REGULATORY GUIDE 132

Funds management: Compliance and oversight

June 2022

About this guide

This guide is for:

- responsible entities of registered managed investment schemes;
- corporate directors of retail corporate collective investment vehicles (retail CCIVs); and
- Australian passport fund operators.

Parts of this guide are also relevant for:

- wholesale scheme operators;
- corporate directors of wholesale corporate collective investment vehicles (wholesale CCIVs);
- investor directed portfolio service (IDPS) operators; and
- managed discretionary account (MDA) providers.

Aspects of this guide are also relevant to those with oversight responsibilities, including compliance committees, independent oversight entities, compliance plan auditors and annual implementation reviewers.

It gives guidance on the compliance and oversight obligations these entities must meet under the Corporations Act and other legal obligations.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Document history

This guide was issued in June 2022 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Regulatory Guide 132, issued July 2018
- Superseded Regulatory Guide 132, issued August 1998, updated November 1998, rebadged as a regulatory guide 5 July 2007
- Superseded Regulatory Guides 116, 117, 118, 119 and 120, issued April 2004, replaced by Regulatory Guide 132 July 2018 and withdrawn

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Contents

A Overview

Key points

An effective and responsive compliance management system that is planned, implemented, evaluated and improved (as needed) will allow an Australian financial services (AFS) licensee to demonstrate its commitment to complying with its obligations under the *Corporations Act 2001* (Corporations Act) and *Australian Securities and Investments Commission Act 2001* (ASIC Act).

Further, compliance plans are required for registered managed investment schemes (registered schemes) and retail corporate collective investment vehicles (retail CCIVs) ('investment funds'). Compliance plans must meet the requirements of the Corporations Act. This is one part of a fund operator's compliance management system.

Oversight of the fund's operation is as follows:

- for registered schemes—the compliance committee or the external directors of the responsible entity and compliance plan audit;
- for CCIVs—the external directors of the corporate director and compliance plan audit; and
- for Australian passport funds—additionally, the independent oversight entity and annual implementation review.

The compliance and oversight arrangements should reflect the values, objectives and strategy of the responsible entity, corporate director, wholesale scheme operator, investor directed portfolio service (IDPS) operator or managed discretionary account (MDA) provider.

Who this guide applies to

RG 132.1 This guide is for:

(a) responsible entities of registered schemes (see Sections B, C and D);

(b) corporate directors of retail CCIVs (see Sections B, C and D); and

Note: This guide applies to all types of registered schemes and retail CCIVs, even if we have given other guidance on specific compliance obligations for that type of investment fund.

(c) Australian passport fund operators (see Sections B, C and D).

RG 132.2 Parts of this guide are also relevant to:

(a) operators of managed investment schemes that are unregistered because of s601ED(2), who hold an AFS licence in relation to the issue of interests or other financial services provided in the operation of the scheme ('wholesale scheme operators') (see Section B);

(b) corporate directors of wholesale corporate collective investment vehicles (wholesale CCIVs) (see Section B);

(c) IDPS operators (see Section B); and

Note: For more information for IDPS operators, see Regulatory Guide 148 *Platforms that are managed investment schemes and nominee and custody services* (RG 148).

(d) MDA providers (see Section B).

Note: For more information for MDA providers, see Regulatory Guide 179 *Managed discretionary accounts* (RG 179).

RG 132.3 In this guide, as illustrated in Figure 1:

(a) 'investment funds' refers to registered schemes and retail CCIVs;

(b) 'investment fund operators' refers to responsible entities of registered schemes and corporate directors of retail CCIVs;

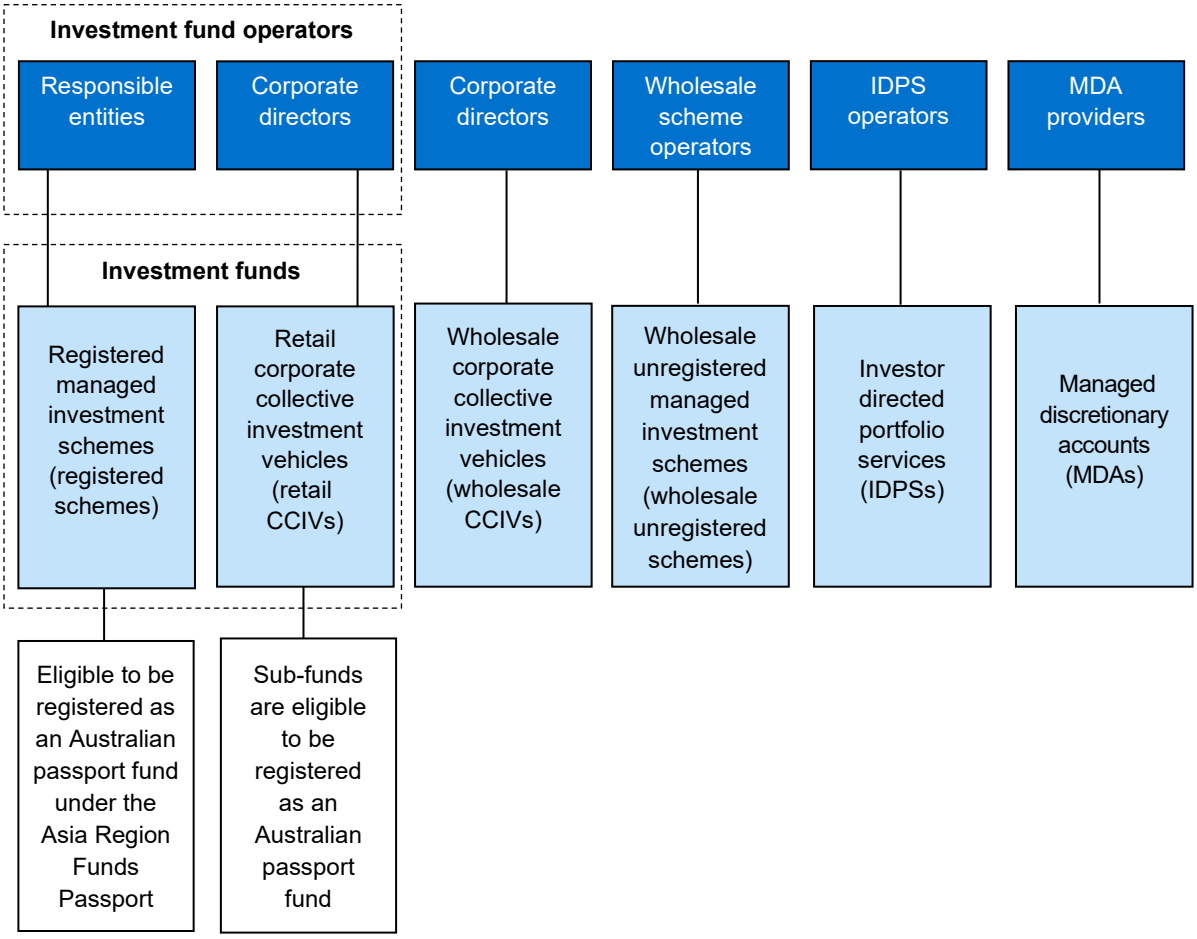
(c) 'Australian passport fund' refers to a registered scheme or sub-fund of a retail CCIV that is also registered as a passport fund under the Asia Region Funds Passport;

(d) 'wholesale CCIVs' and 'wholesale unregistered schemes' refer to funds that are operated by corporate directors and wholesale scheme operators, respectively, and have wholesale members only; and

Note: See the 'Key terms' for the definitions of 'wholesale scheme operator' and 'wholesale unregistered scheme'.

(e) 'IDPSs' and 'MDAs' refer to funds that are operated by IDPS operators and MDA providers, respectively.

Figure 1: Who this guide applies to



Note: See RG 132.3 for the information in this figure (accessible version).

RG 132.4 Table 1 sets out the topics covered in this guide, and which entities the guidance applies to.

Table 1: Who this guide applies to

Guidance in this guide	Registered schemes	Wholesale unregistered schemes	Retail CCIVs	Wholesale CCIVs	IDPSs	MDAs	Australian passport funds
Compliance management systems (Section B)	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Compliance plans (Section C)	Yes	No	Yes	No	No	No	Yes

Guidance in this guide	Registered schemes	Wholesale unregistered schemes	Retail CCIVs	Wholesale CCIVs	IDPSs	MDAs	Australian passport funds
Compliance committees (Section D: RG 132.185–RG 000.197)	Yes—if less than half the responsible entity's directors are external directors	No	No	No	No	No	Yes—if the Australian passport fund is a registered scheme that is required to have a compliance committee
Compliance plan audits (Section D: RG 132.198–RG 132.214)	Yes	No	Yes	No	No	No	Yes—if the registered scheme or retail CCIV has a passport fund as a sub-fund
Annual implementation reviews and independent oversight entities (Section D: RG 132.215–RG 132.228)	No—unless the registered scheme is an Australian passport fund	No	No—unless a sub-fund of the CCIV is an Australian passport fund	No	No	No	Yes

RG 132.5 Aspects of this guide are also relevant to those with oversight responsibilities, such as:

(a) directors of the responsible entity of a registered scheme, and the corporate director of a retail CCIV (see Sections B, C and D);

(b) staff involved in undertaking or monitoring compliance activities (see Sections B and C);

(c) members of compliance committees (compliance committee members) and independent oversight entities (see Sections B, C and D);

(d) compliance plan auditors (see Sections C and D); and

(e) annual implementation reviewers (see Sections C and D).

Compliance management systems

RG 132.6 An AFS licensee has an obligation to:

(a) do all things necessary to ensure its financial services are provided efficiently, honestly and fairly (see s912A(1)(a) of the Corporations Act);

(b) comply with the financial services laws (see s912A(1)(c)); and

(c) comply with the conditions on its AFS licence (see s912A(1)(b)).

Note: In this guide, references to sections (s), chapters (Chs) and parts (Pts) are to the Corporations Act, unless otherwise specified.

RG 132.7 In Regulatory Guide 104 *AFS licensing: Meeting the general obligations* (RG 104), we set out our general guidance for AFS licensees on what is required to meet the broad compliance obligations under s912A.

RG 132.8 This guide contains additional tailored guidance to help responsible entities, corporate directors, wholesale scheme operators, IDPS operators and MDA providers meet their broad compliance obligations.

RG 132.9 We have also provided guidance for fund operators on their requirement to have adequate risk management systems under s912A(h): see Regulatory Guide 259 *Risk management systems of responsible entities* (RG 259). Importantly, compliance and risk management obligations are not mutually exclusive. Therefore, this guide should be read together with RG 259.

RG 132.10 A responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider must have measures in place for ensuring it complies with its obligations as an AFS licensee, including the broad compliance obligations, on an ongoing basis: see condition 4 of the standard licence conditions in Pro Forma 209 *Australian financial services licence conditions* (PF 209).

RG 132.11 An effective and responsive compliance management system that is planned, implemented, evaluated and improved (as needed) will allow a responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider to demonstrate its commitment to complying with its obligations under the Corporations Act and ASIC Act.

RG 132.12 Australian Standard AS ISO 19600:2015 *Compliance management systems—Guidelines* provides guidance for an effective and responsive compliance management system within an organisation. Based on this guidance, we consider that the key features of an effective compliance management system include:

(a) an understanding of the context in which the managed investment scheme, CCIV, IDPS or MDA operates;

(b) clear articulation of the values, objectives and strategy of the responsible entity, corporate director, wholesale scheme operator, IDPS

operator or MDA provider. The compliance management system should reflect the values, objectives and strategy of the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider;

(c) identification of compliance obligations, risks and objectives;

(d) clarity about the roles and responsibilities of those people involved in the compliance management system;

(e) organisational support for the compliance management system;

(f) compliance controls that respond to the identified compliance obligations, risks and objectives;

(g) appropriate documentation and record keeping;

(h) monitoring and review of the compliance management system for continual improvement; and

(i) procedures where non-compliance occurs.

RG 132.13 Compliance and risk management are not mutually exclusive, but operate together. A responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider can choose to implement:

(a) integrated compliance and risk management systems; or

(b) a compliance management system and distinct risk management systems.

Note: For our detailed guidance on compliance management systems, see Section B.

Compliance plans

RG 132.14 In addition to its broad compliance obligation as an AFS licensee, an investment fund operator has a duty to:

(a) ensure that the investment fund's compliance plan meets the requirements of the Corporations Act; and

(b) comply with the compliance plan (see s601FC and 1224D(2)(g)).

RG 132.15 The compliance plan must set out adequate measures that the investment fund operator will apply when fulfilling its responsibilities in relation to the investment fund to ensure compliance with the Corporations Act and the fund's constitution: see s601HA and 1226A.

RG 132.16 The Corporations Act does not specify what constitutes adequate measures (although for a registered scheme s601HA provides a non-exhaustive list of matters for which there must be adequate arrangements—an approach intended to provide flexibility for responsible entities to create compliance controls that are tailored for the particular scheme). An investment fund operator will therefore need to develop and implement an appropriate set of

compliance controls to address the compliance risks faced in operating the investment fund.

> Note: In this guide, we use the term 'compliance controls' instead of 'compliance measures', as this reflects AS ISO 19600:2015. Compliance controls may be in the form of a process, activity or measure.

RG 132.17 Compliance plans and the compliance controls set out in them are an integral component of effective compliance management systems, and play a key role in protecting investors and promoting investors' interests.

RG 132.18 When we look at compliance plans, we look at whether:

(a) the compliance controls in the compliance plan are aligned with the responsible entity's values, objectives and strategy, taking into account the nature, scale and complexity of the particular investment fund;

(b) the compliance controls reflect the actual procedures, processes and practices of the investment fund operator and the investment fund;

(c) there is a clear and demonstrated nexus between the compliance obligations and compliance controls;

(d) the compliance controls are set out with enough certainty to allow the investment fund operator, ASIC and the auditor of the compliance plan to assess whether the operator has complied with the compliance plan;

(e) the compliance plan is written in a clear manner so that it is usable by its target audience;

(f) the compliance plan provides for identified functional roles for carrying out a particular compliance control and the monitoring of that compliance control;

(g) the frequency and quantity of compliance controls, and their monitoring, are sufficient to effectively manage the compliance risks;

(h) compliance with the compliance controls is monitored, the processes for monitoring performance of the compliance controls are described with sufficient details and certainty to ensure whether they will be or have been complied with, and any non-compliance is reported to the compliance committee, the board or ASIC as required; and

(i) the compliance plan is maintained so that the compliance controls, and the performance of those compliance controls, are adequate in light of any changes to the investment fund, the investment fund operator or the environment in which they both operate.

RG 132.19 Compliance risks may apply across all of the investment funds operated by the investment fund operator. We refer to these types of risks as group

compliance risks. Group compliance risks to be addressed in a compliance plan generally arise from issues relating to:

(a) requirements that apply because the investment fund operator is an AFS licensee, including requirements in relation to financial resources, conflicts of interest, complaints handling, breach reporting and competency; or

(b) management of staff, finances and other processes at the investment fund operator level, such as meetings of directors, training, recruitment and experience, cyber resilience, accounts and record keeping, and disclosure and reporting.

RG 132.20 For different types of investment funds, there will also be compliance risks driven by the nature, diversity and structure of assets invested in. When we look at a compliance plan, we will look for these to be addressed.

Note: For the matters that we consider when we look at compliance plans, see Section C. The particular compliance controls adopted will depend on the specific nature of the investment fund and its business.

Oversight

RG 132.21 The directors of the fund operator are ultimately responsible for ensuring that the operator complies with its obligations. However, in addition to the directors, oversight and assurance of the operator's compliance occurs through:

(a) the compliance committee (required for registered schemes where less than half of the directors of the responsible entity are external directors). The compliance committee is responsible for assessing whether the compliance plan is adequate, monitoring the responsible entity's compliance with the compliance plan, reporting breaches to the responsible entity and, if the responsible entity is not taking action to adequately deal with a reported breach, reporting the matter to ASIC; and

(b) the compliance plan auditor. The compliance plan auditor conducts an annual audit to assess whether the investment fund operator has complied with the compliance plan and whether the compliance plan continues to meet the requirements of the Corporations Act.

RG 132.22 Australian passport funds are also required to have an independent oversight entity and annual implementation review: see RG 132.31–RG 132.32.

Note: For more information on oversight of investment funds and Australian passport funds, see Section D.

Compliance plan audit

RG 132.23 An investment fund operator must ensure that at all times a registered company auditor, an audit firm or an authorised audit company is engaged to audit compliance with the investment fund's compliance plan: see s601HG(1) and 1226F(1).

RG 132.24 Under s601HG(3) and 1226G, the auditor of a compliance plan must:

(a) examine the compliance plan;

(b) carry out an audit of the investment fund operator's compliance with the compliance plan during the financial year; and

(c) give the investment fund operator a report that states the auditor's opinion on whether:

(i) the investment fund operator has complied with the compliance plan during the financial year; and

(ii) the plan continues to meet the requirements of the Corporations Act.

RG 132.25 The appointment of a compliance plan auditor, who audits the compliance plan annually, serves as an independent external oversight of the investment fund operator's compliance arrangements to ensure the compliance plan continues to meet the requirements of the Corporations Act.

Note: For our expectations about audits of an investment fund's compliance plan, see Section D.

Compliance committee

RG 132.26 A responsible entity of a registered scheme must establish a compliance committee if less than half of its directors are external directors: see s601JA. The compliance committee must have at least three members, and the majority must be external members: see s601JB.

Note: At least half of the directors of the corporate director of a retail CCIV must be external directors: see s1224G. This means that a retail CCIV is not required to establish a compliance committee.

RG 132.27 Section 601JC provides that the compliance committee must:

(a) monitor to what extent the responsible entity complies with the compliance plan, and report on its findings to the responsible entity;

(b) report to the responsible entity any breaches of the Corporations Act or the constitution that the compliance committee becomes aware of or suspects;

(c) report to ASIC if the committee is of the view that the responsible entity has not taken, or does not propose to take, appropriate action to deal with a reported breach of the Corporations Act or the constitution; and

(d) assess at regular intervals whether the compliance plan is adequate, report to the responsible entity on that assessment, and make recommendations to the responsible entity about any changes that it considers should be made to the compliance plan.

RG 132.28 Regardless of whether there is a compliance committee, the board of directors remains ultimately responsible for ensuring that the responsible entity complies with its obligations. The compliance committee assists the board by operating, in part, as an intermediary between the responsible entity's compliance function and the board in relation to compliance monitoring, assessment and reporting. However, it is important that the compliance function has a direct reporting line to the board to ensure that the board is made fully aware of any compliance issues, so that the board can effectively carry out its governance responsibilities.

RG 132.29 If a registered scheme does not have a compliance committee, we will look for the external directors to be particularly vigilant and actively engaged with compliance issues.

Note: For information on the appointment and conduct of compliance committees, see Section D.

Australian passport funds

RG 132.30 For Australian passport funds, in addition to the compliance plan requirements under the Corporations Act, the Australian Passport Rules require the operator of the fund to have a compliance framework that ensures adequate compliance with relevant laws and regulations: see section 8(2)(d) of the Australian Passport Rules.

Note 1: The Australian Passport Rules are the *Corporations (Passport) Rules 2018* made under s1211 and 1211A by the Australian Minister responsible for the Asia Region Funds Passport. Under s1211(2), the Australian Passport Rules must be substantially the same as the Passport Rules set out in Annex 3 to the Memorandum of Cooperation on the Establishment and Implementation of the Asia Region Funds Passport (Memorandum of Cooperation).

Note 2: For the matters that we will look to be addressed in an Australian passport fund's compliance plan, see Section C.

RG 132.31 An Australian passport fund is also subject to oversight by an independent oversight entity: see section 14 of the Australian Passport Rules. For Australian passport funds, the independent oversight entity is each of the external directors of the Australian passport fund operator or, if there is a compliance committee, the compliance committee.

RG 132.32 In addition to the compliance plan audit requirements under the Corporations Act, an Australian passport fund is subject to an annual implementation review: see section 15 of the Australian Passport Rules.

Note: For information on our expectations for the conduct of the annual implementation review and the oversight functions of the independent oversight entity, see Section D.

Other relevant obligations

RG 132.33 The compliance and oversight obligations set out in this guide interact with other obligations under the Corporations Act for a responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider. This guide should be read in conjunction with those other regulatory guides. Table 2 identifies related guidance that may be relevant.

Table 2: Other relevant obligations

Obligation and Corporations Act reference	Further guidance	Explanation
Establishing and registering an investment fund: s601EA and 1222A	Regulatory Guide 131 *Funds management: Establishing and registering a fund* (RG 131) Information Sheet 272 *How to register a corporate collective investment vehicle and sub-fund* (INFO 272)	RG 131 sets out how we assess whether the compliance plan meets the requirements of the Corporations Act when deciding whether we will register a managed investment scheme or Australian passport fund. INFO 172 provides guidance on how to establish and register a CCIV and sub-funds of a CCIV.
Constitutions: s601GA, 601GB, 1223B, 1223G and 1223H	Regulatory Guide 134 *Funds management: Constitutions* (RG 134)	The constitution of a registered scheme or retail CCIV sets out some or all of the rights, duties and liabilities of the investment fund operator in its operation of the fund. The investment fund operator must ensure that the fund's compliance and oversight arrangements are sufficient to ensure compliance with the fund's constitution.

Obligation and Corporations Act reference	Further guidance	Explanation
General obligations as an AFS licensee: s912A	Regulatory Guide 104 *AFS licensing: Meeting the general obligations* (RG 104)	Responsible entities, corporate directors, wholesale scheme operators, IDPS operators and MDA providers have an obligation as an AFS licensee to comply with the financial services laws and the conditions of their licence. RG 104 describes how we assess compliance with most of the general obligations under s912A. This guide expands on our general guidance for AFS licensees in RG 104 to cover the specific compliance and oversight obligations for responsible entities, corporate directors, wholesale scheme operators, IDPS operators and MDA providers.
Adequate risk management systems: s912A(1)(h)	Regulatory Guide 259 *Risk management systems of responsible entities* (RG 259)	Responsible entities, corporate directors, wholesale scheme operators, IDPS operators and MDA providers have an obligation to have adequate risk management systems. RG 259 outlines our expectations of responsible entities and corporate directors when complying with the risk management obligation. Where business risks may affect compliance with compliance obligations, we will look for them to be addressed as part of the compliance management system.
Adequate financial resources: s912A(1)(d)	Regulatory Guide 166 *AFS licensing: Financial requirements* (RG 166)	Responsible entities, corporate directors, wholesale scheme operators, IDPS operators and MDA providers have an obligation to have adequate financial resources to provide the financial services covered by their AFS licence. RG 166 sets out the financial requirements that must be met by AFS licensees.
Organisational competence: s912A(1)(e)	Regulatory Guide 105 *AFS licensing: Organisational competence* (RG 105)	Responsible entities, corporate directors, wholesale scheme operators, IDPS operators and MDA providers have an obligation to maintain competence to provide the financial services covered by the licence. RG 105 describes how we assess compliance with the organisational competence obligation.

Obligation and Corporations Act reference	Further guidance	Explanation
Managing conflicts of interest: s912A(1)(aa)	Regulatory Guide 181 *Licensing: Managing conflicts of interest* (RG 181)	Responsible entities, corporate directors, wholesale scheme operators, IDPS operators and MDA providers are required to have in place adequate arrangements for managing conflicts of interest. RG 181 supplements the guidance in this guide by setting out: • our general approach to compliance with the statutory obligation in s912A to manage conflicts of interest; • guidance for licensees generally on controlling and avoiding conflicts of interest; and • guidance for licensees generally on disclosing conflicts of interest.

B Compliance management systems

Key points

An effective and responsive compliance management system that is planned, implemented, evaluated and improved (as needed) will allow a responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider to demonstrate its commitment to complying with its obligations under the Corporations Act and ASIC Act: see RG 132.34–RG 132.44.

AS ISO 19600:2015 provides guidance for an effective and responsive compliance management system within an organisation. Based on this guidance, we consider that the key features of an effective compliance management system include:

- an understanding of the context in which the managed investment scheme, CCIV (and each sub-fund of the CCIV), IDPS or MDA operates (see RG 132.45–RG 132.48);
- clear articulation and reflection of the values, objectives and strategy of the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider (see RG 132.49–RG 132.51);
- identification of compliance obligations, risks and objectives (see RG 132.52–RG 132.58);
- clarity about the roles and responsibilities of those people involved in the compliance management system (see RG 132.59–RG 132.70);
- organisational support for the compliance management system (see RG 132.71);
- compliance controls that respond to the identified compliance obligations, risks and objectives (see RG 132.72–RG 132.74);
- appropriate documentation and record keeping (see RG 132.75–RG 132.77);
- monitoring and review of the compliance management system for continual improvement (see RG 132.78–RG 132.80); and
- procedures where non-compliance occurs (see RG 132.81).

Compliance management and risk management are not mutually exclusive, but operate together.

What is a compliance management system?

RG 132.34 A compliance management system is an integrated system comprised of written documents, functions, processes, controls and tools that help an organisation comply with its legislative requirements, industry codes, standards of good corporate governance, best practices, ethics and community expectations.

RG 132.35 An effective and responsive compliance management system that is planned, implemented, evaluated and improved (as needed) will allow a responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider to demonstrate its commitment to complying with its obligations under the Corporations Act and ASIC Act. This includes the broad compliance obligation applicable to all AFS licensees, as well as compliance obligations specific to the fund operator and the particular AFS licence they hold.

RG 132.36 The international standard for compliance management systems regards 'compliance' as 'an outcome of an organisation meeting its obligations': see AS ISO 19600:2015. This standard is based on the principles of good governance, proportionality, transparency and sustainability. The standard does not prescribe the particular arrangements that must be established, but rather provides guidance on the key considerations that should be addressed in developing a compliance management system.

Interaction between compliance and risk management systems

RG 132.37 A risk management system is a system involving coordinated activities to direct and control an organisation with regard to risk: see Australian Standard AS/NZS ISO 31000:2009 *Risk management: Principles and guidelines*. Risk management systems include all structures, systems and subsystems, policies, procedures and staff that an organisation uses to identify, assess and treat risks or to monitor and review the relevant controls or measures.

RG 132.38 Compliance risk is the potential for losses and legal penalties due to failure of the organisation to meet its obligations, including legislative requirements, industry codes, standards of good corporate governance, best practices, ethics and community expectations.

RG 132.39 An effective compliance management system enables an organisation to demonstrate its commitment to meeting its compliance obligations. Compliance and risk management are not mutually exclusive, but operate together.

RG 132.40 RG 259 provides guidance on how responsible entities may comply with their obligation under the Corporations Act to maintain adequate risk management systems. It provides examples of the risks that we consider most relevant to responsible entities and the schemes they manage. These include strategic risk, governance risk, operational risk, market and investment risk, and liquidity risk. This guide should be read in conjunction with RG 259.

RG 132.41 Compliance risk may be thought of as a subset of operational risk—that is, the risk that a responsible entity may not comply with financial services laws in conducting its financial services business: see RG 259.127. The compliance function may be more effective where the risk is specific and can be managed through a set of controls. However, the compliance function also has a broader role in focusing on the question of whether an activity should be undertaken, not just whether it is allowed by law.

RG 132.42 Our intention with this guide is to expand on the good practice guidance for identifying, assessing and managing risks we outlined in RG 259 by setting out the key features that we look for a responsible entity, wholesale scheme operator, IDPS operator or MDA provider to build into their system, processes and procedures for managing compliance risk.

RG 132.43 In building its compliance management system, we will look for an entity to consider if the compliance function is given sufficient recognition, stature and authority as a separate risk discipline. A responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider can do this by implementing:

(a) integrated compliance and risk management systems; or

(b) a compliance management system and distinct risk management systems.

Note: AS ISO 19600:2015 states that 'while maintaining its independence, it is preferable if compliance management is integrated with the organization's financial, risk, quality, environmental and health and safety management processes and its operational requirements and procedures'.

Key features of a compliance management system

RG 132.44 Developing a compliance management system that reflects AS ISO 19600:2015, as a standalone system or one that is integrated with risk management systems, involves consideration of issues such as:

(a) the context in which the managed investment scheme, CCIV (and each sub-fund of the CCIV), IDPS or MDA operates (see RG 132.45–RG 132.48);

(b) the values, objectives and strategy of the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider (see RG 132.49–RG 132.51);

(c) what compliance obligations, risks and objectives exist (see RG 132.52–RG 132.58);

(d) the roles and responsibilities of those people involved in the compliance management system (see RG 132.59–RG 132.70);

(e) the organisational support required for the compliance management system (see RG 132.71);

(f) compliance controls that will respond to the identified compliance obligations, risks and objectives (see RG 132.72–RG 132.74);

(g) appropriate documentation and record keeping (see RG 132.75–RG 132.77);

(h) monitoring and review of the compliance management system for continual improvement (see RG 132.78–RG 132.80); and

(i) procedures where non-compliance occurs (see RG 132.81).

Operational context

RG 132.45 AS ISO 19600:2015 outlines the broad range of external and internal aspects that affect the organisation's ability to achieve its intended compliance outcomes. Accordingly, we do not take a 'one-size-fits-all' approach to what is required for a compliance management system. We acknowledge that what a responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider should do to comply with its compliance and oversight obligations will vary according to the nature, scale and complexity of its organisation and activities.

RG 132.46 In assessing that nature, scale and complexity, we will look for the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider to at least consider:

(a) the number of managed investment schemes, CCIVs (and sub-funds of CCIVs), IDPSs or MDAs managed and the size of their funds under management;

(b) whether the fund is a managed investment scheme, CCIV, IDPS or MDA, whether it is a registered scheme or a retail CCIV and whether it (or, for a CCIV, a sub-fund) is also registered as an Australian passport fund;

(c) the investment strategies and business activities of the managed investment scheme, CCIV or MDA, and the investment choices available through an IDPS, including the extent to which it will use leverage;

(d) whether the fund is, or will be, listed or traded on a financial market;

(e) the types of investments and investment location;

(f) the distribution model and investor base;

(g) the activities—including the investment approach—the managed investment scheme, CCIV, IDPS or MDA engages in;

(h) the extent to which the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider delegates material operational activities, and the level of supervision of their delegates;

(i) the diversity and structure of the operations (including the geographical spread of operations and the extent to which the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider outsources any of its functions);

(j) the volume and size of the transactions the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider is responsible for;

(k) whether the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider's main business is undertaking funds management; and

(l) the number of people in the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider's organisation.

RG 132.47 We will look for the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider to also consider the external environment in which the business and the fund operate, including:

(a) the business, financial, competitive, political, economic, social, cultural, technological and environmental factors that the business faces;

(b) expectations of external stakeholders (including members) about the operation of the business;

(c) legal and regulatory changes that affect the operation of the business and the fund; and

(d) new product offerings in the market that compel a responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider to compete more effectively.

RG 132.48 In developing its compliance management system, we will look for the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider to also consider the extent to which compliance will be integrated with other functions, such as governance, risk, audit and legal.

Values, objectives and strategy

RG 132.49 As noted in AS ISO 19600:2015, a compliance management system should reflect the organisation's values, objectives and strategy. Those values, objectives and strategy should be documented and implemented in the compliance management system in practice, so that the compliance management system is in alignment with the articulated values, objectives and strategy.

RG 132.50 Implementing the values, objectives and strategy into the compliance management system may involve:

(a) fostering an awareness of, and organisational response to, compliance issues, so that compliance requirements are 'front of mind' for directors and all employees, and are included in decision making across the organisation;

(b) tailoring compliance processes and structures to the managed investment scheme, CCIV, IDPS or MDA and its operator, rather than generic policies designed merely to satisfy a regulatory requirement;

(c) training staff to understand the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider's compliance framework, supporting, recognising and/or rewarding staff who demonstrate their commitment to compliance, and encouraging reporting of non-compliance and errors more broadly; and

(d) providing adequate resources for the compliance management system.

RG 132.51 The responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider can outsource certain compliance activities, but cannot outsource responsibility for compliance.

Identifying compliance obligations, risks and objectives

RG 132.52 In planning its compliance management system in accordance with AS ISO 19600:2015, a responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider should:

(a) undertake a structured and systematic process to consider its compliance obligations;

(b) identify and assess the risks of not meeting compliance obligations; and

Note: For information on identifying and assessing risks, see Section C of RG 259.

(c) establish compliance controls designed to meet these risks.

RG 132.53 This will likely involve considering the following general questions:

(a) What are the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider's obligations under the Corporations Act, the constitution and any Product Disclosure Statement (PDS), IDPS Guide, MDA contract or Financial Services Guide (FSG)? What outcomes are the Corporations Act and constitution designed to deliver?

(b) What risks to ongoing compliance are posed by the operations of this particular managed investment scheme, CCIV and sub-fund of a CCIV, IDPS or MDA, given its nature, environment, size, members (or clients), asset types and investment strategy?

(c) What is the likelihood and impact of failing to deliver a particular compliance outcome against other outcomes? How should compliance efforts be focused?

(d) What compliance controls will deliver the intended outcome?

(e) How will the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider ensure any service provider meets its compliance objectives, compliance standards and commitment to compliance?

(f) How will the compliance controls and outcomes be assessed? What does success look like?

RG 132.54 We do not consider that any one particular approach for identifying and assessing compliance risks will be the most appropriate and applicable to the operation of all managed investment schemes, CCIVs, IDPSs and MDAs.

RG 132.55 Compliance risks can be identified through, for example, evidence-based methods that rely on reviewing audit reports, post-event reports, historical data or risk registers to identify existing and emerging compliance risks that the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider may face. A systematic team approach may be used, involving focus groups and brainstorming, to identify compliance risks.

RG 132.56 It is important that compliance controls to address compliance risks are tailored for, and embedded into every aspect of, the business of the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider. Operating systems and processes should be designed with compliance in mind. This is more than just a 'tick the box' exercise.

RG 132.57 It would be prudent for the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider to document its risk assessment process. Documenting the reasons for assessments, including the thinking that leads to decisions about identified risks, provides a useful context for future risk assessment. This can also assist in reviewing and evaluating whether the compliance controls implemented in response to those risks are adequate.

RG 132.58 As the business evolves over time, it may face a range of new or changed compliance obligations and risks. The previous compliance management system may no longer remain appropriate, and we will look for it to be updated to address the new obligations or risks faced by the managed investment scheme, CCIV, IDPS or MDA. For example, adding sub-funds to a CCIV may mean there is a need to update the compliance management system of the corporate director.

Roles and responsibilities for compliance management systems

RG 132.59 A common model of compliance is the 'three lines of defence' model, which involves:

(a) responsibility at the operational level for carrying out appropriate compliance controls to ensure compliance with the law, the compliance plan and the constitution;

(b) an independent compliance function within the organisation having oversight of compliance throughout the organisation; and

(c) independent oversight, including internal and external audit functions, providing independent assurance over the compliance framework.

RG 132.60 AS ISO 19600:2015 suggests that responsibilities and authorities for relevant roles should be assigned and communicated within the organisation. The compliance management system should include details of the functions, roles and responsibilities of persons involved in planning, implementing and overseeing the compliance management system. It should articulate how the various oversight bodies interact.

RG 132.61 When we look at a compliance management system, we will look at whether it provides for:

(a) staff who perform compliance management functions to have the appropriate knowledge and skills;

(b) decision making that takes into account the compliance management system;

(c) key staff to take responsibility for compliance risks and developing controls and processes to manage them;

(d) regular reviews;

(e) regular monitoring and reporting on compliance risks by the staff responsible for those risks; and

(f) regular testing and reporting on compliance controls by the staff responsible for those controls.

The directors

RG 132.62 The active involvement of, and supervision by, the directors of the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider in the compliance management system is important to the system being effective and responsive. In setting out the role and responsibilities of the directors in the compliance management system,

we will look for the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider to consider issues such as:

(a) How will the directors be involved in planning and approving the compliance management system? What periodic reporting will the directors receive on the performance of the compliance management system?

(b) Are the resources allocated to implement, evaluate and improve the compliance management system adequate and appropriate?

(c) How are expectations around compliance communicated clearly, proactively and regularly across all levels to ensure that they are 'front of mind'? How is the performance of senior management and relevant staff against compliance obligations measured and rewarded? How is an environment where staff feel safe to report non-compliance or raise weak compliance issues promoted?

(d) How do the directors ensure that non-compliance is dealt with appropriately?

(e) How do the directors ensure that roles in relation to the compliance management system have clearly defined responsibilities and authority?

(f) Are the reporting procedures clear, timely, effective and regularly reviewed?

Compliance committee

RG 132.63 Where a compliance committee exists, we will look for its functions and responsibilities as part of the compliance management system to be clearly explained and documented.

Note: For more information on the role of the compliance committee, see Section D.

Compliance and assurance staff

RG 132.64 Many responsible entities, corporate directors, wholesale scheme operators, IDPS operators and MDA providers have a discrete compliance function, such as a compliance officer or manager, with responsibility for reporting and monitoring on obligations. We do not necessarily expect all operators to have a discrete compliance function, but we will look for sufficient resources to be dedicated to compliance activity and for accountability for compliance functions to be clear. This will allow operators flexibility as to how resources are organised internally to achieve compliance objectives.

RG 132.65 The responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider's compliance and assurance staff may be responsible for:

(a) identifying compliance obligations;

(b) integrating compliance obligations and relevant compliance controls into processes and procedures;

(c) maintaining compliance obligations and relevant compliance controls in response to changes in circumstances;

(d) providing training and guidance on compliance obligations and the compliance management system for other staff;

(e) assisting to embed the compliance management system into the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider's operations;

(f) responding to non-performance, including escalating to senior management, the compliance committee and the directors, where appropriate;

(g) analysing compliance performance indicators and identifying compliance trends; and

(h) providing advice and guidance on compliance.

RG 132.66 Where there is a discrete compliance function, a robust conflicts management process and demonstrated competence, integrity and commitment to compliance are needed to ensure this role is performed to a high standard. We will generally look for the discrete compliance function to have direct access to the board and, where one exists, the compliance committee to ensure it has enough authority within the rest of the organisation.

RG 132.67 The internal compliance function will generally be responsible for day-to-day monitoring of the compliance management system and checking adherence to the compliance management system. Because of this, there is substantial risk if the same person carries out a specific compliance function and is also responsible for auditing, reviewing or monitoring adherence to that compliance function. Generally, we will look for a clear separation between these roles and for this be documented in the compliance management system.

RG 132.68 Many responsible entities, corporate directors, wholesale scheme operators, IDPS operators and MDA providers will have an internal audit, review or monitoring role in their compliance management system. Both the compliance and audit roles play valuable and distinct roles in ensuring that the compliance management system is effective and responsive.

Responsibility for outsourced operations

RG 132.69 Many responsible entities, corporate directors, wholesale scheme operators, IDPS operators and MDA providers outsource some part of their operations. Where this occurs, the operator remains responsible for meeting its compliance obligations. If any operations are outsourced, effective due

diligence is important to ensure that compliance objectives, compliance standards and commitment to compliance will be achieved.

RG 132.70 We encourage all responsible entities, corporate directors, wholesale scheme operators, IDPS operators and MDA providers to include provisions in their service agreements to ensure their compliance objectives, compliance standards and commitment to compliance will be met.

Organisational support for the compliance management system

RG 132.71 AS ISO 19600:2015 discusses appropriate organisational support for the establishment, development, implementation, evaluation, maintenance and continual improvement of the compliance management system. In ensuring the compliance management system provides for adequate organisational support, the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider could consider various types of support—including resources, training, mentoring, communication and guidance. The level of support required will depend on the nature, scale and complexity of the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider, the relevant managed investment schemes, CCIVs, IDPSs or MDAs and its compliance management system.

Compliance controls

RG 132.72 As noted in AS ISO 19600:2015, the compliance management system should include compliance controls that respond to the identified compliance obligations, risks and objectives.

RG 132.73 Compliance controls could include:

(a) avoiding the compliance risk by not undertaking the relevant activities that give rise to the risk;

(b) preventing the eventuation of the risk through specific actions, such as developing rules and documented policies and procedures; and/or

(c) reducing or mitigating the consequences or impact of realised risks (e.g. through contingency, emergency or business continuity plans).

RG 132.74 In deciding what compliance controls to adopt, we will look for the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider to consider whether:

(a) the compliance controls are aligned with its values, objectives and strategy, taking into account the nature, scale and complexity of the particular managed investment scheme, CCIV (and each sub-fund of the CCIV), IDPS or MDA;

(b) the compliance controls reflect the actual procedures, processes and practices of the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider and the managed investment scheme, CCIV, IDPS or MDA;

(c) there is a clear and demonstrated nexus between the compliance obligations and compliance controls;

(d) the compliance controls are set out with enough certainty to assess whether the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider has performed the compliance controls;

(e) the compliance controls are written in a clear manner so that they are usable by the target audience;

(f) the compliance controls establish identified functional roles responsible for carrying out a particular compliance control and the monitoring of that compliance control;

(g) the frequency and quantity of compliance controls, and their monitoring, are sufficient to effectively manage the compliance risks;

(h) performance of the compliance controls is monitored, the processes for monitoring performance of the compliance controls are described with enough details and certainty to assess whether they will be or have been performed, and any non-compliance is reported to the compliance committee, the directors or ASIC as required; and

(i) the compliance controls are regularly reviewed so that they are up to date at all times.

Note: For more information on the compliance controls to be addressed in a compliance plan for a registered scheme, see Section C.

Documentation and record keeping

RG 132.75 AS ISO 19600:2015 suggests appropriate documentation of a compliance management system. Documenting the compliance management system and responsibilities, and ensuring that that documentation is easily accessible by staff and management, should help embed the compliance management system within the organisation and give it the best chance of being effective.

RG 132.76 When creating and updating the documented compliance management system, the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider should put in place appropriate procedures and processes for version control, review, approval and protection from corruption or unauthorised amendment.

RG 132.77 The compliance management system should ensure that the responsible entity, corporate director, wholesale scheme operator, IDPS operator or

MDA provider maintains up-to-date records of its compliance activities, as this will assist in the evaluation of the compliance management system.

Monitoring, review and continual improvement

RG 132.78 AS ISO 19600:2015 suggests that a responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider should regularly monitor and evaluate the performance and effectiveness of its compliance management system to ensure its compliance objectives are achieved.

RG 132.79 In developing procedures for monitoring the performance and effectiveness of the compliance management system, we will look for a responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider to generally:

(a) determine what information it will need in order to measure and evaluate the performance of the compliance management system in achieving its compliance objectives, and the best method, including timing, for obtaining that information;

(b) analyse information to determine the root causes of any non-compliance;

(c) ensure the compliance management system is up to date, working effectively to meet compliance objectives, and addresses previously identified issues or actions;

(d) determine whether responsibilities of employees involved in the compliance management system are appropriate and are being carried out appropriately;

(e) determine whether the resources deployed in the compliance management system are adequate;

(f) identify opportunities to improve the performance of the compliance management system;

(g) determine what reporting arrangements are necessary to ensure that senior management and the directors are adequately informed about the performance of the compliance management system; and

(h) consider whether any additional mechanisms, such as audits, are required to monitor the performance of the compliance management system.

RG 132.80 The development of compliance management systems should not be a ‘set and forget’ or one-off process. The systems need to be able to adapt and evolve to take into account internal changes within the responsible entity, corporate director, wholesale scheme operator, IDPS operator or MDA provider’s business and within the relevant funds, as well as changes in the external environment. We will look for the operator to use the information

that is gathered and evaluated to identify opportunities for improvement. We encourage operators to benchmark their compliance management system against industry best practice.

Non-compliance

RG 132.81 AS ISO 19600:2015 suggests that an organisation should have a clear procedure and process to follow where non-compliance occurs. Non-compliance procedures and processes could include:

(a) requiring timely escalation where non-compliance is identified;

(b) considering whether the non-compliance needs to be reported to ASIC;

(c) requiring the operator to take action to control and rectify any non-compliance issues, and manage the consequences;

(d) identifying the root cause and assess whether similar non-compliance could occur; and

(e) reviewing the effectiveness of the action taken and, if necessary, making changes to the compliance management system.

C Compliance plans

Key points

A compliance plan is one part of an investment fund operator's overall compliance management system.

The compliance plan for an investment fund must set out adequate measures to ensure compliance with the Corporations Act and the investment fund's constitution. In considering whether adequate compliance controls have been established, we will look at whether the investment fund operator ensures the compliance plan addresses certain issues: see RG 132.84–RG 132.118.

We will look for group compliance risks, which apply across all of the investment funds operated by the investment fund operator, to be addressed in the compliance plan: see RG 132.119–RG 132.145.

We will also look for registered scheme or CCIV level compliance risks to be addressed in the compliance plan. These are the different types of compliance risks that exist for different types of registered schemes or retail CCIVs, largely driven by the nature, diversity and structure of assets that are investments of the registered scheme or CCIV: see RG 132.146–RG 132.179.

For registered schemes or sub-funds that are also registered as Australian passport funds, there are specific compliance risks that we will look to be addressed in the compliance plan: see RG 132.180–RG 132.184.

Content of compliance plan

RG 132.82 A compliance plan is one part of an investment fund operator's overall compliance management system.

RG 132.83 The level of detail in a compliance plan may vary depending on the nature, scale and complexity of the investment fund and its operator. However, at a minimum, when we look at compliance plans we look for adequate detail about:

(a) the scope of the compliance plan;

(b) the application and context of the compliance plan in relation to the nature, scale and complexity of the investment fund operator and investment fund—we will look for this to include a description of the investment fund operator and its operations and the investment fund, and the investment strategy of the registered scheme;

(c) the specific compliance obligations that apply to the investment fund operator and the investment fund;

(d) the identified compliance risks—including compliance risks applying to the investment fund operator at the group level, as well as those that apply because of the particular type of registered scheme;

Note: Where the registered scheme is, or a CCIV includes a sub-fund that is, an Australian passport fund, additional compliance obligations and compliance risks may exist that should also be addressed.

(e) compliance controls that are in place to satisfy the compliance obligations and address the compliance risks, including:

(i) who is responsible for performing each compliance control;

(ii) how frequently each compliance control must be performed;

(iii) how compliance with each compliance control is monitored;

(iv) who carries out that monitoring;

(v) who is responsible for reporting on whether or not each compliance control has been followed; and

(vi) when and how reporting takes place;

(f) when the compliance plan will be reviewed and how it will remain fit for purpose; and

(g) how the investment fund operator will ensure that necessary changes are identified and that the compliance plan is updated.

Establishing adequate compliance controls in the compliance plan

RG 132.84 As part of the overall compliance management system, the compliance plan must set out adequate measures that the investment fund operator will apply to ensure compliance with the Corporations Act and constitution: see s601HA and 1226A. When we consider whether the measures in the compliance plan are adequate, we will take into account the purpose behind a compliance plan and the needs of its users.

RG 132.85 When we look at compliance plans, we look at whether:

(a) the compliance controls in the compliance plan are aligned with the investment fund operator's values, objectives and strategy, taking into account the nature, scale and complexity of the particular investment fund;

(b) the compliance controls reflect the actual procedures, processes and practices of the investment fund operator and the investment fund;

(c) there is a clear and demonstrated nexus between the compliance obligations and the compliance controls;

(d) the compliance controls are set out with enough certainty to allow the investment fund operator, ASIC and the auditor of the compliance plan to

assess whether the investment fund operator has complied with the compliance plan;

(e) the compliance plan is written in a clear manner so that it is usable by its target audience;

(f) the compliance plan provides for identified functional roles responsible for carrying out a particular compliance control and the monitoring of that compliance control;

(g) the frequency and quantity of compliance controls, and their monitoring, are sufficient to effectively manage the compliance risks;

(h) compliance with the compliance controls is monitored, the processes for monitoring performance of the compliance controls are described with sufficient detail and certainty to assess whether they will be or have been complied with, and any non-compliance is reported to the compliance committee, the board or ASIC (as required); and

(i) the compliance plan is maintained so that the compliance controls, and the performance of those compliance controls, are adequate in light of any changes to the investment fund, the investment fund operator or the environment in which they both operate.

Alignment with the investment fund operator's values, objectives and strategy

RG 132.86 We look at whether the compliance plan aligns with the investment fund operator's identified values, objectives and strategy. In our view, including a statement of the investment fund operator's overarching compliance principles and commitment to compliance may help it comply with its compliance obligations.

Reflecting the actual procedures, processes and practices

RG 132.87 We look at whether the compliance controls are implemented in the actual procedures, processes and practices of the investment fund operator and the investment fund. The fund operator should ensure that compliance is more than a 'box ticking' exercise across the organisation. We will look at whether the investment fund operator ensures that staff understand their compliance obligations and compliance controls. We will also look at whether the investment fund operator ensures that staff have adequate training, are sufficiently resourced to perform and monitor their compliance roles, and are encouraged to report non-compliance and weaknesses in compliance.

Nexus to the compliance obligation

RG 132.88 We look at whether there is a clear and demonstrated nexus between the compliance obligations, the compliance risks and the compliance controls so that the compliance plan can meet the investment fund operator's compliance objectives.

Incorporating parts of other compliance plans

RG 132.89 A compliance plan can incorporate parts of a previously lodged compliance plan as that previous plan is amended from time to time: see s601HB and 1226B and *ASIC Corporations (Chapter 5C—Miscellaneous Provisions) Instrument 2017/125*. For a retail CCIV, a compliance plan of another CCIV may only be incorporated by reference if the retail CCIV and the other CCIV have the same corporate director: s1226B.

RG 132.90 However, the compliance controls in a compliance plan should be prepared specifically by reference to the type of investment fund. We consider that the compliance controls in a compliance plan that is a standard or model plan (e.g. an 'off-the-shelf plan') or primarily based on an off-the-shelf plan are less likely to adequately target the risks of the specific investment fund.

RG 132.91 Where a compliance plan incorporates parts of another plan, we will look at whether the compliance controls that make up that part of the incorporated plan are appropriate compliance controls for the investment fund. Because group compliance risks apply across all investment funds the investment fund operator operates, we consider group compliance controls are generally appropriate to be incorporated into all compliance plans for those funds. Given the fundamental differences between a managed investment scheme and a CCIV, a retail CCIV cannot incorporate by reference the compliance plan of a registered scheme or vice versa.

RG 132.92 We will look for registered scheme or CCIV level compliance controls to only be incorporated where they are appropriate to the investment strategy and the nature, scale and complexity of the particular scheme or CCIV. For example, incorporating parts of a compliance plan that address compliance risks associated with the investment strategy of a mortgage fund into an agribusiness fund plan will not be appropriate to address the specific risks of the second fund.

Certainty of compliance controls and monitoring processes

RG 132.93 We look at whether a compliance plan describes compliance controls and the processes for monitoring them with enough detail and certainty for the investment fund operator, auditor and ASIC to assess, at the point of assessment or a later time, whether or not the plan will be or has been complied with.

RG 132.94 This does not necessarily mean that a compliance plan should detail each and every step, check, detailed procedure or action. However, when we look at a compliance plan, we will look for compliance controls, and processes to monitor them, to be specific and measurable to identify an output or outcome. They should be described in a way that represents more than mere platitudes or broad ambitions of compliance. This means that compliance with the compliance plan can be assessed by us and audited against these measurable standards.

RG 132.95 Timeframes should also be set out with enough certainty for the investment fund operator, auditor and ASIC to understand how frequently a compliance control, or monitoring of compliance with it, will be carried out. In our view, this means that an auditor or ASIC should be able to ascertain when something will be done on face value, and without needing further details.

RG 132.96 Example 1–Example 3 set out situations where we consider the compliance control or processes for monitoring them have not been set out with enough certainty or detail, and our suggestions for how they could be improved.

Example 1: Using vague words

A compliance plan contains a compliance control that says: 'Each Product Disclosure Statement is subjected to an appropriate due diligence procedure before release.'

We do not consider that this compliance control has enough certainty or detail. Vague terms such as 'appropriate', 'adequate' or 'sufficient' mean that compliance with the plan cannot be audited against measurable standards. We consider that better compliance plans use meaningful words to describe what is actually done as the compliance control and to monitor compliance with it.

This example could be improved by including meaningful words describing how and when the due diligence process is to be carried out and recorded.

Example 2: Non-specific timeframes

A compliance plan contains a compliance control that says: 'Regular reports on all medium-risk and high-risk breaches are provided to the board.'

We do not consider that this compliance control has enough certainty or detail. This example uses non-specific words, which means it is difficult to measure whether the compliance control is being performed. We consider that better compliance plans describe the timeframes attached to a compliance control and monitoring activities with enough certainty in terminology to enable an assessment of whether it has occurred within that specified timeframe.

The compliance control could use a specific timeframe, such as 'monthly' or 'no less than quarterly', for it to be more specific and measurable. We

recognise that some compliance controls are driven by an event on an ad-hoc basis. In our view, the language for these compliance controls will be specific and measurable where the trigger for the compliance control is clear and certain.

Example 3: Unclear responsibility for performing a control

A compliance plan contains a compliance control that says: 'The conflicts of interest policy is reviewed on an annual basis.'

We do not consider that this compliance control has enough certainty or detail. We consider that better compliance plans allow a user to easily find out who performs a compliance control, when or how often that compliance control must be performed, who monitors compliance with the compliance control, when or how often that monitoring must be performed, and what records are required to be kept.

While this example has a specific timeframe for performing the control, it could be improved by including details of who is responsible for performing, and monitoring performance of, the control.

Clear and easy to understand

RG 132.97 We look at whether a compliance plan is written so that it is clear and easy to understand for the end users of the document. Users could include compliance and operational staff, internal audit and review, any compliance committee, senior management, directors, the compliance plan auditor, and ASIC. Each of these end users may have similar or different requirements and needs that should be considered when preparing a compliance plan.

RG 132.98 A compliance plan may be easier to understand if it:

(a) uses plain English and avoids legal or industry jargon. This will assist staff, particularly those who do not have a legal or compliance background, to understand their responsibilities and what is expected of them;

(b) adopts a simple structure, including a contents list and clear headings;

(c) includes an overview about the compliance plan, its scope and aims, and how it forms part of the investment fund operator's compliance management system and risk management framework. This could also include a flowchart of the compliance reporting structure to provide a clear picture of the compliance process and allow staff to quickly identify where they fit into the overall framework;

(d) includes a section explaining 'how to use' the compliance plan; and

(e) presents details of compliance controls in a table format, including details of the function, the compliance obligation it is intended to address, the risks of non-compliance, the relevant policies and the compliance measures and controls. It could also be useful to group together tables covering compliance procedures that are overseen by the

same officer, to allow staff to quickly locate information on all areas of compliance they are responsible for.

RG 132.99 Regardless of how the compliance plan is presented, we expect the content to reflect the actual procedures, processes and practices of the investment fund operator and the investment fund. We will look at whether those who are monitoring the compliance plan ensure that the content is actually carried out in practice, and that any breaches in implementation of the plan are reported to any compliance committee, the board or ASIC as required.

> Note: We will not assess this as part of considering the compliance plan when we register an investment fund. However, if we undertake a surveillance, we may test whether the compliance plan does reflect the actual procedures, processes and practice of the investment fund operator and the investment fund.

Roles and responsibilities for carrying out and monitoring compliance controls

RG 132.100 Along with certainty in how the compliance control is described, we also look at whether the compliance plan clearly identifies the person responsible for a compliance control or monitoring process so that there is enough accountability for actions under the compliance plan.

RG 132.101 We consider that stating in a compliance plan who (or what position) is responsible for certain compliance controls or monitoring processes creates a sense of ownership of these compliance controls and processes. This also makes it easier to monitor the compliance plan. It may be helpful for responsibilities to be described in a compliance plan in terms of position title or description, rather than the name of a specific individual, so that the plan does not need to be updated when organisational changes occur.

RG 132.102 Where a compliance control is automated, it is important that this is set out in the compliance plan.

RG 132.103 We will look at whether responsibility for monitoring compliance with a compliance control is allocated to one or more persons who have adequate time and experience to carry out the monitoring task. There may be situations where the person performing a monitoring role becomes too stretched to adequately perform that role; for example, if the person is required to monitor compliance with too many compliance controls or has other significant obligations. We will look at whether the person responsible for monitoring compliance has enough authority within the organisation to call on additional resources if a significant issue emerges.

RG 132.104 Where an external service provider has front-line responsibility for monitoring a compliance control, we will look at whether the compliance plan provides for the investment fund operator to have a process for monitoring and responding to any reports by the external service provider.

However, the investment fund operator remains ultimately responsible for ensuring that the compliance control is performed properly and that performance is adequately monitored.

RG 132.105 It is important that the interests, duties or obligations of the person who monitors compliance with a compliance control do not conflict with that role.

RG 132.106 When we look at a compliance plan, we will generally look for separate people to be allocated responsibility for carrying out compliance controls and the monitoring of the same compliance controls. Having the same person carry out a compliance control and monitor their performance of it would compromise the effectiveness of the compliance plan in addressing compliance obligations and compliance risks.

Frequency and quantity of compliance controls and monitoring

RG 132.107 We will look at whether the frequency with which compliance controls are performed is appropriate to the nature of the compliance control, the compliance risk and the compliance objectives of the investment fund operator. The compliance plan is unlikely to be effective if the frequency of the compliance control compromises the compliance objective being met or is insufficient to prevent, detect or correct non-compliance.

RG 132.108 Similarly, the frequency of the processes for monitoring performance of a compliance control should be appropriate to the compliance control.

RG 132.109 We would generally expect that there is more than one compliance control in place to address a compliance risk. We consider this will create a robust compliance plan that is better able to withstand non-compliance with an individual compliance control.

Monitoring

RG 132.110 We will look at whether the compliance plan provides for a process of monitoring performance of compliance controls that allows the investment fund operator to gather information for the purposes of evaluating the effectiveness of the compliance plan and performance against its compliance objectives. Because of this, when we look at a compliance plan we will look for it to include appropriate procedures to monitor performance of the compliance controls, including to:

(a) evaluate the effectiveness of compliance controls;

(b) ensure that the allocation of roles is appropriate for meeting compliance obligations;

(c) ensure the compliance obligations are accurate and up to date;

(d) ensure that previously identified compliance failures are addressed effectively;

(e) identify and address instances where compliance controls were not complied with or there were 'near misses';

(f) note attitudes and behaviours in relation to compliance and the perceived competence of employees when dealing with issues that arise;

(g) assess performance against the compliance controls; and

(h) keep records of the compliance controls, results of testing and remediation undertaken.

RG 132.111 The types of processes an investment fund operator may use to monitor performance of compliance controls will vary depending on the nature, scale and complexity of the investment fund and the investment fund operator. We understand some commonly used processes include sample testing, reports (including exception reports), reviewing activity records, internal review, interview or discussion, direct observation, surveys, and training.

Maintained up to date

RG 132.112 We will look at whether the compliance plan is maintained so that the compliance controls, and the performance of those controls, are adequate in light of any changes to the investment fund, the investment fund operator or the environment in which they both operate.

RG 132.113 We will look for the compliance risks to be reassessed periodically and whenever there are:

(a) new or changed activities, products or services;

(b) changes to the structure or strategy of the investment fund operator or establishment of new sub-funds with a different investment strategy;

(c) significant external changes, such as financial–economic circumstances, market conditions, liabilities and client relationships;

(d) changes to compliance obligations; or

(e) examples of material or repeated non-compliance.

RG 132.114 We consider that a compliance plan should state how and when the plan will be reviewed so that it continues to have adequate controls to ensure compliance with the Corporations Act and the constitution.

RG 132.115 When we look at a compliance plan, we will look for it to set out that the investment fund operator will review the adequacy of the plan at least annually and after any significant event that it is aware would impact the plan. As part of this review, the investment fund operator should consider the reasons for any breaches and how any compliance issues raised will affect the compliance plan.

RG 132.116 Where the investment fund operator modifies the compliance plan, or repeals it and replaces with a new compliance plan, the investment fund operator must lodge a copy of the modification or new compliance plan with ASIC within 14 days: see s601HE and 1226D.

RG 132.117 ASIC has the power to direct the investment fund operator to modify the compliance plan or to lodge a consolidated copy of the compliance plan: see s601HD, 601HF, 1226D and 1226E. We will generally only exercise this power if the investment fund operator has failed to make appropriate changes to its compliance plan or implement appropriate procedures to respond to issues identified during registration or following breach reports, adverse audits or adverse surveillance findings.

RG 132.118 Ensuring that a compliance plan remains adequate is an ongoing obligation. We expect that, where a compliance plan incorporates parts of another compliance plan, the investment fund operator will regularly review whether the incorporated provisions of the other compliance plan remain adequate for the investment fund for which they have been incorporated.

Group compliance risks and controls

RG 132.119 We recognise that some compliance risks exist irrespective of the nature and characteristics of the investment fund. They can apply across all of the investment funds the investment fund operator operates. We refer to these types of risks as ‘group compliance risks’.

RG 132.120 Group compliance risks generally arise from issues related to:

(a) requirements that apply because the investment fund operator is an AFS licensee, including financial resource requirements, conflicts of interest, complaints handling, breach reporting and competency requirements; and

(b) management of staff, finances and other processes at the group level, such as directors or the compliance committee, if the same committee members and processes are used across different registered schemes, training, recruitment and experience, cyber resilience, accounts and record keeping, or disclosure and reporting.

RG 132.121 Where group compliance risks exist, we consider that compliance controls can apply across the investment funds operated by the investment fund operator. It is not necessary for these compliance controls to be tailored and individualised to each specific registered scheme or sub-fund operated by the investment fund operator. However, the compliance controls must be appropriate for the operator and investment fund, rather than generic.

RG 132.122 We do not intend to provide a checklist of compliance controls for investment fund operators. However, this section provides some illustrative guidance to help investment fund operators prepare and establish their compliance plans.

Management and oversight

RG 132.123 In establishing compliance controls that address the risk of not meeting compliance obligations because of management and oversight failures, the investment fund operator could consider:

(a) What procedures ensure that directors or the compliance committee (as appropriate) are appropriately skilled and have access to all the information, reports and resources necessary for them to fulfil their responsibilities?

(b) If a compliance committee is required, what arrangements (such as for remuneration, tenure and frequency of meetings) ensure that the committee functions as required by s601HA(1)(b)?

(c) If a compliance officer is appointed, what arrangements ensure that that person has adequate authority to escalate matters if necessary? What arrangements ensure that compliance staff are adequately trained and independent?

(d) What procedures are in place for monitoring employee conduct?

(e) What role will internal audit have in the compliance process?

Training, recruitment and experience

RG 132.124 In establishing compliance controls to address the risk of not meeting compliance obligations because of lack of staff competence, the investment fund operator could consider:

(a) What procedures ensure that staff, including operational, management and compliance staff, have appropriate experience and adequate resources?

(b) What training is performed to ensure that existing and new staff have the familiarity they need with compliance controls and continue to remain competent to perform their roles?

(c) What procedures are in place to ensure that only appropriate personnel hold positions of trust and that key staff are competent to perform their relevant roles?

Accounts and record keeping

RG 132.125 In establishing compliance controls to address the risk of not meeting compliance obligations because of a failure to keep appropriate accounts and records, the investment fund operator could consider:

(a) What arrangements ensure that accounting records and other evidence about the investment fund operator's operation of the investment fund will be adequate to allow the operator and ASIC to conduct reviews of the fund's activities? What procedures ensure that appropriate accounting and taxation requirements are adhered to? What procedures ensure that all statutory deadlines for reporting are adhered to?

(b) For a retail CCIV with multiple sub-funds, what arrangements ensure that all assets and liabilities of the CCIV are promptly and properly allocated to the appropriate sub-fund?

(c) What arrangements ensure that IT and accounting systems used by the investment fund operator are secure and meet the operational requirements of the investment fund?

(d) For an investment fund operator that undertakes self-custody, what arrangements ensure that the IT systems used for identifying and recording fund property are secure and meet ASIC's standards?

(e) What arrangements ensure that the investment fund operator meets obligations for the conduct of any omnibus accounts?

Note: For guidance on ASIC relief for omnibus accounts, see Regulatory Guide 133 *Funds management and custodial services: Holding assets* (RG 133).

(f) Where the investment fund operator undertakes self-custody, are sufficient procedures in place in the compliance plan for record keeping and other arrangements relating to the self-custody to ensure robust verification of compliance with the obligations in relation to self-custody (including addressing operational risks and any particular risks from self-custody) by the directors or compliance committee, as well as independent verification?

(g) What are the investment fund operator's plans for ensuring its ability to resume operations if a disaster occurs (e.g. a computer systems failure)?

(h) What are the procedures to ensure that records are maintained for the statutory period? What procedures ensure that records are kept of all compliance monitoring?

Use of external service providers

RG 132.126 In establishing compliance controls to address the risk of not meeting compliance obligations because of a failure by an external service provider, the investment fund operator could consider:

(a) What due diligence processes does the investment fund operator use for choosing suitable service providers? What are the procedures to ensure that the use of third parties will be appropriately evaluated?

(b) What are the procedures to ensure that contracts with external service providers are appropriate, including service level agreements? What are the policies and processes for ensuring that agreements are always formalised and documented?

(c) What procedures ensure that external service providers are meeting the terms of the contractual arrangements?

(d) What arrangements are in place to ensure that any external custodian used meets ASIC's applicable standards and, in the case of a retail CCIV, any other regulatory requirements under Pt 8B.5 of the *Corporations Regulations 2001* (Corporations Regulations)?

(e) What procedures will the investment fund operator use to monitor the activities of external service providers to ensure that the service provider is complying with the constitution, the Corporations Act and any other regulatory requirements? How does the investment fund operator maintain adequate staff and skill sets in-house to effectively monitor external service providers?

(f) What procedures ensure completeness and timeliness of income and that expenditure is appropriately authorised and in accordance with the constitution?

(g) How does the investment fund operator ensure that the service provider employs an appropriate standard of care when performing the delegated function?

(h) How does the investment fund operator monitor the activities of the service provider and evaluate the performance of the delegate in relation to the delegated function?

Related party issues

RG 132.127 In establishing compliance controls to address the risk of not meeting compliance obligations because of failure by related parties, the investment fund operator could consider:

(a) What are the arrangements to ensure that information flows between companies within a group are appropriately protected?

(b) What are the arrangements to ensure that the decision to use a related party service provider is in the best interests of members of the investment fund?

(c) What are the arrangements to ensure that if the investment fund operator or a related party underwrites the issue of interests or shares, any allocation to an investment fund is in the best interests of the members of the investment fund, particularly in relation to the allocation of shortfalls?

(d) What are the arrangements to ensure that information obtained about the investment fund operator's intentions to trade in specific securities is not used by employees for their own benefit?

(e) What arrangements ensure that dealings by the investment fund operator or its employees do not disadvantage the investment fund or 'free ride' on it in any way?

(f) What arrangements ensure that any potential conflicts of interest caused by the investment fund operator, its associates, or directors owning interests in the investment fund are appropriately managed?

Cyber resilience and business continuity

RG 132.128 Cyber resilience is the ability to prepare for, respond to and recover from a cyber attack. Resilience is more than just preventing or responding to an attack—it also takes into account the ability to adapt and recover from such an event.

RG 132.129 Organisations have customarily focused on protection against cyber attacks. However, a resilience-based approach to cyber attacks is vital for organisations to better adapt to change, reduce exposure to risk and learn from incidents when they occur.

RG 132.130 In establishing compliance controls to address the risk of not meeting compliance obligations because of cyber attacks or IT systems issues, the investment fund operator could consider:

(a) What procedures are in place to provide for regular cyber resilience health checks?

(b) What procedures are in place to monitor current industry and international guidance and update policies and procedures to reflect any changes?

(c) What procedures ensure that IT systems are regularly tested?

(d) What procedures are in place for disaster recovery and business continuity?

(e) What arrangements are in place to manage any risks arising from, or posed to, other entities as a result of technology interdependencies?

Note: For more information on cyber resilience among ASIC's regulated population, see Report 429 *Cyber resilience: Health check* (REP 429) and Report 555 *Cyber resilience of firms in Australia's financial markets* (REP 555).

Applications, redemptions and distributions

RG 132.131 In establishing compliance controls to address the risk of not meeting compliance obligations because of incorrect processing of applications, redemptions and distributions, the investment fund operator could consider:

(a) What procedures ensure that applications are processed in a timely manner and are invested in the correct registered scheme or allocated to the appropriate sub-fund at the correct price? What arrangements protect application money before it becomes fund property?

Note: See the definition of 'fund property' in the 'Key terms' section of this guide.

(b) What are the arrangements to ensure that withdrawal prices are set so as not to disadvantage remaining or outgoing members and that application and withdrawal prices are calculated appropriately and accurately?

(c) What procedures ensure that distributions to members are calculated correctly and made in a timely manner?

(d) What procedures ensure that the investment fund has enough liquidity to meet redemptions that should occur?

Disclosure and reporting

RG 132.132 In establishing compliance controls to address the risk of not meeting compliance obligations because of defective disclosure and reporting, the investment fund operator could consider:

(a) What procedures ensure that publicity (including advertising and media releases) that includes performance information is not misleading?

(b) What procedures ensure that the PDS contains all relevant information and is not misleading? What due diligence is carried out in preparation and review of PDSs? In particular, what procedures ensure that forecasts in a PDS have a reasonable basis and that the disclosure of fees and expenses is compliant? What are the procedures to ensure that representations made in the offer document are carried out?

(c) What are the procedures to ensure that the financial statements are true and fair and, when relevant, appropriate continuous disclosure is made?

(d) What procedures ensure that disclosure and reporting to investment fund members is not misleading?

RG 132.133 Where ASIC has established disclosure benchmarks for certain types of investment funds, we will look at whether those compliance plans contain compliance controls to ensure that responsible entities comply with their upfront and ongoing disclosure obligations. For example, we will check whether the compliance plan includes procedures to assess the investment fund's performance against 'if not, why not' benchmarks before issuing a PDS, as well as compliance controls for regularly monitoring the benchmarks and updating the PDS when required.

RG 132.134 For more information on disclosure benchmarks for certain types of investment funds, see:

(a) Regulatory Guide 45 *Mortgage schemes: Improving disclosure for retail investors* (RG 45);

(b) Regulatory Guide 46 *Unlisted property schemes: Improving disclosure for retail investors* (RG 46);

(c) Regulatory Guide 231 *Infrastructure entities: Improving disclosure for retail investors* (RG 231);

(d) Regulatory Guide 232 *Agribusiness managed investment schemes: Improving disclosure for retail investors* (RG 232); and

(e) Regulatory Guide 240 *Hedge funds: Improving disclosure* (RG 240).

Distribution channels

RG 132.135 In establishing compliance controls to address the risk of not meeting compliance obligations because of a failure to supervise distributors of an investment fund where applicable, the investment fund operator could consider:

(a) What procedures ensure that sales and distribution staff comply with 'know your client' and 'know your product' rules?

(b) What due diligence is conducted before the appointment or engagement of distributors?

(c) What procedures are in place to monitor the activities of distributors for compliance with the Corporations Act and any distribution agreement?

Identifying, recording, rectifying and reporting of breaches

RG 132.136 Fund operators are subject to breach reporting requirements as both an AFS licensee and as a fund operator: see s912D and 912DAA.

RG 132.137 As an AFS licensee, a fund operator must give ASIC a written report of all 'reportable situations' within 30 days after it first knows that, or is reckless with respect to whether, there are reasonable grounds to believe a reportable situation has arisen: see s912DAA(3). A reportable situation includes any

significant breach (or likely significant breach) of an AFS licensee's 'core obligations' as defined in s912D(3), including:

(a) its duties as an AFS licensee;

(b) its duties as a fund operator, including the duty to comply with the compliance plan; or

(c) its obligations under the Corporations Act or the consumer protection provisions of the ASIC Act.

Note: For more information on when a person must report a breach and how ASIC deals with breach notifications, see Regulatory Guide 78 *Breach reporting by AFS licensees and credit licensees* (RG 78).

RG 132.138 Although the requirements under the Corporations Act are to report to ASIC breaches of core obligations that are significant, we expect that more information on breaches will be reported internally to the board of directors and/or the compliance committee. We will look at whether the compliance plan includes procedures for checking that breaches of the plan are reported by the investment fund operator. We expect that this would include, for example, maintaining a breach register.

RG 132.139 Aggregated breaches should be internally reported, even if they have been rectified during the period. This enables the directors and compliance committee to have a full picture of the level of breaches that are taking place.

RG 132.140 Internal reports should contain enough information to allow understanding of the significance of the breaches—this may include such information as impact on investors, remediation, whether there is a systemic issue and the source of breaches. This will allow the directors and, if applicable, the compliance committee to have oversight of how the fund operator assesses 'significance' for the purposes of reporting to ASIC, and enables a focus on higher risk breaches.

RG 132.141 In establishing compliance controls to address the risk of failing to meet breach reporting obligations, the investment fund operator could consider:

(a) How are breaches identified and rated, and by whom?

(b) What are the procedures to ensure that all breaches are reported to the appropriate level of management, any compliance committee and the directors?

(c) What are the procedures to ensure that all breaches are appropriately rectified?

Breach reporting by the compliance committee

RG 132.142 The compliance committee of a registered scheme has a responsibility to report to ASIC if it considers that the responsible entity is not taking adequate action to deal with a breach. We will look at whether the

compliance plan includes compliance controls to ensure that these breaches are reported to ASIC as required.

Breach reporting by Australian passport funds

RG 132.143 In addition to the obligations of an AFS licensee and a fund operator to report breaches to ASIC, an Australian passport fund operator has extra breach reporting obligations under section 12 of the Australian Passport Rules. This includes a requirement to report to ASIC within seven days after becoming aware of a breach of the Australian Passport Rules that might be reasonably regarded as significant. We expect an Australian passport fund operator to have compliance controls that ensure it meets its breach reporting obligations under both the Corporations Act and the Australian Passport Rules.

Complaints handling

RG 132.144 In establishing compliance controls to address the risk of not meeting compliance obligations about complaints handling, the investment fund operator could consider:

(a) What internal and external dispute resolution procedures are in place? Do they comply with the standards and requirements made or approved by ASIC? Do they cover complaints made by retail clients?

(b) What procedures ensure that complaints are accurately recorded?

(c) Who is responsible for taking, recording and responding to complaints? What procedures are in place for escalating complaints to senior management and/or the directors where appropriate?

(d) What procedures ensure that any rectification as a result of a complaint is carried out?

Note: For more information on what AFS licensees and other entities must do to have a dispute resolution system in place that meets ASIC's requirements, see Regulatory Guide 271 *Internal dispute resolution* (RG 271) and Regulatory Guide 267 *Oversight of the Australian Financial Complaints Authority* (RG 267).

AFS licence and ASIC instruments

RG 132.145 In establishing compliance controls to address the risk of failing to hold an appropriate AFS licence authorisation and not meeting compliance obligations under AFS licence conditions or ASIC instruments, the investment fund operator could consider:

(a) What procedures are in place to ensure relevant staff are aware of the investment fund operator's AFS licence conditions?

(b) What procedures are in place to ensure the investment fund operator complies with applicable requirements under ASIC instruments,

including in relation to financial resources? What procedures are in place for monitoring changes to relevant ASIC instruments and ensuring relevant staff are aware of any changes?

(c) What procedures are in place to ensure that the investment fund operator has and maintains the correct AFS licence authorisations for its activities?

Registered scheme and retail CCIV level compliance risks and controls

RG 132.146 When we consider whether the compliance plan contains measures that are adequate, we will look at whether the compliance plan identifies compliance controls that are tailored to the nature, scale and complexity of the registered scheme or retail CCIV where applicable, taking into account the assets invested and the fund's investment strategy.

RG 132.147 We recognise that, for different types of registered schemes, there will be different areas of focus in the development and implementation of appropriate compliance controls. These differences are largely driven by the nature, diversity and structure of assets invested in by the registered scheme and the investment strategy the responsible entity uses. We refer to these as 'registered scheme level compliance risks'.

RG 132.148 For retail CCIVs, the compliance plan is prepared for the CCIV and is required to take into account 'CCIV level compliance risks'. We do not expect the compliance plan to be individualised for each specific sub-fund operated. However, we consider the implementation of compliance controls must be appropriate for the particular CCIV operated, taking into account differences in its sub-funds. For example, there may be differences in the pricing, fees, liquidity and redemption rights or risks relating to a sub-fund that require tailoring of the compliance controls in the compliance plan for the CCIV.

Note: We encourage a corporate director to review the compliance plan before registering a new sub-fund to ensure ongoing compliance with s1226A.

RG 132.149 We expect the compliance plan to address compliance risks relevant to all assets invested in by the registered scheme or retail CCIV.

RG 132.150 Table 3 and Table 4 identify the key compliance areas that we will typically focus on for different types of registered schemes, depending on the asset kinds and investment strategy of the scheme. When we look at a compliance plan, we will look at whether it addresses the risks of not meeting compliance obligations in these areas. When we focus on these areas, we will take into account the nature of the asset kinds held and how the area is affected by the structure of the scheme.

RG 132.151 We also encourage corporate directors to consider the compliance areas in Table 3 and Table 4 when preparing the compliance plan for the retail CCIV, and to take into account the asset kinds and investment strategy of the sub-funds.

Table 3: Areas of focus by asset kind

Asset kind	Sub-asset kind	Typical areas of ASIC focus
Cash/cash equivalent	• Short-term money market fund • Term deposits • Treasury notes • Short-term debt securities • Certificates of deposit • At-call bank deposits • At-call non-bank financial institutions deposits • Bank-backed securities • Other	Business, liquidity, market, expertise, investment strategy (approval and monitoring), valuation, outsourcing, financial, custodial arrangements, jurisdictional Other areas of focus may be relevant (e.g. foreign exchange, interest rate)
Fixed income	• Government • Corporate • Certificates of deposit • Preferred stock • Debentures • Other	Liquidity, credit, market, expertise, investment strategy (approval and monitoring), valuation, outsourcing, financial, custodial arrangements, jurisdictional Other areas of focus may be relevant (e.g. foreign exchange, interest rate)
Equities	• Ethical • Franked • Value • Concentrated • Other	Business, market, investment strategy (approval and monitoring), valuation, outsourcing, financial, custodial arrangements, jurisdictional, foreign exchange, liquidity
Equities	Indexed	Tracking error, operational, expertise, valuation, financial, investment strategy (approval and monitoring), efficacy of authorised participants and market makers Risk is dependent on the underlying asset type
Equities	• Small-cap • Mid-cap • Large-cap	Business, market, investment strategy (approval and monitoring), valuation, outsourcing, financial, custodial arrangements, jurisdictional, foreign exchange, liquidity Other areas of focus may be relevant (e.g. expertise in the specific sector, related party arrangements, leverage)

Asset kind	Sub-asset kind	Typical areas of ASIC focus
Equities	Emerging markets	Business, market, expertise, investment strategy (approval and monitoring), valuation, outsourcing, financial, custodial arrangements, jurisdictional, foreign exchange, liquidity
Equities	Property	Performance, financial, business, liquidity, expertise, valuation, outsourcing, investment strategy (approval and monitoring), leverage, related party arrangements
Alternatives	Property • Residential property • Commercial property • Industrial property • Retail property • Rural property	Performance, financial, business, liquidity, expertise, valuation, outsourcing, investment strategy (approval and monitoring), leverage, related party arrangements
Alternatives	Mortgages	Credit, market, liquidity, expertise, valuation, withdrawal, investment strategy (approval and monitoring), security
Alternatives	Land ownership	Performance, financial, business, liquidity, expertise, valuation, outsourcing, investment strategy (approval and monitoring), leverage, related party arrangements
Alternatives	Agriculture • Forestry • Horticulture • Viticulture • Aquaculture • Livestock	Production, environmental (weather, fire, floods), gestation, financial, liquidity, expertise, ownership structure, valuation, related party arrangements, medical
Alternatives	Horse breeding	Production, environmental (weather, fire, floods), gestation, financial, liquidity, expertise, ownership structure, valuation, related party arrangements, medical
Alternatives	Horse racing syndicate	Production, environmental (weather, fire, floods), financial, liquidity, expertise, ownership structure, valuation, related party arrangements, medical
Alternatives	Serviced strata	Operational, financial, market, liquidity, expertise, contractual, valuation, occupancy
Alternatives	Timeshare	Contractual, legal, market, liquidity, expertise, sales practices, disclosure, financial
Alternatives	Film	(High) performance, business, market, expertise, consumer tastes, contractual, intellectual property rights
Alternatives	Private equity	(High) performance, leverage, capital loss, expertise, valuation, liquidity, investment strategy (approval and monitoring), financial, custodial arrangements, jurisdictional

Asset kind	Sub-asset kind	Typical areas of ASIC focus
Alternatives	Hedge funds	(High) performance, leverage, capital loss, expertise, valuation, liquidity, investment strategy (approval and monitoring), financial, custodial arrangements, jurisdictional
Alternatives	Managed futures	Trading, collateralisation, leverage, risks of the underlying asset, expertise, investment strategy (approval and monitoring), outsourcing, financial, custodial arrangements, jurisdictional
Alternatives	Commodities	Trading, collateralisation, leverage, risks of the underlying asset, expertise, investment strategy (approval and monitoring), outsourcing, financial, custodial arrangements, jurisdictional
Alternatives	Derivatives (contracts)	Trading, collateralisation, leverage, risks of the underlying asset, expertise, investment strategy (approval and monitoring), outsourcing, financial, custodial arrangements, jurisdictional
Alternatives	Infrastructure	Maturity, operational, legal, contractual, sovereign, liquidity, expertise, valuation, outsourcing, leverage, usage, financial Additional for environmental infrastructure—production, environmental, gestation
Alternatives	Finance	Trading, collateralisation, leverage, risks of the underlying asset, expertise, investment strategy (approval and monitoring), outsourcing, financial, custodial arrangements, jurisdictional
Alternatives	Other	Dependent on asset kinds and investment strategy

Note: We have generally aligned the equity sub-asset kinds with those provided by APIR Systems Limited (APIR). APIR provides the industry standard identification regime in Australia for collective investment schemes, including managed funds, superannuation products and separately managed accounts.

Table 4: Areas of focus by investment strategy

Investment strategy	Typical areas of ASIC focus
Foreign exchange	Trading, foreign exchange rate, macroeconomic, expertise, investment strategy (approval and monitoring), valuation, outsourcing, financial, custodial arrangements
Sectoral focus • Consumer discretionary • Consumer staples • Communication services • Energy • Financials • Health care • Industrials • Information technology • Materials • Mixed • Real estate • Utilities	Dependent on sectoral investment strategy Note: We have generally aligned these sectors with those in the Global Industry Classification Standard System (GICS), developed jointly by Standard and Poor's and Morgan Stanley Capital International (MSCI). GICS is used by the MSCI indexes, which include domestic and international stocks, as well as by a large portion of the professional investment management community. We consider this to be an appropriate, widely recognised framework aimed at standardising industry definitions.

Investment strategy	Typical areas of ASIC focus
Fractional investment property platform	Market and economic risk, limited history, leverage, reliability of the platform technology, liquidity
IDPS-like scheme	Structure, risks of the underlying assets, operational, investment strategy (approval and monitoring), expertise, financial
Marketplace lending	Credit risk, market and economic risk, limited history, leverage, reliability of the platform technology, liquidity
Other	Dependent on asset kinds and investment strategy

RG 132.152 We recognise there may be situations where the types of registered scheme or CCIV level compliance risks are similar across some or all of the investment funds operated by an investment fund operator. If so, there may be some benefits for the investment fund operator in having compliance controls, and processes to monitor performance of compliance controls, that are standardised across these investment funds.

RG 132.153 In considering whether the compliance risks are sufficiently similar to warrant the same compliance controls, we will pay particular attention to:

(a) the nature, scale and complexity of each registered scheme or CCIV;

(b) the similarity of the compliance obligations; and

(c) the compliance objectives of the compliance controls, and whether they will be met to the same level for each registered scheme.

RG 132.154 We do not intend to provide a checklist of compliance controls for different types of registered scheme or CCIV level compliance risks. However, this section provides some illustrative guidance to assist investment fund operators prepare and establish their compliance plans.

Investment strategy

RG 132.155 In establishing compliance controls to address the risk of not meeting compliance obligations because of failings involving the investment strategy of the registered scheme or sub-fund of the retail CCIV, the investment fund operator could consider:

(a) What are the investment strategy, investment mandate and investment restrictions of the registered scheme or sub-fund? How will the investment fund operator ensure compliance with the investment strategy, mandate or restrictions?

(b) What procedures ensure that the PDS is prepared so that it accurately reflects the investment strategy and that any performance forecasts included in the PDS have a reasonable basis?

(c) Where the constitution, the PDS or the law restricts the type of assets the registered scheme or sub-fund may invest in (including any limits on investment), what procedures are in place to ensure that the investment fund operator only acquires permitted investments? How is compliance with the investment fund's acquisition and disposal policy to be monitored?

(d) Where the investment strategy depends on the specialised expertise of the investment fund operator and/or investment manager, what arrangements are in place to ensure that persons responsible for investment decisions have the necessary expertise?

Technology dependence

RG 132.156 Where the investment strategy of an investment fund is dependent on a particular technology, in establishing compliance controls to address the risk of not meeting compliance obligations because of that technology the investment fund operator could consider:

(a) What procedures ensure that the technology adopted complies with any legal requirements?

(b) What procedures ensure that the investment fund operator holds any licences or permissions necessary to use the technology?

Agricultural and environmental risks

RG 132.157 Where the investment strategy of a registered scheme or sub-fund of a retail CCIV may be affected by risks associated with agricultural production or the environment, the investment fund operator could consider:

(a) Where agricultural business management functions are outsourced, what procedures ensure that the investment fund operator monitors the performance of the outsourced service provider?

(b) What procedures ensure that production and cash flow forecasts in the PDS have a reasonable basis? What procedures are in place for monitoring production and cash flow to ensure that the forecasts remain reasonable and are updated as necessary?

(c) What procedures are in place to ensure that agricultural activities are carried out in accordance with legal requirements and permits? What procedures ensure that land used by the investment fund is properly identified and disclosed in the PDS, is not affected by any encumbrances that will adversely affect the investment fund, and will not be subject to any consents or approvals that the investment fund operator cannot satisfy by the date of commencement of the investment fund?

Fees and costs

RG 132.158 In establishing compliance controls to address risks associated with fees and costs, the investment fund operator could consider:

(a) What are the procedures to ensure that only authorised fees and costs are charged to the registered scheme or sub-fund, and that fees are calculated in accordance with the constitution and deducted correctly?

(b) How does the investment fund operator ensure that reasonable steps are taken to estimate amounts required to be included in fee and cost disclosures in PDSs and periodic statements?

(c) What are the procedures in place to ensure that fees and costs are disclosed in compliance with the Corporations Act?

(d) What are the procedures in place to ensure that any management or transaction costs charged by the investment fund operator are not inflated by bundling them with fees for other services provided?

Custodial arrangements

RG 132.159 In establishing compliance controls to address risks associated with custodial arrangements (including the risk of not meeting compliance obligations for the segregation and safeguarding of fund property), the investment fund operator could consider:

(a) What arrangements ensure that assets are identified appropriately?

(b) What arrangements ensure that assets are separated, as required under the Corporations Act, from those of the investment fund operator and other investment funds and any other sub-funds of a retail CCIV?

(c) What arrangements are in place to ensure that any person holding assets or property of the registered scheme or retail CCIV meets the relevant regulatory requirements?

Note: For information on the AFS licence obligations that apply to responsible entities, licensed providers of custodial services, MDA providers and IDPS operators in relation to holding assets and minimum standards for asset holders, see RG 133. A corporate director may also wish to consider the guidance in RG 133.

(d) What procedures ensure that the investment fund operator has appropriate insurance in place for identifiable risks relevant to the nature of the assets)?

RG 132.160 All assets of a CCIV must be allocated to a sub-fund: see s1234. The assets of a sub-fund must be held separately from assets of other sub-funds of the CCIV: see s1234J. A corporate director of a CCIV must set up and maintain a register of assets and liabilities of the CCIV's sub-funds: see s1233C. We will look for the compliance plan of a retail CCIV to include compliance

controls that ensure the corporate director complies with these obligations, including to identify, monitor and keep records of:

(a) details of any unallocated assets or liabilities of the CCIV; and

(b) for each allocated asset and liability of the CCIV, the sub-fund to which the asset or liability has been allocated.

RG 132.161 There will be different risks to members arising out of the different ways that the registered scheme or sub-fund assets are held, including whether the investment fund operator has engaged a custodian to hold some or all of the assets.

RG 132.162 The appropriate compliance controls will also depend on the nature and amount of assets held. For example, more sophisticated compliance controls, processes and procedures may be required for a custody business that provides services for a full range of financial products, compared to an AFS licensee that holds only a limited range and value of assets.

Compliance controls where the responsible entity undertakes self-custody or the retail CCIV holds the assets

RG 132.163 Where the responsible entity holds the assets (i.e. undertakes self-custody) or the retail CCIV holds the assets, we expect that in preparing its compliance plan the investment fund operator will address risks to members that might arise from non-compliance related to not engaging an external person to hold the assets

RG 132.164 We expect the compliance plan to include details about:

(a) the procedures to ensure independent verification of the robustness of the custodial arrangements in relation to material compliance risks, particularly any risks that apply more specifically to the holding of the assets; and

(b) the procedures to ensure that the investment fund operator's risk management arrangements adequately address operational risks arising in relation to holding of the assets.

RG 132.165 In the case of a registered scheme, we expect the compliance plan of the registered scheme to include consideration of issues such as:

(a) What procedures ensure that all record keeping for client assets is carried out in a timely and accurate manner and that records are kept as required by RG 133 and the relevant regulatory requirements?

(b) What procedures ensure that the minimum standards for asset holders under RG 133 and the relevant regulatory requirements are met?

(c) What procedures ensure that the responsible entity is complying with its asset-holding obligations?

Note 1: For information on minimum standards and related requirements for asset holders—including organisational structure, staffing capabilities, capacity and resources, holding assets on trust, keeping compliance records, and making compliance inquiries—see Section B of RG 133 and Pt 8B.5 of the Corporations Regulations.

Note 2: Where the assets of a CCIV are held by the CCIV, the corporate director may wish to consider the guidance in RG 133 and RG 132.165.

RG 132.166 Where the responsible entity holds assets and it may not be practicable to identify publicly that they are held on trust, we expect the compliance plan would generally include specific compliance controls to ensure the responsible entity complies with its obligations to members for those assets. The plan might, for example, include special authorisation procedures.

Compliance controls for the investment fund operator where it engages a custodian

RG 132.167 If the investment fund operator engages another person as a custodian, we expect it to ensure that clients are protected from the possible compliance risks arising from this arrangement.

RG 132.168 We will look at whether the compliance plan sets out the compliance controls that the investment fund operator will use to minimise these risks.

RG 132.169 For registered schemes, this would include consideration of issues such as:

(a) What procedures ensure that there is a reasonable documented process for selecting an appropriate custodian or sub-custodian, and that any custodian engaged meets the minimum standards for asset holders under RG 133?

(b) What procedures are in place to monitor the activities of the custodian and deal with any deficiencies that arise?

(c) What procedures ensure that there is a legally enforceable agreement with the custodian and that the agreement addresses the issues in RG 133?

Note 1: For information on requirements when engaging another custodian—including selecting an custodian, monitoring ongoing compliance, and requirements for the content of custody agreements—see Section C of RG 133.

Note 2: Where the assets of CCIV are held by a person other than CCIV, the corporate director may wish to consider the guidance in RG 133 and RG 132.169.

RG 132.170 For retail CCIVs, the corporate director should consider what compliance controls are required to ensure that the custodian complies with the minimum standards in Pt 8B.5.10(2) of the Corporations Regulations.

RG 132.171 Where the investment fund operator has engaged a custodian that is a related body corporate or other associate, we expect that the compliance plan would include the same types of compliance controls that the investment fund operator would use if the custodian were not related or associated.

Valuation

RG 132.172 In establishing compliance controls to address the risk of not meeting compliance obligations because of a valuation failure, the investment fund operator could consider:

(a) What are the procedures to ensure that the systems used to determine unit price are functioning consistently with the PDS and the constitution, that the PDS is consistent with the constitution, and that supporting systems (e.g. the system for processing interest or share buying and selling activities) are adequately operated? What procedures are in place to correct pricing errors?

(b) How does the investment fund operator ensure that the assets and property of the investment fund are valued at regular intervals appropriate to their nature? How does the investment fund operator ensure that the assets and property of the investment fund are valued in a manner appropriate to the nature of the property?

(c) What procedures ensure that income earned by assets is collected and recorded in a way that is timely, accurate and complete?

(d) What arrangements ensure that the investment fund operator becomes aware of changes in security values or positions due to corporate actions on a timely basis so that changes in valuations, income accruals and positions can be evaluated?

(e) What procedures ensure that the valuer has appropriate qualifications and experience? Is the valuer a member of an appropriate professional body and the valuation conducted in accordance with the standards of that body?

(f) What arrangements ensure that external valuations are prepared on the basis of appropriate and reasonable instructions for the purpose of determining the market value of an asset?

(g) What arrangements ensure that an external valuer is independent from the investment fund operator and free of any conflict of interest?

(h) What arrangements ensure that valuers rotate at regular intervals?

(i) What procedures are in place for the frequency and practice of external valuation, taking into account the nature of the asset, the market circumstances and the timetable for issue and redemption of interests or shares?

Pricing of interests and shares

RG 132.173 In establishing compliance controls to address the risk of not meeting compliance obligations because of a pricing failure, the investment fund operator could consider:

(a) What procedures ensure that prices of interests and shares are calculated in accordance with the constitution and the Corporations Act? What procedures ensure that exceptional movements in prices of interests and shares are noted and investigated? What procedures ensure that errors in pricing are identified and dealt with?

(b) What procedures ensure that all income due to the registered scheme or sub-fund is collected and calculated correctly?

Securities trading

RG 132.174 In establishing compliance controls to address the risk of not meeting compliance obligations because a trade in securities is not in the best interests of members, the investment fund operator could consider:

(a) What are the procedures to ensure that trades executed on behalf of the investment fund are performed on a timely basis (in real terms and in relation to other client accounts of the operator), and at the best price available?

(b) What are the procedures to ensure that trades on behalf of the registered scheme or sub-fund receive fair allocations when block trades are made? How does the investment fund operator ensure that allocations are completed without bias toward or against any particular client or fund on the basis of predetermined algorithms or decisions?

(c) What procedures ensure that the investment fund operator's levels of securities trading on behalf of the fund are appropriate and that assets are not wasted on brokerage?

(d) What arrangements are in place to ensure that the investment fund operator does not make use of information acquired through being the investment fund operator to gain an improper advantage (such as receiving the benefit of research used for other clients at the cost of higher brokerage) or cause detriment to members?

(e) What procedures ensure that the investment fund operator does not create a false or misleading appearance of active trading in securities, or a false or misleading appearance in the market for, or the price of, securities?

(f) What procedures ensure that the investment fund operator does not buy or sell securities that do not involve any change in beneficial ownership of shares or by any fictitious transaction maintain, increase, reduce or cause fluctuations in the market price of any securities?

Securities lending by the investment fund operator

RG 132.175 An investment fund operator may decide to lend the assets of the registered scheme or a retail CCIV under a securities lending program using a custodian. A securities lending program could expose members to additional risk, including the credit risk associated with borrowers and the operational risks associated with the program. The investment fund operator should ensure that members are not exposed to unnecessary risks and are appropriately compensated for any additional risks.

RG 132.176 In establishing compliance controls to address the risk of not meeting compliance obligations because a securities lending arrangement is not in the best interests of members, the investment fund operator could consider:

(a) What procedures ensure that participation in securities lending is in the best interests of members? This could include setting the parameters of the securities lending program, including relevant provisions in a custody agreement, to ensure that members are not exposed to unnecessary risks and are appropriately compensated for any additional risks.

(b) How will the investment fund operator document:

(i) the reasons why it would be in the best interests of members to lend the assets; and

(ii) how any conflicts of interest arising from the securities lending program will be managed?

Leverage

RG 132.177 In establishing compliance controls to address the risk of not meeting compliance obligations because of the use of leverage, the investment fund operator could consider:

(a) What procedures ensure that appropriate disclosure is made to investors about the risks associated with leverage?

(b) Where the registered scheme or sub-fund borrows for investment, what procedures are in place to ensure that borrowings are within defined limits as set out in the constitution?

(c) What procedures are in place to ensure that the registered scheme or sub-fund will not lose assets provided as collateral as a borrower under any securities lending arrangements?

Credit

RG 132.178 In establishing compliance controls to address the risk of not meeting compliance obligations associated with providing credit, the investment fund operator could consider:

(a) What procedures are in place to ensure that credit assessment procedures are followed?

(b) What procedures are in place to ensure loans are only made in accordance with lending policies? What arrangements ensure mortgage investment securities are fully enforceable at all times and loan covenants are complied with?

(c) What procedures are in place to monitor loan repayments and ensure all income due to the registered scheme or retail CCIV is received? Are there consistent and fair procedures in place in the event of default in payment by a borrower?

Other business risks

RG 132.179 The guidance in this guide is not intended to be an exhaustive list of all compliance risks that might be faced by every registered scheme or retail CCIV. As part of the structured and systematic assessment of its compliance obligations and the risks of not meeting those obligations, the investment fund operator should establish compliance controls to address any additional compliance risks.

Additional compliance risks and controls for Australian passport funds

RG 132.180 Under the Australian Passport Rules, the Australian passport fund operator of an Australian passport fund is required to have a compliance framework that ensures ongoing compliance with relevant laws and regulations: see section 8(2)(d) of the Australian Passport Rules.

RG 132.181 We consider an Australian passport fund will satisfy this requirement through complying with the relevant Corporations Act requirements and this guide (e.g. by having a compliance plan, compliance plan audit, and, if required, a compliance committee).

RG 132.182 Where the Australian Passport Rules impose obligations beyond those required of investment funds under the Corporations Act, we expect the compliance plan for an Australian passport fund to address those additional requirements.

RG 132.183 We note that the particular requirements for Australian passport funds in the Australian Passport Rules mean that there will be some areas where we apply greater scrutiny to Australian passport funds. We will closely scrutinise the compliance controls in these areas before registering a registered scheme or sub-fund as an Australian passport fund. These include:

(a) the 'eligible entity' requirements in section 3 of Annex 2 to the Memorandum of Cooperation;

(b) requirements for delegation and the appointment of external service providers in sections 11, 13 and 15 of the Australian Passport Rules;

(c) breach reporting obligations in section 12 of the Australian Passport Rules;

(d) requirements for the independent oversight entity in section 14 of the Australian Passport Rules;

(e) permitted assets and portfolio allocation limits and exposures in Divisions 6.2, 6.3 and 6.4 of the Australian Passport Rules;

(f) other restrictions in Division 6.5 of the Australian Passport Rules, including prohibition on the provision of loans, guarantees and underwriting, borrowing restrictions, prohibition of short selling, restrictions on the liability of members, and performance fee restrictions;

(g) withdrawal and valuation requirements in Part 7 of the Australian Passport Rules.

RG 132.184 In establishing compliance controls to address specific risks of compliance with the Australian Passport Rules, the Australian passport fund operator should consider all of its compliance obligations under the Australian Passport Rules and identify whether any compliance obligations require specific compliance controls that are not part of its other controls. We consider the types of questions the operator might need to consider include:

(a) What procedures ensure that the operator appoints persons with the necessary qualifications to certain positions (e.g. résumé checking and due diligence)?

(b) Where the operator has delegated some of its functions, what arrangements are in place to:

(i) ensure that ASIC is at all times able to access information on the delegated functions from the operator, directly from a delegate or from any person who was a delegate for a reasonable time after they have ceased to be a delegate;

(ii) ensure that the performance of the function by the delegate and any sub-delegate can be effectively monitored and reviewed to ensure compliance with the Australian Passport Rules as if done by the operator; and

(iii) ensure that investment management delegates are qualified where required under the Australian Passport Rules, including (where applicable) meeting the requirements that the delegate is regulated in a participating economy under the Asia Region Funds Passport, or an equivalent jurisdiction approved by ASIC where required, and that officers or employees of the delegate have enough training and experience?

(c) What procedures are in place to ensure that the operator only acquires assets of a type permitted under the Australian Passport Rules?

(d) What procedures ensure that there is no acquisition of assets by the Australian passport fund or entering into derivatives or securities lending agreements that cause the Australian passport fund to exceed any limits or restrictions on portfolio allocation as prescribed under the Australian Passport Rules?

(e) Where the Australian passport fund has exceeded a limit, what procedures are in place to bring the fund back within the limit as soon as practicable?

(f) What procedures ensure that the basis for calculating any performance fee is aligned to the Australian passport fund's investment strategy, and set out in disclosure to members?

(g) What arrangements, including monitoring, ensure that any performance fee does not create a misalignment of incentives between the operator, staff of the operator and the members of the Australian passport fund, including by encouraging excessive risk or non-compliance with the investment strategy?

(h) What procedures does the operator have in place to ensure that the independent oversight entity has access to accurate and timely information to allow it to carry out any required verification before payment of a performance fee?

D Oversight

Key points

In addition to the directors of a responsible entity or a corporate director of a retail CCIV—who are ultimately responsible for ensuring that the investment fund operator complies with its obligations—oversight and assurance of the operator's compliance is primarily through:

- for registered schemes—the compliance committee (where less than half the directors of the responsible entity are external directors). The compliance committee assesses whether the compliance plan is adequate, monitors the responsible entity's compliance with the compliance plan, reports breaches to the responsible entity and, if the responsible entity does not take action to adequately deal with a reported breach, reports the matter to ASIC (see RG 132.185–RG 000.197); and
- for registered schemes and retail CCIVs—the compliance plan auditor, who conducts an annual audit to assess whether the investment fund operator has complied with the compliance plan and whether the compliance plan continues to meet the requirements of the Corporations Act (see RG 132.198–RG 132.214).

Registered schemes and sub-funds that are also registered as Australian passport funds are required to have an independent oversight entity and annual implementation review. The functions of the oversight entity can overlap those of the fund operator's external directors (or compliance committee), while the functions of the implementation review can overlap those of the compliance plan audit: see RG 132.215–RG 132.228.

Compliance committee

RG 132.185 The responsible entity of a registered scheme must establish a compliance committee if less than half of its directors are external directors: see s601JA. The compliance committee must have at least three members, the majority of whom must be 'external members': see s601JB.

> Note: At least half of the directors of the corporate director of a CCIV must be external directors: see s1238H. This means that a CCIV is not required to establish a compliance committee.

RG 132.186 Regardless of whether the responsible entity has a compliance committee, the board remains ultimately responsible for ensuring that the responsible entity complies with its obligations. The compliance committee can operate, in part, as an intermediary between the operational compliance unit and board of directors in relation to compliance monitoring, assessment and reporting. However, it is also important that the compliance function has a direct reporting line to the board to ensure that the board is made fully aware

of any compliance issues, so that the board can effectively carry out its governance responsibilities.

RG 132.187 If the registered scheme is not required to have a compliance committee, we will look for the external directors to be particularly vigilant and actively engaged with compliance issues.

Functions and duties

RG 132.188 Under s601JC, the compliance committee's functions are to:

(a) monitor to what extent the responsible entity complies with the compliance plan and report on its findings to the responsible entity;

(b) report to the responsible entity any breaches of the Corporations Act or the constitution that the committee becomes aware of or suspects;

(c) report to ASIC if the committee is of the view that the responsible entity has not taken, or does not propose to take, appropriate action to deal with a reported breach of the Corporations Act or the constitution; and

(d) assess at regular intervals whether the compliance plan is adequate, report to the responsible entity on that assessment and make recommendations to the responsible entity about any changes that it considers should be made to the compliance plan.

Experience, qualifications and competence

RG 132.189 Given the important role that the compliance committee plays as a gatekeeper in monitoring the responsible entity's compliance with its obligations, we consider it is important that compliance committee members have enough experience, qualifications and competence to carry out their duties and functions.

RG 132.190 We consider that a responsible entity aiming for an effective compliance management system should engage compliance committee members who have:

(a) relevant tertiary qualifications (e.g. in law, business, commerce or finance);

(b) current work experience over a number of years in undertaking compliance activities and investigations; and

(c) an understanding of regulatory requirements and how they apply.

RG 132.191 We will look for the responsible entity to consider the experience, qualifications and skills that each compliance committee member brings, to ensure that the compliance committee as a whole can adequately perform its role.

RG 132.192 Where the responsible entity requires minimum standards of experience, qualifications and competence of its compliance committee members, we

will look for the responsible entity to have procedures in place to conduct checks to confirm that these requirements are met. To ensure compliance committee members retain the necessary knowledge and skills to continue to carry out their duties and functions, they should complete adequate ongoing training and educational programs.

RG 132.193 The responsible entity should take action when it becomes aware that a compliance committee member is not adequately performing their duties, or where it is not appropriate for that member to continue to sit on the committee.

Appointment of committee members

RG 132.194 The terms of appointment for compliance committee members should set out clear requirements about:

(a) the role and objectives of the compliance committee;

(b) the responsibilities of the committee member;

(c) the term of office of the committee member;

(d) the independence of the committee member;

(e) minimum standards of experience, qualifications and competence the committee member must meet and maintain; and

(f) the committee member's ongoing competence, including training and educational programs.

Performance of functions

RG 132.195 The compliance committee should meet regularly to ensure that it can detect instances of non-compliance early and report it to the responsible entity before it worsens. In keeping with its important gatekeeping role, we consider that the compliance committee should meet at least quarterly. We are concerned that meeting any less frequently would not allow the compliance committee to effectively fulfil its function.

RG 132.196 The compliance committee may need to meet more frequently in some cases. This will depend on the nature, scale and complexity of the registered scheme, and whether:

(a) non-compliance is detected;

(b) a compliance committee member has concerns; or

(c) there are other important changes to the operation of the registered scheme or the business environment.

RG 132.197 The compliance committee should keep records to demonstrate that it is appropriately monitoring compliance with the compliance plan. Appropriate records would include meeting agendas, minutes, reports received by the compliance committee and reports made by the compliance committee to the board.

Compliance plan auditor

RG 132.198 An investment fund operator must ensure that at all times a registered company auditor, an audit firm or an authorised audit company is engaged to audit compliance with the compliance plan: see s601HG and 1226F.

RG 132.199 The auditor of a compliance plan must give the investment fund operator a report that states the auditor's opinion on whether:

(a) the investment fund operator has complied with the compliance plan during the financial year; and

(b) the plan continues to meet the requirements of the Corporations Act.

Guidance for compliance plan auditors

Assurance standards

RG 132.200 While the Corporations Act does not provide further standards for the performance of a compliance plan audit, we expect auditors to follow general auditing principles to the extent they are relevant and consistent.

> Note: The Auditing and Assurance Standards Board has issued Standard on Assurance Engagements ASAE 3100 *Compliance engagements* and Guidance Statement GS 013 *Special considerations in the audit of compliance plans of registered managed investment schemes*.

Scope of audit

RG 132.201 Under s601HG and 1226G, the auditor is required to provide an opinion on the investment fund operator's compliance with the compliance plan, as well as the continued adequacy of the compliance plan. The report is not required to directly address instances where the investment fund operator has failed to comply with the Corporations Act or the constitution. However, determining whether there are systemic or significant issues of non-compliance with the law or the constitution will be essential in assessing whether the compliance controls and monitoring processes contained in the compliance plan are adequate to prevent future non-compliance.

RG 132.202 While the auditor's report on the investment fund operator's compliance with the compliance plan covers the relevant financial year, the compliance plan's continued adequacy to meet the requirements of the Corporations Act is an ongoing requirement and the auditor's assessment of adequacy must reflect the auditor's opinion at the time the auditor provides the report.

RG 132.203 This does not mean the audit must be continuous during the relevant financial year or that the audit must be continued to cover matters after the end of the financial year. However, any significant breach identified after the end of the financial year and up to the date of the audit report may indicate that the compliance plan did not meet the requirements at the end of the

financial year, as the compliance controls in the compliance plan during the financial year may not have been adequate to prevent the breach.

RG 132.204 We consider that if such a breach comes to the attention of the auditor after the year end, the auditor should re-evaluate if they are of the opinion that the compliance plan continued to meet the requirements of the Corporations Act at the end of the financial year.

RG 132.205 In preparing the audit report, the auditor should not simply assume that the compliance plan was necessarily compliant at any previous time. This includes assuming that the compliance plan met s601HA or 1226A at the time the investment fund was registered.

Testing of compliance plans

RG 132.206 An investment fund operator might operate more than one investment fund. The funds' compliance plans might:

(a) incorporate parts of one compliance plan into other compliance plans (although not as between a retail CCIV and a registered scheme), or have the same provisions in different compliance plans for a number of investment funds to address compliance risks that are relevant to those investment funds' assets and operations, and monitor the controls across those investment funds in the same process; or

(b) have group compliance controls and processes addressing compliance risks applicable to the investment fund operator generally, where the controls may be monitored in the same process.

RG 132.207 Where this is the case, we consider that s601HG and 1226G still require the auditor to assess whether the compliance plan is adequate for each investment fund and that the investment fund operator has complied with each compliance plan.

RG 132.208 It may be sufficient in some cases to test compliance with common compliance controls across investment funds, rather than individually for each investment fund. Generally, this is likely to be sufficient for group compliance controls. However, we consider it would not be sufficient to test only some of the investment funds or rely on a sample of the compliance controls where there are differences in the nature, scale and complexity of the investment funds or sub-funds that should affect the design or effective operation of a compliance control.

RG 132.209 Similarly, if there is an indication that compliance controls may be operating effectively for some investment funds and not others, this would affect the appropriate nature, timing and extent of testing by the auditor.

Audit report

RG 132.210 We consider that s601HG and 1226G require that compliance plan audit reports must be prepared on the following bases:

(a) a compliance plan audit must be undertaken in relation to each investment fund, regardless of similarities in the nature, phase of operations or registration dates of individual investment funds managed by the same investment fund operator; and

(b) the auditor's opinion in relation to each investment fund must be clear.

RG 132.211 Whether the auditor prepares a consolidated report or individual reports for each investment fund, the audit report must be a complete and comprehensible document in its own right. The audit report must include a statement of opinion on whether s601HG(3)(c)(i) and (ii) or 1226G(1)(c)(i) and (ii) are met. If not, a modified opinion must be provided.

RG 132.212 Where the auditor issues a modified audit report, we consider that the audit report must include modifications with a sufficiently clear description of all the reasons for why s601HG(3)(c)(i) and (ii) and 1226G(1)(c)(i) and (ii) are not met that allows users to understand the nature of concerns without reference to any other document. For example, a matter should not be described only by reference to a paragraph number in the compliance plan.

Resignation or removal of compliance plan auditor

RG 132.213 An auditor who wishes to resign, or an investment fund operator that wishes to remove an auditor from office, must apply in writing to ASIC for our consent: see s601HH(1) and (2) and 1226J(1) and (3).

> Note: For more information on how we apply the provisions of the Corporations Act relating to the resignation and removal of auditors of investment fund financial reports and compliance plans, see Regulatory Guide 26 *Resignation, removal and replacement of auditors* (RG 26), particularly RG 26.68–RG 26.76. See also Information Sheet 64 *Resignation and removal of auditors of registered scheme financial report or a compliance plan* (INFO 64) for more information.

Auditor's obligations to report to ASIC

RG 132.214 The auditor is obliged, as soon as practicable (and in any case within 28 days), to notify ASIC in writing if it becomes aware of circumstances that give it reasonable grounds to suspect that there has been a contravention of the Corporations Act that is:

(a) significant; or

(b) not significant, but the auditor believes that the contravention has not been or will not be adequately dealt with by commenting on it in the auditor's

report or by bringing it to the attention of the directors (see s601HG and 1226H).

Note: For more information on an auditor's obligation to report to ASIC, see Regulatory Guide 34 *Auditor's obligations: Reporting to ASIC* (RG 34).

Oversight of Australian passport funds

RG 132.215 Oversight requirements for Australian passport funds under the Australian Passport Rules are similar to the requirements for investment funds under the Corporations Act. That is, Australian passport funds are subject to:

(a) oversight by an independent oversight entity, whose functions are similar to those of a compliance committee under the Corporations Act; and

(b) an annual implementation review.

RG 132.216 The oversight requirements under the Australian Passport Rules do not replace the requirements of the Corporations Act. This means that an Australian passport fund operator must still meet the requirements of the Corporations Act in relation to compliance plans, compliance committees and compliance plan audits. However, we expect that where the obligations overlap, the operator can satisfy both sets of obligations at the same time. For example, an operator can engage an auditor to undertake the compliance plan audit and annual implementation review in the one process.

Independent oversight entity

RG 132.217 Under the Australian Passport Rules, the independent oversight entity for each Australian passport fund is each of the external directors of the Australian passport fund operator or, if there is a compliance committee, the compliance committee: see section 14 of the Australian Passport Rules.

RG 132.218 This means that we do not expect the Australian passport fund operator to appoint a different person or group of people to act as the independent oversight entity, separate from the compliance committee (if the Australian passport fund is a registered scheme with a compliance committee).

RG 132.219 The functions and duties of an independent oversight entity are substantially similar to those of a compliance committee. Under the Australian Passport Rules, the independent oversight entity must monitor the Australian passport fund operator for compliance with:

(a) the constitution of the Australian passport fund;

(b) Australian laws administered by ASIC applying to fund operators; and

(c) the Australian Passport Rules governing restrictions on investments, transactions and portfolio allocations of the Australian passport fund.

RG 132.220 If the Australian passport fund operator is required to report a breach of the constitution or relevant Australian laws (including the Corporations Act and the Australian Passport Rules) but fails to do so, the independent oversight entity must notify ASIC. In some cases, the operator must also notify each relevant host regulator, as soon as practicable and in any event within seven days, and include particulars of the breach: see section 14 of the Australian Passport Rules.

RG 132.221 The Australian Passport Rules also impose some specific obligations on the independent oversight entity. This includes the requirement that the entity must specifically certify that it is not aware of any reason to believe the Australian passport fund operator has not complied with the compliance controls relating to performance fees before the operator may be paid a performance fee: see section 47 of the Australian Passport Rules.

RG 132.222 Similar to the requirements in relation to a compliance committee under the Corporations Act, the Australian passport fund operator must provide any assistance required by the independent oversight entity to perform its functions.

Annual implementation review assurance report

RG 132.223 An Australian passport fund operator must ensure that an implementation review of the operation of the Australian passport fund is conducted in relation to each period for which it prepares, or is required to prepare, a financial statement for the Australian passport fund: see section 15 of the Australian Passport Rules.

RG 132.224 The implementation review for an Australian passport fund must be conducted by a registered company auditor, an audit firm or an authorised audit company under the Corporations Act. The implementation review must not be conducted by the Australian passport fund operator or its related party.

RG 132.225 The implementation review must be conducted independently in accordance with standards acceptable to ASIC: see section 15(7) of the Australian Passport Rules. We consider that ASAE 3100 is an appropriate standard for the conduct of an implementation review in accordance with the Australian Passport Rules.

RG 132.226 The assurance report from the implementation review must state:

(a) whether any matter has come to the attention of the reviewer that causes them to believe that, or to believe that it is likely that, the Australian passport fund was not operated in accordance with the Australian Passport Rules during the review period in all respects that may be material to the Australian passport fund operator, the independent oversight entity, ASIC and each host regulator;

(b) particulars of each matter, including details explaining the reasons why the reviewer has reason to believe that the Australian passport fund was not operated in accordance with, or was not likely to have been operated in accordance with, the Australian Passport Rules during the period; and

(c) information on the basis for the statements made in RG 132.226(a) and RG 132.226(b).

RG 132.227 The Australian passport fund operator must, within three months after the end of the review period, provide a copy of the implementation review assurance report to:

(a) ASIC;

Note: For more information on a reviewer's obligation to report to ASIC, see RG 34.

(b) each host regulator for a host economy where the Australian passport fund had, during the review period, members who became members following an application made in that economy;

(c) each host regulator for each host economy where interests in the Australian passport fund were offered; and

(d) the independent oversight entity of the Australian passport fund.

RG 132.228 As noted at RG 132.216, the requirement for an annual implementation review of an Australian passport fund is in addition to the requirement for a compliance plan audit. The auditor must provide separate opinions in respect of the compliance plan audit and annual implementation review. However, the compliance plan audit and the annual implementation review may be undertaken as part of a single engagement. In forming their opinion, the reviewer will need to take into account information available to them from any compliance plan audit they have conducted.

Key terms

Term	Meaning in this document
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s761A.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act
Annex 3 (for example)	An annex to the Memorandum of Cooperation
annual implementation review	A review of the operation of a passport fund in accordance with section 15 of the Australian Passport Rules
Asia Region Funds Passport	An agreement between economies in the Asia region that allows passport funds established and regulated in one participating economy to offer interests to investors in another participating economy
ASIC	Australian Securities and Investments Commission
ASIC Act	*Australian Securities and Investments Commission Act 2001*
Australian passport fund	A registered scheme or sub-fund of a retail CCIV that is also registered as a passport fund under Pt 8A.3 of the Corporations Act
Australian Passport Rules	The *Corporations (Passport) Rules 2018* made under s1211 and 1211A of the Corporations Act
CCIV	A corporate collective investment vehicle—a company that is registered as a corporate collective investment vehicle under the Corporations Act Note: This is a definition contained in s9 of the Corporations Act.
corporate director	The company named in ASIC's record of the CCIV's registration as the corporate director or temporary corporate director of the CCIV Note: This is a definition contained in s1224(3) of the Corporations Act.
Corporations Act	*Corporations Act 2001*, including regulations made for the purposes of that Act
Corporations Regulations	*Corporations Regulations 2001*
Div 2 (for example)	A division of the Corporations Act (in this example numbered 2) or the Corporations Regulations, unless otherwise specified

Term	Meaning in this document
fund property	The scheme property of a registered scheme or the assets of the sub-funds of a retail CCIV
home economy	The participating economy in which a passport fund is first registered, approved or authorised as a regulated collective investment scheme
host economy	A participating economy that is not a passport fund's home economy and either: • permits the fund to offer interests in the fund in that economy under the Asia Region Funds Passport; or • has accepted an application from the fund to offer interests in the fund in that economy under the Asia Region Funds Passport (but not to register the fund as a passport fund in that economy)
host regulator	The passport regulator in a passport fund's host economy
IDPS	An investor directed portfolio service as defined in Class Order [CO 13/763] *Investor directed portfolio services* or any instrument that amends or replaces that class order
IDPS-like scheme	An investor directed portfolio services-like scheme as defined in Class Order [CO 13/762] *Investor directed portfolio services provided through a registered managed investment scheme*, or any instrument that amends or replaces that class order
IDPS Guide	A document provided by an IDPS operator instead of a PDS to help retail clients decide whether they should use the IDPS
IDPS operator	A public company that is a holder of an AFS licence that is authorised to operate an IDPS and who provides an IDPS or a function that forms part of the IDPS
independent oversight entity	A body established under section 14 of the Australian Passport Rules. In Australia, an independent oversight entity comprises external directors of the passport fund operator or the compliance committee
investment fund	A registered scheme or retail CCIV
investment fund operator	A responsible entity of a registered scheme or corporate director of a retail CCIV
managed investment scheme	Has the meaning given in s9 of the Corporations Act Note: A notified foreign passport fund is a managed investment scheme for the purpose of the Corporations Act: see s1213E.
MDA	Managed discretionary account

Term	Meaning in this document
MDA provider	A person who holds an AFS licence with authorisations to provide MDA services Note: A detailed definition is contained in *ASIC Corporations (Managed Discretionary Account Services) Instrument 2016/968*
MDA service	Has the meaning given in ASIC Instrument 2016/968
member	A member of a managed investment scheme or a CCIV
Memorandum of Cooperation	The Memorandum of Cooperation on the Establishment and Implementation of the Asia Region Funds Passport
participating economy	An economy that is a participant under the Memorandum of Cooperation (while it is in effect) and has: • advised the Asia Region Funds Passport Joint Committee that it has implemented the Asia Region Funds Passport; and • not withdrawn from the Memorandum of Cooperation
passport fund	A regulated collective investment scheme, or sub-fund of a regulated collective investment scheme, registered as a passport fund in a participating economy Note: Some regulated collective investment schemes, or sub-funds of regulated collective investment schemes, that have been deregistered as passport funds remain subject to obligations as if they were still a passport fund.
passport fund operator	An entity that operates a passport fund
passport regulator	The entity that regulates passport funds in a participating economy Note: See also the definition of 'passport regulator' in section 55 of the Australian Passport Rules.
Passport Rules	The requirements in Annex 3 to the Memorandum of Cooperation, as incorporated into the domestic law of a participating economy
PDS	A Product Disclosure Statement—a document that must be given to a retail client for the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act Note: See s761A for the exact definition.
Pt 8A.3 (for example)	A part of the Corporations Act (in this example numbered 8A.3) or the Corporations Regulations, unless otherwise specified
registered scheme	A managed investment scheme that is registered under s601EB of the Corporations Act
regulated collective investment scheme	A regulated collective investment scheme as defined by the Passport Rules for a participating economy
responsible entity	A responsible entity of a registered scheme as defined in s9 of the Corporations Act

Term	Meaning in this document
retail CCIV	A CCIV that satisfies the retail CCIV test in s1222K of the Corporations Act or is notified as a retail CCIV under s1222L of the Corporations Act Note: This is a definition contained in s1222J of the Corporations Act.
retail client	A client as defined in s761G of the Corporations Act and Div 2 of Pt 7.1 of the Corporations Regulations
RG 259 (for example)	An ASIC regulatory guide (in this example numbered 259)
s601HG (for example)	A section of the Corporations Act (in this case numbered 601HG), unless otherwise specified
sub-fund	Has the meaning given in s1222Q of the Corporations Act Note: A sub-fund is established on the day on which it is registered: see s1222T.
wholesale CCIV	A CCIV that is not a retail CCIV Note: This is a definition contained in s1222J of the Corporations Act.
wholesale scheme operator	An operator of a managed investment scheme that is unregistered and not required to be registered because of s601ED(2) of the Corporations Act, who holds an AFS licence in relation to financial services provided in the operation of the scheme
wholesale unregistered scheme	A managed investment scheme that is not required to be registered under s601ED(2) of the Corporations Act

Related information

Headnotes

Asia Region Funds Passport, Australian passport fund, CCIV, compliance committee, compliance control, compliance management system, compliance plan, compliance plan audit, compliance plan auditor, compliance risk, corporate collective investment vehicle, corporate director, implementation review, independent oversight entity, investment fund, managed investment scheme, operator, oversight, registered scheme

Legislative instruments and pro formas

ASIC Corporations (Chapter 5C—Miscellaneous Provisions) Instrument 2017/125

PF 209 *Australian financial services licence conditions*

Regulatory guides

RG 26 *Resignation, removal and replacement of auditors*

RG 34 *Auditor's obligations: Reporting to ASIC*

RG 45 *Mortgage schemes: Improving disclosure for retail investors*

RG 46 *Unlisted property schemes: Improving disclosure for retail investors*

RG 78 *Breach reporting by AFS licensees and credit licensees*

RG 104 *AFS licensing: Meeting the general obligations*

RG 105 *AFS licensing: Organisational competence*

RG 131 *Funds management: Establishing and registering a fund*

RG 133 *Funds management and custodial services: Holding assets*

RG 134 *Funds management: Constitutions*

RG 148 *Platforms that are managed investment schemes and nominee and custody services*

RG 166 *AFS licensing: Financial requirements*

RG 179 *Managed discretionary accounts*

RG 181 *Licensing: Managing conflicts of interest*

RG 231 *Infrastructure entities: Improving disclosure for retail investors*

RG 232 *Agribusiness managed investment schemes: Improving disclosure for retail investors*

RG 240 *Hedge funds: Improving disclosure*

RG 259 *Risk management systems of responsible entities*

RG 267 *Oversight of the Australian Financial Complaints Authority*

RG 271 *Internal dispute resolution*

Legislation

Australian Passport Rules, Part 7, Divisions 6.2, 6.3, 6.4, 6.5, sections 8(2)(d), 11, 12, 13. 14, 15, 15(7), 47

Corporations Act, s9, s601EA, 601EB, 601ED, 601FC, 601GA, 601GB, 601HA, 601HB, 601HD, 601HE, 601HF, 601HG, 601HH, 601JA, 601JB, 601JC, 912A, 912D, 912DAA, 913B, 1211, 1211A, 1222A, 1223B, 1223G, 1223H, 1224D, 1224G, 1226A, 1226B, 1226D, 1226E, 1226F, 1226G, 1226J, 1233C, 1234, 1234J, 1238H

Corporations Regulations, Pt 8B.5.10(2)

Information sheets

INFO 64 *Resignation and removal of auditors of registered scheme financial report or a compliance plan*

INFO 272 *How to register a corporate collective investment vehicle and sub-fund*

Consultation papers and reports

CP 296 *Funds management*

REP 429 *Cyber resilience: Health check*

REP 555 *Cyber resilience of firms in Australia's financial markets*

REP 582 *Response to submissions on CP 296 Funds management*

Other documents

AS ISO 19600:2015 *Compliance management systems—Guidelines*

AS/NZS ISO 31000:2009 *Risk management: Principles and guidelines*

ASAE 3100 *Compliance engagements*

GS 013 *Special considerations in the audit of compliance plans of registered managed investment schemes*

Memorandum of Cooperation on the Establishment and Implementation of the Asia Region Funds Passport