

11 September 2026



By email: amanda.zeller@asic.gov.au

Enhanced Beneficial Ownership Reforms – Industry Implementation Issues and Further ASIC Engagement

Dear Amanda

Thank you again for ASIC's engagement with industry throughout the development of the enhanced beneficial ownership disclosure regime and for the significant changes made to the final framework in response to consultation feedback.

AFMA and its members recognise the considerable work undertaken by ASIC, particularly the decision to move from the proposed delta-adjusted methodology to a full notional methodology and the introduction of additional relief for certain products and activities.

Following publication of the final framework, AFMA has sought further feedback from members regarding implementation. While members acknowledge the significant improvements made to the final regime, common implementation and interpretive issues continue to arise as firms move from policy analysis into detailed implementation.

Members have consistently highlighted that certainty regarding a number of key aspects of the regime, including the final calculation methodology, operation of exemptions and exclusions, and reporting requirements, was not available until ASIC published the final instrument and updated guidance in July 2026. Consequently, much of the legal analysis, business requirements development and systems design necessary to operationalise the regime could not be completed earlier and is now being undertaken within a compressed implementation timeframe.

AFMA has recently discussed industry concerns regarding commencement timing with Treasury. Treasury has advised that it does not intend to pursue a legislative change to the commencement date. In light of that position, AFMA is focused on understanding what further practical steps may be available to support consistent and effective implementation both ahead of and following commencement.

Members continue to express genuine concerns regarding implementation readiness, particularly given the complexity of the new regime, the compressed implementation timeframe following publication of the final framework, and the need to resolve a number of remaining interpretive issues while simultaneously designing, building and testing systems and operational processes. A recurring theme in member feedback is that additional guidance and implementation support may help reduce the risk of inconsistent interpretations, operational errors and inaccurate disclosure outcomes during the early stages of the regime, thereby supporting the policy objective of improving transparency and market confidence.

Australian Financial Markets Association

ABN 69 793 968 987

Level 18, 45 Clarence Street Sydney NSW 2000 Tel: +612 9776 7905 Facsimile: +612 9776 4488
Email: secretariat@afma.com.au Web: www.afma.com.au

Areas Members Continue to Work Through

A number of common themes continue to emerge from member feedback, including:

- Accompanying document and disclosure obligations, including uncertainty regarding what constitutes a "relevant agreement" that must accompany a disclosure, the treatment of standard form derivative documentation, and the level of detail required when identifying and summarising departures from standard documentation. Members have identified this as a priority area where practical guidance and worked examples would assist in achieving consistent disclosure outcomes.
- Operation of the relatable derivative-based holding percentage and associated inquiry obligations. Members continue to work through the practical application of the "reasonable steps" exception and the extent of the inquiries expected to be undertaken in order to identify and report relatable derivative-based holding information. Members have noted that the legislation introduces a different awareness threshold from existing reporting frameworks, yet ASIC's guidance provides limited practical assistance regarding what "reasonable steps" might look like in practice, particularly for intermediaries entering into large volumes of transactions across multiple products, counterparties and jurisdictions. Additional guidance on reasonable processes, controls and information-gathering practices would assist firms in operationalising the requirement and reduce the risk of inconsistent approaches across the market.
- Practical operation of the market maker and client facilitation exclusions, including monitoring and evidencing compliance with the relevant conditions. Members have also identified uncertainty regarding the interpretation of the requirement that a licensee not be reasonably capable of determining, influencing or attempting to influence the affairs of the issuer, and would welcome additional practical guidance to support consistent application of the exclusion.
- Basket and index look-through requirements, associated data requirements and threshold calculations. Members have observed that the operation of the basket and index provisions has not been supported by detailed worked examples in ASIC's guidance, notwithstanding the complexity of the calculations and monitoring required in practice. Members have also identified uncertainty regarding the extent of the required look-through analysis in more complex structures, including where a derivative references an ETF that itself references an index or basket, or where a derivative references another derivative linked to an index or basket. Additional guidance regarding ASIC's expectations as to the appropriate degree of look-through would assist firms in determining the scope of monitoring obligations and implementing consistent approaches across the market.
- Treatment of certain derivative structures not specifically addressed in existing guidance, including products such as collars, call spreads and variable forward contracts.
- Commencement treatment of existing positions, including transitional reporting expectations and interaction with disclosures made under existing frameworks.
- Disclosure requirements where statutory exclusions are relied upon or subsequently cease to apply, including the information expected to be disclosed where relevant thresholds are reached.
- Reporting of offsetting short positions, including practical implementation and monitoring requirements.

- Practical reporting requirements under the new Substantial Holding Notice, including completion of various sections of the notice across different reporting scenarios and worked examples illustrating ASIC's expectations.
- Practical reporting and documentation obligations in a range of operational scenarios, including application of the two-business-day reporting timeframe to complex derivative and documentation arrangements.
- Several members have indicated that external legal advice is still being sought on aspects of the regime and, in a number of cases, legal analysis remains a prerequisite to finalising business requirements and system design. There is concern that, absent further clarification, firms could arrive at differing implementation approaches to common issues.

Potential Areas for ASIC Support

Given the limited period remaining before commencement, AFMA would welcome discussion with ASIC regarding whether there are additional measures that could assist implementation and promote consistent outcomes across the market.

Possible options may include:

- additional worked examples within existing guidance;
- worked examples illustrating operation of the Substantial Holding Notice, basket and index calculations, exemption conditions, relatable derivative-based holding percentages and documentation requirements;
- targeted updates to RG 5 or RG 222 on issues generating common questions;
- an ASIC Information Sheet addressing frequently raised implementation matters;
- publication of FAQs or other practical guidance;
- clarification of ASIC's expectations in relation to particular reporting scenarios; and
- periodic ASIC-industry roundtables to discuss implementation issues and areas where greater consistency of interpretation would benefit the market.

Implementation Expectations

AFMA is not suggesting that firms will not do what they can to comply with the regime from commencement.

To the contrary, members have established implementation programmes and are committing significant legal, operational and technology resources to readiness activities. However, given the relatively short period between finalisation of the framework and commencement, members remain concerned that some aspects of longer-term system and process enhancements may still be in development after 4 December 2026, notwithstanding genuine and substantial efforts to implement the regime.

In those circumstances, AFMA would welcome discussion regarding ASIC's implementation expectations and supervisory approach during the early stages of the regime.

Members are particularly interested in understanding the extent to which ASIC may have regard to factors such as:

- the scale and complexity of implementation programmes underway;
- evidence of active remediation and system enhancement activities;
- interim controls and governance arrangements implemented to support compliance;
- proactive engagement with ASIC regarding implementation challenges; and
- reasonable steps taken to identify, monitor and disclose relevant interests, deemed economic interests and associated reporting obligations,

when assessing implementation outcomes during the initial period following commencement.

Given the late finalisation of the framework and the ongoing work required to operationalise a number of the new requirements, members would welcome clarity as to whether ASIC intends to adopt a facilitative and implementation-focused supervisory approach during the early stages of the regime, particularly where firms can demonstrate genuine and reasonable efforts to comply and are actively working to address residual implementation issues.

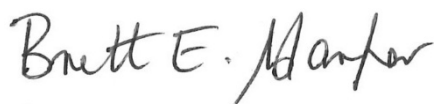
AFMA is not seeking to revisit the policy settings underpinning the reforms. Rather, members are looking for greater certainty regarding ASIC's practical expectations as firms move from implementation into business-as-usual operation.

Greater clarity on these matters would assist firms in prioritising implementation activities, managing operational risk and promoting consistent approaches across the market.

AFMA intends to convene an industry working group focused on implementation of the regime and would welcome the opportunity to share observations from that process with ASIC as appropriate.

We would be pleased to discuss any of the above further.

Yours sincerely,

A handwritten signature in dark ink, reading "Brett E. Harper". The signature is written in a cursive, flowing style.

Brett Harper