

Submission on discussion document: *Exposure draft: Financial Markets Conduct (Regulated Financial Advice Disclosure) Amendment Regulations 2019*

Your name and organisation

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Organisation	Milford Asset Management Limited

Responses to discussion document questions

1	<p>Will the proposed record-keeping requirement be workable in practice?</p> <p>We think it should be a client-centric approach to record-keeping, in that what should be important is identifying the disclosure received (and when) by each client.</p> <p>We think that the requirement would be unduly onerous in practice if the requirement was for a separate additional list of disclosures made to be maintained because for many providers it would likely require a new system by June 2020.</p>
2	<p>Do you have any comments on the drafting of the Regulations that will require information to be made publicly available?</p> <p>No comment.</p>
3	<p>Do you have any comments on the draft Regulations that will require the disclosure of information when the nature and scope of the advice is known?</p> <p>No comment.</p>
4	<p>Do you have any comments on the draft Regulations that will require the disclosure of information when the financial advice is given?</p> <p>This advice stage of the process is often very close in time to the stage when the nature and scope of advice is known and the Initial Information disclosure is given.</p> <p>Milford would like to disclose clearly and succinctly and provide pertinent information to their clients, and considers that these stages should be able to be combined where possible to suit the needs of the client. For example, if there is no fee charged for the advice given (or the fee is not payable if the client chooses not to implement the advice), then the client would not be disadvantaged from having received the disclosure at the time the advice is received, because the client can then decide not to follow the advice and they will not have incurred a cost.</p> <p>Further, the intent of the regulations is for retail clients to read the information, consider it and take it seriously. Our concern is that the repetitive nature of the information being disclosed at both stages could mean that the client will not necessarily see the new information being disclosed or may result in the client not reading the disclosed information.</p> <p>To the extent that the information disclosed in the initial information disclosure has changed,</p>

then this would be dealt with by way of the material change update required pursuant to regulation 229E(5).

We also query the value of including the “exercise care, diligence and skill” duty, which will apply regardless, in the disclosure document.

5

Do you have any comments on the draft Regulations that will require the disclosure of a provider’s complaints handling and dispute resolution processes when a complaint is received?

No comment on the requirement itself.

Milford notes that under the current Scheme terms for at least two external dispute resolution providers, the financial advice provider would need to first investigate the complaint before a client could notify it to the external Scheme for investigation and resolution. We assume there is no intent to override the current process where the complaint process starts with (and is investigated by) the provider, at least in the first instance.

6

Do you have any comments on the draft Regulations that set the manner in which information must be disclosed?

In terms of continuing ongoing advice (for example, in the class DIMS context where recommendations are made to clients on a roughly annual basis), Milford understands that it would need to disclose the necessary information on a (roughly) annual basis, when the recommendations are sent to the client.

However, Milford considers that it might be more practical (both for the provider and the clients) and timely for the disclosure regulations to permit the ongoing disclosure to be provided to clients at a separate time, on an annual (or more frequent) basis. For example, this could be done when undertaking reporting to the clients, noting that the disclosure would need to be prominent.

7

Are there instances in your business when regulation 229D might apply to someone who is not the one to give advice to the client? Please give examples and provide any comments on how the draft Regulations apply in such scenarios.

No comment.

8

Do you have any further comments on new regulation 229A to 229H of the draft Regulations?

No comment.

9

Do you have any further comments on new Schedule 21A in the draft Regulations?

No comment.

10

What (if any) transitional provisions should be included in the regulations?

If the record-keeping requirement is for a separate additional list of disclosures made to be maintained (see our response above to Question 1), then we think it would be better to provide more time for a system implementation, say by December 2020.