Notes from MDA Providers Group

15 July 2025

Attendees and interested observers: See appendix

Objective of the meeting

With the review by ASIC of the MDA Legislative Instrument due in Sept 2026, this group is intended to ensure that MDA Providers approach ASIC with a single voice to attempt to ensure practical changes to the regulation.

This was the introductory meeting to;

- Confirm IMAP's role and proactive representation of MDA Providers
- Detail how ASIC is likely to approach review of the Instrument
- identify issues of concern in the current operation of MDA regulation
- identify areas of potential improvement

Review of Instrument

Simon Carrodus spoke about the ASIC process for reviewing Instruments and the potential frame of reference for LI 2016 / 968 and RG179

- Instruments have the force of law, RG's are ASICs interpretation of the law and the two do not necessarily align
- Instruments are temporary and expire every 10 years, which gives ASIC an opportunity to amend or reinterpret them in the light of changed circumstances / attitudes
- There is typically a consultation period, but IMAP can start to engage at any point ahead of formal consultation
- The MDA instrument is relief from the obligations of the Corps Act for managed investment schemes. ASIC is unlikely to allow it to simply expire but in this event MDA Providers would lose that relief and, if MDAs for retail investors were deemed Managed Investment Schemes, would be required to have a Responsible Entity, PDS, NTA, Constitution and all the other provisions of the Corps Act
- ASIC's review process is likely to consider the extent to which they believe it is operating effectively and efficiently. They may revisit the assessment they carried out in 2019 as part of the Platforms and MDA project which recommended significant change. In this case they will prepare a regulation impact statement of any proposed change
- Options from the forthcoming ASIC review could include:
    - Lapse – unlikely
    - Do nothing / no change to current Instrument
    - Modest change
    - Significant change
- Remaking the Instrument with some changes is the most likely scenario. ASIC's main concerns expressed at the time of the 2019 review were;
    - Rapid market growth, noting that the MDA market was expanding quickly and suggested it may be appropriate to increase regulatory controls

- Misalignment of interests as MDA providers' incentives might not always align with those of investors
- Skills gap in the people who were making the decisions on portfolio composition, the level of professionalism displayed by the Investment Committees
- Revenue capture by portfolio managers
- Vertical integration – linked to revenue capture

Key considerations

Key issues which discussion identified include:

Build understanding in ASIC: The benefits of MDAs for client are substantial compared to the counterfactual of adviser constructed portfolios. This point needs to be made clearly to ASIC.

Comparison with the lack of transparency in managed funds: the transparency and ready access which clients have to their holdings is a benefit to present.

Positive client outcomes: Presentations should emphasize the lack of adverse client outcomes / lack of AFCA complaints from MDAs.

Concerns

Issues which are significant for members of this group

NTA: The imposition of an NTA requirement on MDA Providers. Application of the RE obligations would result in the greater of $150,000, 0.5% of assets or 10% of revenue.

Wholesale investors: the current instrument relates only to retail investors and there is considerable disagreement between industry participants about the requirements for dealing with wholesale investors.

Review of SOAs: There is a requirement for MDA Providers, where the advice is provided by an External MDA Adviser to review every SoA – unique in the whole of retail financial services.

Areas for improvement:

Simplification: The current Instrument and RG lead to duplication of information provided to investors. There are significant opportunities to simplify disclosure & remove repetitiveness without reducing investor information or protection. This would potentially address the issue of clients being overwhelmed with paper / not reading the material provided.

This would have the added benefit of reducing the variation in processes between MDA Providers.

Overlaps with other legislation could be identified and addressed.

Fee Explanation: There is an opportunity to improve the disclosure of fees which are currently displayed in the SoA (specifically for the client) and in the FSG (in general terms)

Structure: Further separation between portfolio management and advice and a focus on regulatory requirements for expertise may be beneficial

Advice: Drawing the direct relationship between the client goals and the recommendation and demonstrating the suitability for the specific client

Other issues:

ASIC is undertaking Conflicts of Interest RG181 reviews. These have implications for MDA Providers. IMAP is following and will provide a submission.

AML / CTF changes are being brought into effect which will affect some MDA Providers

The possible imposition of a Performance Test akin to Your Future, Your Super for SMA's. There are implications for MDA's.

Next Steps

IMAP to circulate diagrams of MDA structures to ensure that we understand the services that participants offer and no significant offers are missed

Group members to review these notes and provide comments / amendments

Determine how to engage with FSC

IMAP to collate feedback, then organise a second meeting to discuss and agree a representative position.