These FAQs are about the implementation of the Design and Distribution Obligations (DDO). They are for adviser use only.

Design and Distribution Obligations (DDO)

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DDO Summary	
1. What is DDO?	The Design and Distribution Obligations (DDO) introduced (5 Oct 2021) a new approach to consumer protection, by moving away from relying on disclosure as the main form of protection and introducing new measures to improve the likelihood that products are distributed to clients for whom they've been designed (ie the target market).
2. What adviser conduct does DDO relate to?	Advisers must meet the distribution obligations in relation to their 'retail product distribution conduct', namely: giving financial product advice (whether general advice, such as marketing materials, or personal advice, such as an individual financial plan); giving a PDS or disclosure document; and, arranging for someone to apply for or acquire a financial product (such as by assisting with an application form or investment instruction), in each case where the client is a retail client. There are some exceptions that apply, where the conduct includes the provision of personal advice or arranging to implement personal advice, but the exceptions do not extend to record keeping or reporting.
3. Which products does DDO relate to and why?	The obligations under DDO apply to a wide variety of financial products, including managed funds, derivatives, life insurance, general insurance, superannuation, deposit products. There are a variety of specific inclusions (eg IDPSs and nominee and custody services) and specific exclusions (eg fully paid ordinary shares, margin loans and MySuper products). While generally excluded, shares, bonds and other listed securities may be included under certain circumstances such as during a period where a prospectus is active, Some products are included but the obligations that apply are reduced (eg Exchange Traded Products).

QUESTION	RESPONSE
4. Does DDO apply to Exchange Traded Products/Funds (ETPs/ETFs)?	If the ETP/ETF product is available on the Australian Securities Exchange (ASX) or another licensed market, and is traded either directly or via a platform, you will be exempt from the following distribution obligations in relation to that dealing: • assessing the TMD to determine whether the client is in or outside of the target market • cease distribution where a TMD is not available where you have not provided personal advice • take reasonable steps to ensure the distribution is consistent with the TMD and keep records of those steps where you have not provided personal advice and • report dealings outside of the TMD to the licensee and/or significant dealings to the product issuer. However, the DDO regulations specifically require a TMD to be made for ETFs, and your complaints reporting obligations will still apply to these products.
5. Will trading of a security on a licensed market, such as ASX, be caught under DDO?	DDO will not apply when trading any securities (eg ordinary shares, LICs, REITS, etc) on ASX or other financial markets after the primary issuance of the security (ie once the IPO offer is closed and the security is listed on the ASX).

QUESTION	RESPONSE
6. What are the key obligations of DDO for distributors (advisers)?	**Product distributors must:** • not engage in 'retail product distribution conduct' in relation to a product unless the distributor is providing personal advice or reasonably believes (after making all such reasonable enquiries) that a 'target market determination' (TMD) for the product has been made, or that a TMD for the product is not required • not engage in 'retail product distribution conduct' in relation to a product where the distributor knows or should know that the product issuer has decided the TMD for the product is no longer appropriate and has taken steps to notify distributors accordingly • take reasonable steps that will, or are reasonably like to, result in their distribution of a product being consistent with the TMD for the product (unless personal advice is being provided) • notify the product issuer if they become aware of a significant dealing in the product that is not consistent with the TMD as soon as practicable, but within 10 business days after they become aware • notify the product issuer of the number of complaints received during a reporting period (as specified in the TMD) within 10 business days after the end of the reporting period • notify the product issuer of any other information acquired during a reporting period (each as specified in the TMD) within 10 business days after the end of the reporting period • keep complete and accurate records of distribution information, including the distributor's reasonable steps taken (where relevant), the number of complaints received about a product and other information reported to the product issuer.
7. What are the key obligations of DDO for Issuers?	**Product issuers must:** • make a TMD for each product covered by DDO • take reasonable steps that that will, or are reasonably like to, result in distribution of a product being consistent with the most recent TMD • notify ASIC if they become aware of a significant dealing in a product that is not consistent with the TMD for the product as soon as practicable, but within 10 business days after they become aware • keep complete and accurate records of decisions made in relation to TMDs (including about the applicable content and appropriateness requirements), reviews and reasons for those decisions, as well as distribution information.

QUESTION	RESPONSE

Target Market Determinations (TMDs)

1. What is a Target Market Determination?	An issuer is required to make a Target Market Determination (TMD) for a product covered by DDO. The TMD must be in writing and must clearly set out details relating to the target market. It's a product issuer's responsibility to create a TMD for each of their products covered by DDO that: 1. Describes the target market: outlines the class of customers the product has been designed for. 2. Outlines distribution conditions: this details the conditions or restrictions on the sale of this product. 3. Establishes reporting requirements: sets out the relevant information that must be provided to a product issuer by product distributors, and at what frequency. 4. Specify the review triggers that would lead to a re-evaluation of the TMD, and also specify minimum review periods.
2. Is it the same as a PDS?	No. A PDS is a disclosure document, but a TMD is not.
3. Where can advisers locate TMDs?	TMDs are publicly available on our product websites (where you find PDSs), research houses and likely via financial planning software. You can also view MLC Product's TMDS via the links below: Asset Management products TMDs Wealth products TMDs Underlying Investments Product TMDs Superannuation-based insurance products TMDs
4. Can clients see the TMDs?	TMDs are not designed to be disclosure documents for consumers but advisers may nevertheless discuss TMDs with clients.
5. Are advisers required to provide the TMD to the client?	No. They may if they wish, but they're not required to provide the TMD to the client. TMDs are not disclosure documents. The TMDs are developed with the distributor in mind, so while they are publicly available, the intended audience is distributors.

Adviser Obligations

1. What does 'reasonable steps' relate to?	When advisers distribute products to clients (outside of personal advice and implementing personal advice) they must take reasonable steps that will, or are likely to, result in the distribution of that product being consistent with the conditions specified in the TMD. This is to reduce the chance that a product may be distributed to a client where the product may not be suitable for that particular client.
2. What does 'significant dealings' relate to?	They are dealings that are significant and also inconsistent with the TMD for the product. They must be reported to a product issuer to help them make timely and appropriate decisions regarding their TMD (for example, a decision to review the TMD as it may no longer be appropriate).
3. What reporting is required and by whom?	Reporting will be required by advisers and licensees as distributors. A product's TMD will specify the reporting requirements but will typically include complaints received from clients about the product and significant dealings. Advisers can find more information about reporting, including accessing downloadable templates via the DDO reporting portals below: MLC Wealth Product DDO reporting portal MLC Asset Management DDO reporting portal MLC Insurance DDO reporting portal
4. What are distribution conditions?	Product issuers will specify, as part of their product's TMD, any conditions or restrictions on how their product should be distributed. Distribution conditions can include minimum amounts and how to distribute eg via personal advice. Again, they can differ from one TMD to the next. Product distributors will need to comply with the distribution conditions in the TMD. If a distributor engages in conduct that is inconsistent with a distribution condition, they may well have to report it to the product issuer as a significant inconsistent dealing.
5. What's happening with the nil-reporting requirement?	Under the original DDO requirements, advisers and licensees were required to report complaints to product issuers in writing during the reporting period. This included submitting a 'nil complaints' report even if no complaints were received. In September, Treasury issued amendments to the DDO regime to state that **advisers will not have to report nil complaints to product issuers,** after receiving feedback from stakeholders (including MLC). This is a positive outcome for advisers and licensees by removing an unnecessary reporting step.
6. What record keeping obligations apply to product distributors under DDO?	Advisers must keep and provide accurate records of all distribution information. This will ordinarily include the reasonable steps taken to ensure their distribution conduct was likely to be consistent with the product's TMD.

7. Does DDO apply to personal advice?	The reasonable steps obligation does not apply to the extent an adviser's conduct includes giving personal advice and arranging to implement that advice. However, the reasonable steps obligation will apply to any general advice the adviser may give. Even if an adviser's conduct includes giving personal advice and arranging to implement that advice, the adviser will still need to keep accurate records and report certain information to the product issuer (directly or through their licensee).
8. If a client holds a product before 5 October 2021 and is outside of the target market, do they need to change products?	DDO does not apply retrospectively. When reviewing an existing client who is outside of the target market, you may wish to consider if there is a more suitable product.
9. Should advisers review existing clients to ensure there are no significant dealings?	DDO does not apply retrospectively.

MLC and DDO

1. What do advisers need to do differently when transacting on MLC products?	When advisers use either n-link or MLC online, it will be assumed they're providing personal advice. If not, advisers can use one of our paper forms found on mlc.com.au. If you believe that the transaction involves a significant dealing that is not consistent with the TMD, you will need to complete a significant dealing advice and provide it to the product issuer.
2. Are there updates to the Licensee Remuneration Agreements?	There are no plans to amend the Licensee Remuneration Agreements as we're not imposing any requirements beyond those required by law.
3. Does a Self-Managed Superannuation (SMSF) Fund need a TMD?	SMSFs do not require a TMD. Where an investment vehicle is being recommended for an SMSF advisers will need to consider the TMD with respect to the SMSF's relevant circumstances.
4. Does DDO apply to Separately Managed Accounts (SMAs)?	The types of retail products that are in-scope for DDO are those that are required to have a prospectus, Product Disclosure Statement (PDS) or a disclosure document and are available for acquisition in Australia. This includes SMAs. Generally, where the SMA is distributed via a platform, the platform provider will be the issuer of all SMAs on the investment menu and they will issue one SMA TMD for their platform. View our SMA TMD.

5. Do we need a TMD for MLC Managed Account Strategies?	No, MLC does not issue these products; we provide our investment expertise to our clients. It is the responsibility of the Responsible Entity to issue a TMD.
6. Why are there different approaches in issuing a TMD for Managed Portfolios / Managed Accounts?	Each product issuer may take a different approach to the preparation of TMDs for products such as Separately Managed Accounts. ASIC has not mandated a specific approach for compliance with the TMD requirements or endorsed templates produced or used by any single issuer.
7. Where can I get the TMD for an investment available on a superannuation product (eg MLC MasterKey Super Fundamentals – MLC Inflation Plus), and what does this mean when I provide advice?	A financial product is defined as products for which a Product Disclosure Statement (PDS) must be prepared under Pt 7.9 of the Corporations Act (eg interests in a managed investment scheme, general insurance, and interests in a superannuation fund). An issuer of superannuation products does not need to prepare a separate TMD document for each choice investment option and insurance offered within their master trust products as they are not stand alone financial products like those for example offered in wrap superannuation products. This is why in some MLC superannuation product TMDs (i.e. MLC MasterKey Super Fundamentals and MLC MasterKey Business Super) there will be references to the target market of the superannuation product and a brief description of the investment options and insurance offered within it.
8. Where can advisers find more information?	We encourage advisers to talk to your licensees to find out what support is being provided. Advisers can also contact their MLC representative.

Important notice

Please note that these Q&As set out a summary giving you basic information about a particular topic. They do not cover the whole of the relevant law regarding that topic, and they are not a substitute for professional advice.

ASIC has published materials that advisers should consider. Information Sheet 264 (INFO 264) FAQs: Design and distribution obligations for advice licensees and financial advisers is available on ASIC's website, as is RG 274 Product design and distribution obligations.

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