Law Council
OF AUSTRALIA

Business Law Section

17 August 2026

Australian Securities and Investments Commission
GPO Box 9827
MELBOURNE VIC 3001

By email: rri.consultation@asic.gov.au

Dear Sir/Madam

ASIC Simple Consultation CS 60—Proposed remake of low-volume financial markets instrument

Summary

1. This submission is made by the Financial Services Committee (the **Committee**) of the Business Law Section of the Law Council of Australia in response to Consultation Statement 60 *Proposed remake of low-volume financial markets instrument* (**CS 60**). CS 60 was issued by the Australian Securities and Investments Commission (**ASIC**) on 23 July 2026.

2. CS 60 proposes to remake ASIC Corporations (Low Volume Financial Markets) Instrument 2016/888 (**ASIC Instrument**), which is scheduled to sunset on 1 October 2026.

3. The Committee supports ASIC's proposal to remake the ASIC Instrument and, in particular, the continuation of the existing relief under the ASIC Instrument.

4. The Committee also recommends that ASIC seek Treasury's support for Parliament to make amendments to the *Corporations Act 2001* (Cth) to include the relief under the ASIC Instrument in the substantive law.

The purpose of the ASIC Instrument

5. The ASIC Instrument exempts low-volume financial markets from the requirement to hold an Australian market licence by exempting them from the operation of Part 7.2 of the Corporations Act. Under the ASIC Instrument, a low-volume financial market is defined as a financial market where no more than 100 completed transactions are entered into and the total value of all completed transactions does not exceed $1.5 million, in any 12-month period.

6. ASIC has provided a draft remade instrument, which indicates that the overall effect of the ASIC Instrument is intended to remain largely unchanged, except for an amendment to the definition of 'low volume financial market'. The draft includes minor amendments intended to improve clarity. The proposed changes comprise, in summary:

   (a) A substantive change in the definition of a 'low-volume financial market', with the value of completed transactions threshold being increased from $1.5 million to $2.5 million in any 12-month period; and

   (b) addition of a 'simplified outline' in section 4.

Submission

7. The Committee agrees that the relief contained within the ASIC Instrument is necessary and that such relief should continue to be available. The Committee notes that, as at 14 July 2026, there were 240 low volume market operators named on ASIC's register of entities under the ASIC Instrument (**Register**).[1]

8. The Committee also agrees that the ASIC Instrument should be remade for a further five years with minor amendments and largely unchanged effect, for the following reasons.

9. The ASIC Instrument provides relief in relation to financial market operations, which is clearly beneficial. This is reflected in ASIC's assessment that the ASIC Instrument is 'operating effectively and efficiently' and 'continues to form a necessary and useful part of the legislative framework'. Further, the reason that ASIC is undertaking this consultation, and that the remaking of the ASIC Instrument is proposed, is the effect of the 'sunsetting' regime for legislative instruments under section 50 of the *Legislation Act 2003* (Cth), under which legislative instruments automatically sunset after 10 years unless action is taken to preserve them.

10. The Committee also supports the substantive increase in the transaction threshold to $2.5 million, agreeing with ASIC's reasoning that this change accounts for factors such as inflation since 2016. The Committee also welcomes the inclusion of the simplified outline of the instrument and considers that it is beneficial to include a brief summary explaining the effect of the relief.

11. The Committee considers that, as a matter of policy coherence and regulatory certainty, it would be preferable for the relief currently in the ASIC Instrument to be incorporated into the Corporations Act by Parliament. This would improve navigability of the legislative framework, reduce the level of regulatory complexity and avoid the associated costs that are incurred as a consequence of ASIC needing to deploy resources to undertake the consultation process and draft the new instrument.

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[1] See https://download.asic.gov.au/media/nlijmyg0/lvfm-register-14-july-2026.pdf, accessed 17 August 2026.

12. While the Committee acknowledges that it is now ASIC's practice to remake instruments for only a five-year period rather than the maximum 10-year period, it should be noted that this means the regulatory maintenance costs associated with undertaking consultation and drafting fresh instruments are double what they would be over a 10-year period if the ASIC Instruments were made for the maximum 10-year period.

13. The Committee also recommends that ASIC Information Sheet 217 *Licensing relief for low volume financial markets*, the Register itself and any other ASIC documents that cross-refer to the ASIC Instrument are promptly updated once the ASIC Instrument has been remade, in order to ensure that those other documents are kept up to date and do not inadvertently mislead the public by erroneously referring to a non-current legislative instrument.

14. The Committee would welcome the opportunity to discuss these matters further. ASIC can contact Steven Rice, Financial Markets Lead [redacted] if there is interest in doing so.

Yours sincerely



Adrian Varrasso
Chair, Business Law Section