and objectives that must be verified by the business before payments are processed. Therefore, the guidance should be clear that the requirement is to disclose bonuses actually paid, not those for which there is an entitlement to be paid during the previous financial year.

If we are forced to disclose information on 1 July there is a risk of either under or over reporting actual bonuses paid.

Termination of an officer or trustee (Regulation 2.37(1) Item 8)

AIST submits that the trigger for disclosure of termination benefits be brought into line with the disclosure of other remuneration benefits, that is, disclosure on the first day of the current financial year for benefits paid in the previous financial year.

Actuarial report (Regulation 2.38(2)(d))

AIST submits that ASIC guidance on actuarial reports should provide an exemption on disclosure where and to the extent that a report includes details of individual member remuneration.

Proxy voting (Regulation 2.38(2)(o))

AIST submits that the class order should prescribe that:

- The release time for the summary of proxy voting should be **90 days** from the first day of the current financial year (rather than 14 days).
- The requirements for proxy voting disclosure have regard to the practicalities and complexities of preparing the summary required by Regulation 2.38(2)(o). This is particularly relevant to investments in international equities.
- ASIC provides further guidance on the structure and content of summary of proxy voting. AIST submits that ASIC produce a standard reporting template following further consultation with the superannuation and investment management industry. This will ensure consistency and comparability, and support the meaningful use of this disclosure by consumers.

Annual financial statement (Regulation 2.38(3)(b))

AIST submits that ASIC guidance clarify that the requirement of Regulation 2.38(3)(b) is for the audited annual financial statement of the RSE licensee.

Regulatory and financial impact

RSE licensees will face both implementation and compliance costs in order to meet these requirements. These costs will be incurred as a result of gathering data, monitoring the operations of the RSE licensee for trigger events, and updating the website itself.

The disclosure of remuneration details is likely to have the greatest impact on competition and costs, as disclosure may increase cost pressures on RSE licensees and competition for key personnel.