



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 79

Research report providers: Improving the quality of investment research

December 2012

About this guide

This guide is for Australian financial services (AFS) licensees who are research report providers. It is directed towards providers of research on investment products—known variously as research analysts, securities analysts or research houses—and the research reports they provide.

It provides guidance on certain licensing and conduct obligations in Pt 7.7 of the *Corporations Act 2001* (Corporations Act) as they apply to general advice prepared by research report providers for retail and wholesale clients.

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 version was issued in December 2012 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Regulatory Guide 79 *Managing conflicts of interest: An ASIC guide for research report providers*, issued November 2004 and known in the *ASIC Digest* as [GD 200]. Rebadged as a regulatory guide 5 July 2007.

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.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview

Key points

Research report providers are important gatekeepers, preparing investment research for retail and wholesale investors. The quality of this research has a significant impact on the quality of advice retail investors receive.

This guide focuses on key phases of the research process to improve:

- the quality, methodology and transparency of research report production and distribution (see Section C);
- the management of conflicts by research report providers, including avoiding, controlling and disclosing these conflicts (see Section D); and
- the ability of users of research to understand and compare the research services of different research report providers (see Section E).

The role of research

RG 79.1 The timely and accurate flow of information about issuers, securities and other financial products is vital to the fair, efficient and transparent operation of financial markets. Research report providers are fundamental in the transmission of this information, and the integrity of their research directly affects the integrity of our financial markets.

Note: For the definition of ‘research report’ and ‘research report provider’, see Section B of this guide.

RG 79.2 Research report providers also perform an important ‘gatekeeping’ function in the financial advice industry by:

- (a) identifying products to consider for inclusion on approved product lists;
- (b) assisting financial advisers to formulate financial advice for retail investors; and
- (c) providing research for use directly by retail investors in making investment decisions.

Background to our guidance

RG 79.3 In a number of recent corporate collapses in Australia, the investment products that failed were either highly rated or the subject of very recent positive recommendations by research report providers just before the product failure. This has been a feature of collapses across investment classes including:

- (a) agribusiness schemes;
- (b) debenture issuers;
- (c) hedge funds investing in structured products;

- (d) other managed or superannuation funds, with the most recent example being Trio Capital; and
- (e) property investment schemes.

RG 79.4 Poor quality research or research that is not reliable, credible or current damages confidence in the research sector itself and in the financial services industry more broadly. Risks for the investment community are amplified where there is undue reliance on research reports and a lack of awareness of real and potential conflicts of interest which may adversely impact on the independence and therefore the reliability of those reports.

RG 79.5 After the global financial crisis, concerns about the impact of conflicts of interest and the regulation of credit rating agencies and research report providers prompted the then Minister for Superannuation and Corporate Law, Nick Sherry, to announce a review of the regulation of credit rating agencies and research houses with a report to the Australian Government.

RG 79.6 The report by the Treasury and ASIC, *Review of credit rating agencies and research houses: A joint report* (REP 143) was published in October 2008 and led to reforms to the regulation of credit rating agencies in Australia.

RG 79.7 In November 2011, ASIC released Consultation Paper 171 *Strengthening the regulation of research report providers (including research houses)* (CP 171). In CP 171, we consulted on a range of measures to improve research quality, transparency and the appropriate management of conflicts of interest for research report providers.

Note: For details of the consultation process, see CP 171 at www.asic.gov.au/cp and Report 318 *Response to submissions on CP 171 Strengthening the regulation of research report providers* (REP 318) at www.asic.gov.au/reports.

Future of Financial Advice reforms and Trio Inquiry

RG 79.8 The Future of Financial Advice (FOFA) reforms introduce a number of measures to improve the quality of personal advice to retail clients. These reforms include a statutory best interests duty for providers of personal financial advice and a ban on certain forms of conflicted remuneration in recognition of the fact that conflicts of interest can have a significant, negative impact on the quality of advice that retail investors receive.

RG 79.9 The Parliamentary Joint Committee on Corporations and Financial Services Inquiry into the collapse of Trio Capital (Trio Inquiry) also considered the role of research in its inquiries. In its final report, the Trio Inquiry noted the ‘expectations gap’ that exists between what is expected of research by users and the limitations of the research on offer.

RG 79.10 This guide and changes to other related ASIC guidance (e.g. Regulatory Guide 175 *Licensing: Financial product advisers—Conduct and disclosure* (RG 175)) aim to improve the quality of research and user’s understanding of the role research plays in the preparation of personal financial advice.

Relevant law

- RG 79.11 Under the *Corporations Act 2001* (Corporations Act), Australian financial services (AFS) licensees who are research report providers for the purposes of this guide must comply with the general licensing obligations as set out in s912A. This includes:
- (a) the obligation to do all things necessary to ensure that their financial services are provided efficiently, honestly and fairly (s912A(1)(a));
 - (b) the obligation to comply with financial services laws and to take reasonable steps to ensure their representatives do likewise (s912A(1)(c) and (ca));
 - (c) the obligation to have adequate compliance arrangements (reg 7.6.03(g) and Pro Forma 209 *Australian financial services licence conditions* (PF 209));
 - (d) the obligation to have adequate resources, be competent, and ensure that representatives are adequately trained and supervised (s912A(1));
 - (e) where retail clients are involved—the obligation to give clients a Financial Services Guide (FSG);
 - (f) where general advice is given—the obligation to warn clients that the advice does not take into account a client’s objectives, financial situation or needs (s949A); and
 - (g) a range of prohibitions, including those for misleading or deceptive conduct in the provision of financial services, dishonest conduct, unconscionable conduct and insider trading.

RG 79.12 Licensees are also obliged to have adequate arrangements for the management of conflicts of interest that may arise wholly, or partially, in relation to the provision of financial services by the licensee, or a representative of the licensee, as part of the financial services business of the licensee or the representative (conflicts management obligation): s912A(1)(aa).

RG 79.13 The conflicts management obligation and Regulatory Guide 181 *Licensing: Managing conflicts of interest* (RG 181) apply to all licensees, including research report providers. What an individual licensee needs to do to comply with the obligation varies according to the nature, scale and complexity of its financial services business.

Note: We are revising RG 181 in light of the FOFA reforms.

RG 79.14 The conflicts management obligation and the obligation to operate efficiently, honesty and fairly are interconnected. A licensee is unlikely to comply with the obligation to operate efficiently, honestly and fairly if it has inadequate conflicts management procedures. Conversely, having adequate conflicts management arrangements will help licensees to comply with their other obligations, including the obligation to operate efficiently, honestly and fairly.

Updating our guidance

- RG 79.15 Our review of practices among research report providers found some areas where our existing guidance and expectations should be revised or supplemented.
- RG 79.16 We are updating our guidance to help research report providers comply with their legal obligations including their management of conflicts of interest to improve the quality and reliability of investment research. A key focus of our updated guidance is on how conflicts of interest are managed, and where necessary, avoided, so as to ensure the resultant research has credibility and integrity and can reasonably be relied upon directly or indirectly by Australian investors.
- RG 79.17 We will conduct targeted surveillance of research report providers to ensure compliance with our guidance and, if necessary, we will revisit our regulation of this sector if we find evidence that standards are not improving.
- RG 79.18 In CP 171, we specifically consulted about whether research report providers should accept payment from product issuers to produce research about the issuer's own products. We asked whether this conflict of interest can be effectively and robustly managed or should be avoided entirely. Our updated guidance does not require avoidance of this conflict at this time. However, if an outcome of our surveillance activity is that this conflict is not being robustly and effectively managed, we will revisit the need for avoidance.
- RG 79.19 Research reports are not a proxy for due diligence on the part of wholesale investors such as the financial planning industry. We expect AFS licensees (including financial advisers) to conduct appropriate due diligence in choosing a research report provider. Our guidance is designed to assist and support licensees and advisers in that process: see Section E.

Scope of this guide

- RG 79.20 This guide focuses on providers of research on investment products—known variously as research analysts, securities analysts or research houses—and the research they provide.
- RG 79.21 This guide was first published in 2004 under the title, *Managing conflicts of interest: A guide for research report providers*. In 2011, we reviewed practices in the research sector and this guide reflects our guidance as updated by that consultation process.
- RG 79.22 This guide does not summarise all legal obligations relating to research report providers. Rather, it focuses on certain licensing and conduct obligations in Pt 7.7 of the Corporations Act as they apply to general advice by research report providers to retail and wholesale clients.

- RG 79.23 This guide supplements RG 181 on managing conflicts of interest, and should be read together with that regulatory guide. RG 181 focuses on broad principles and guidance for licensees generally in managing conflicts of interest, and sets out expectations that licensees should meet in order to comply with the conflicts management obligation: see RG 181.16. Building on RG 181, this guide covers various issues that research report providers should take into account in the design, implementation and maintenance of their conflicts management arrangements: see Section D.
- RG 79.24 This guide should also be read in conjunction with relevant sections of the Corporations Act and other related ASIC guidance, including RG 175, RG 181 and the following regulatory guides:
- (a) Regulatory Guide 104 *Licensing: Meeting the general obligations* (RG 104);
 - (b) Regulatory Guide 105 *Licensing: Organisational competence* (RG 105);
 - (c) Regulatory Guide 111 *Content of expert reports* (RG 111);
 - (d) Regulatory Guide 112 *Independence of experts* (RG 112); and
 - (e) Regulatory Guide 146 *Licensing: Training of financial product advisers* (RG 146).

B Research reports and research report providers

Key points

Research is 'general advice' that is prepared and distributed to inform the investment decisions of both retail and wholesale clients.

Research produced by investment banks, stockbrokers and research houses for retail or wholesale clients is considered to be a 'research report' within the meaning of this guide.

What is a 'research report'?

RG 79.25 For the purposes of this guide, a research report is general advice that:

- (a) is in writing;
- (b) includes an express or implicit opinion or recommendation about a named or readily identifiable investment product; and
- (c) is intended to be, or could reasonably be regarded as being intended to be, broadly distributed (whether directly or indirectly) to clients (whether wholesale or retail) in Australia.

Note 1: Investment products include securities, warrants traded on a financial market, managed investment products, superannuation products and investment life insurance products. Reports about whether to buy, sell or hold these products prepared by research analysts, securities analysts or research houses are typical examples of 'research reports'.

Note 2: The expression 'broadly distributed' includes, but is not limited to, publication.

RG 79.26 It does *not* include any of the following:

- (a) personal advice;
- (b) general advice that is provided only to an individual or small number of related clients (e.g. a family);
- (c) general advice that is provided only to related bodies corporate of the licensee;
- (d) general advice that is only about products issued by the licensee or its related bodies corporate;
- (e) a communication or piece of information that does not constitute general advice;
- (f) advice that is merely a restatement, summary or extract of another research report that has already been broadly distributed (whether in Australia or elsewhere and whether by the licensee or another person), provided it is clear that:
 - (i) the advice is a restatement, summary or extract of another report; and
 - (ii) readers are directed to who prepared the original research and, if available, how readers may obtain it (see RG 79.29–RG 79.34); and
- (g) advice that is not provided in Australia.

Table 1: Examples of a ‘research report’ for the purposes of this guide

Type of investment research	Explanation
✓ General advice produced by a research report provider on a subscription basis or on a fee for service basis.	This is a research report for the purposes of this guide.
✓ General advice (often called ‘sell side’ research) prepared for advising on or dealing in financial products.	All ‘sell side’ research is a research report for the purposes of RG 79, regardless of whether it is for retail or wholesale clients.
✗ General advice given to related bodies corporate of the licensee. An example would be ‘buy side’ advice or analysis produced by an investment bank or fund manager for its own internal use.	<p>This is <i>not</i> a research report for the purposes of this guide. Such in-house advice which is not intended for broader distribution is not a research report. See RG 79.26(c).</p> <p>Where such advice is intended to be, or could reasonably be regarded as being intended to be, broadly distributed, it is advice to which this guide applies. See RG 79.25(c).</p>
✗ General advice about products issued by the licensee or its related bodies corporate (own products).	<p>General advice produced by a research report provider’s analysts about the provider’s own products or those of a related body corporate is <i>not</i> a research report for the purposes of this guide. See RG 79.26(d).</p> <p>For example, although a licensee’s analysts may produce such general advice for promotional purposes, it is not advice to which this guide applies. Because such general advice is not a research report, it should not hold itself out as such, as it does not have the requisite objectivity, rigor or independence that typically characterises a ‘research report’.</p> <p>Where a licensee wishes to broadly distribute research about its own products a clear conflict of interest arises. In such cases and consistent with industry practice, we expect licensees to avoid the conflict by obtaining research from an external source. See RG 79.135–RG 79.136 RG 79.126.</p>
<p>✗ General advice that is a restatement, summary or extract of another research report.</p> <p>Such a process may require permissions from the original provider.</p>	<p>This is <i>not</i> a research report for the purposes of this guide.</p> <p>However, where such material is re-distributed, it should be clear that:</p> <ul style="list-style-type: none"> • the advice is a restatement, summary or extract of another report; and • readers are directed to who prepared the original research and, if available, how readers may obtain it. <p>See RG 79.26(f).</p>
✗ Client directed (‘bespoke’ research) prepared for a particular client and not for broader distribution.	Such client directed research is not a ‘research report’ to which this guide applies. See RG 79.25(c).
✗ Economic research or credit research prepared by a licensee’s research analysts.	Such advice does not include an express or implicit opinion or recommendation about a named or readily identifiable investment product and therefore is not a research report to which this guide applies. See RG 79.25(b).

What is a research report provider?

- RG 79.27 For the purposes of this guide, and subject to RG 79.25–RG 79.26, a research report provider is a licensee that provides research reports to other persons (clients). This includes situations where the licensee causes or authorises another person (e.g. an authorised representative of the licensee) to provide research reports to other persons (clients).
- RG 79.28 This guidance is designed to apply flexibly to different types of research report provider to improve the quality, transparency, integrity and comparability of research for the end users of the research, regardless of whether they are retail or wholesale clients.

Distributing research prepared by another licensee

- RG 79.29 For users of research to have confidence in the integrity of the research and decide how much reliance they should place on it, it is important that they can see:
- (a) the identity of the licensee who prepared the research;
 - (b) the complete research report (not an extract or summary), unless the advice is an extract or summary that has already been widely distributed in accordance with RG 79.26(f); and
 - (c) any conflicts of interest disclosures that apply to that research report.
- RG 79.30 We do not consider that research report providers can effectively meet their obligations to manage and disclose their conflicts of interest where research is ‘white labelled’ (i.e. prepared by one entity and rebranded and distributed by another), without attribution to the research report provider who originally prepared it. Distributing research in this way makes it difficult for users to assess the value of the research and the impact of any conflicts of interest on the quality and integrity of the research. Licensees preparing research reports can meet their obligations where a research report is co-branded with the licensee distributing the report.
- RG 79.31 If a research report prepared by one licensee (A) is provided to other persons (clients) by another licensee (B) then, for the purposes of this guide, Licensee A is the research report provider, and not Licensee B (regardless of whether Licensee B also puts its own name on the research report). However, this is only the case where:
- (a) Licensee A causes or authorises Licensee B to provide the advice contained in the research report to other persons; and
 - (b) Licensee B makes no material changes to the advice contained in the research report.

- RG 79.32 As Licensee A is the research report provider, we expect that:
- (a) Licensee A's licence covers preparation of the research report;
 - (b) it is clear to a reader that Licensee A prepared the research report where the report is co-branded; and
 - (c) Licensee A's conflicts of interests disclosures are attached to the research report: see RG 79.35–RG 79.36.
- RG 79.33 Where Licensee B makes material changes to the research prepared by Licensee A, Licensee B assumes the obligations of the research report provider as set out in this guide. Any recommendations in the report must be those of Licensee B based on its own assessment of the product in compliance with the quality, conflicts, transparency and disclosure requirements of this guide.
- RG 79.34 The general advice contained in research reports forms part of the advice chain by which retail and wholesale clients make investment decisions. Each licensee should consider its compliance obligations in the preparation and distribution of research reports. This includes whether the licensee preparing the advice permits other licensees to pass on its research to retail clients and in what circumstances. Our expectations of users of research reports such as financial advisory firms that rely on research in the preparation of approved product lists or personal advice for retail clients are set out in Section E of this guide and in RG 175.

Access to conflicts of interests disclosures

- RG 79.35 Sometimes the advice contained in a research report (or a summary or extract of the advice) is broadly distributed to a wide range of end-users (e.g. through the media or a public announcement). Research report providers should take reasonable steps to ensure that end-users have access to the relevant conflicts of interests disclosures. The most appropriate way to make this information available will depend on all of the facts and circumstances.

Note: For example, research report providers should take reasonable steps to ensure that:

- (a) research reports are disseminated together with conflicts of interest disclosures (or made available by reference); and
 - (b) where the advice contained in a research report (or a summary or extract of the advice) has been (or is likely to be) broadly distributed to a wide range of end-users (e.g. through the media or a public announcement), the relevant conflicts of interest disclosures are made available by reference (e.g. on a website).
- RG 79.36 In summary, the licensee that prepares the report is the research report provider for the purposes of this guide. If the research is on-distributed by another licensee and no material change is made to the report, the original licensee who prepared the report remains the licensee responsible for compliance with this guide and their conflicts of interests disclosures as relevant to the specific report should follow the report. Disclosures should be relevant to the activity of the respective licensee (e.g. the licensee that prepared the research as distinct from the licensee that distributes the research).

Table 2: Examples of a licensee distributing research prepared by another licensee

Example	Explanation
<p>Licensee A prepares research. Licensee B distributes the research. Licensee A is attributed as the preparer of the research and their conflicts of interests disclosures are attached to the report.</p>	<p>Licensee A is the research report provider for the purposes of this guide. The research distributed by Licensee B must be complete and unchanged and include Licensee A's conflicts of interests disclosures as they relate to that research report.</p> <p>Licensee B can be contractually obliged by Licensee A to attribute and ensure there is no alteration to the report and include conflicts of interests disclosures.</p> <p>The research may be co-branded by Licensees A and B.</p>
<p>Licensee A produces institutional research and distributes that research to brokerage houses (Licensees B, C and D). Licensee A does not authorise further distribution of its branded research.</p>	<p>Licensee A is the research report provider for the purposes of this guide and there is no further distribution of the research.</p> <p>Personal advice prepared by Licensees B, C or D in reliance on Licensee A's general advice is the responsibility of Licensees B, C or D.</p>
<p>Licensee A gives permission to Licensees B, C and D to distribute its research to retail clients directly (e.g. on a website or via a client portal).</p>	<p>Licensee A is the research report provider for the purposes of this guide and its conflicts of interests disclosures must be attached to the research as further distributed.</p> <p>Licensee A may decide to co-brand the research with Licensees B, C or D or review the research before distribution to retail clients.</p>
<p>Research is sourced from Licensees A, B and C by a dealer group (Licensee D). Licensee D has permission from Licensees A, B and C to redistribute their research.</p> <p>Licensee D does not make any material change to the research beyond amalgamating and distributing it to its advisers who may also pass it on (unmodified) to their retail clients.</p>	<p>For the purposes of this guide, Licensees A, B and C are the research report providers as they are the authors of the research.</p> <p>The research distributed by Licensee D must include clear statements that the general advice was prepared by Licensees A, B and C and their conflicts of interests disclosures should be attached to each report.</p>
<p>Licensee D makes material changes to the research prepared by A, B and C and distributes the research under its own brand.</p>	<p>Licensee D is the research report provider and should make its own assessment of the product and comply with the quality, transparency and conflicts management obligations in RG 79 for any research it produces.</p>

C Research quality, methodology and transparency

Key points

Delivering a quality research report requires:

- clearly articulating the research approach, its scope and any strengths and limitations that apply;
- maintaining and following a robust methodology; and
- allocating appropriate human and other resources.

The role of quality research

RG 79.37 Research is relied upon by both retail clients and wholesale clients (e.g. licensees and institutional investors). Across the spectrum of research report providers, there are differences in business models, products researched and client groups. Regardless of the business model adopted by a provider, the quality of the resultant research is important to the integrity of our financial markets and to the quality of financial advice provided to Australian investors.

RG 79.38 The constituent parts of a high-quality research service are the human and other resources applied to the research task, quality internal processes (including robust conflicts management processes) and good disclosure.

RG 79.39 Research is promoted as an expert service to assist intermediaries and clients in making decisions about investment products. It is important that research does (and is seen to) demonstrate the professional expertise and judgement of the research report provider. Users of research should be able to see and assess the expertise that different research report providers bring to the task of preparing research.

Note: See Regulatory Guide 112 *Independence of experts* (RG 112) on principles for the preparation of expert opinions in an analogous context. These principles relate to independence, conflicts management and the conduct of the expert in preparing the report.

RG 79.40 Ensuring that research is of a reliable and robust quality will reduce the risk that licensees breach:

- (a) their general AFS licence obligations (s912A(1)); and
- (b) the prohibition on misleading or deceptive conduct.

RG 79.41 In the context of expert or professional opinions, cases decided under the false, misleading or deceptive conduct provisions in the *Australian Securities and Investments Act 2001* (ASIC Act) and the (then) *Trade Practices Act 1974* (Trade Practices Act) have held that a statement of opinion by a person in their professional capacity involves an implied

assertion that the opinion has a reasonable basis, is the result of the exercise of due care and skill, and is able to be relied upon:

An opinion given in circumstances that suggest that the opinion was based on the exercise of certain expertise ... carries with it the implication that it is based on rational grounds and accordingly will breach the prohibition if it has no reasonable basis. This is especially true where the person giving the opinion holds themselves out as having special skill in relation to the ... subject of the opinion.

Note: See s52 of the (then) Trade Practices Act, *MGIGA (1992) Ltd v Kenny & Good Pty Ltd* (1996) 70 FCR 236, *RAIA Insurance Brokers Ltd v FAI General Insurance Co Ltd* (1993) 41 FCR 164, *Chiarabaglio v Westpac Banking Corporation* (1989) ATPR 40–971 and *Bathurst Regional Council v Local Government Financial Services Pty Ltd (No 5)* [2012] FCA 1200.

Improving transparency and methodology

RG 79.42 To improve the quality and reliability of investment research in Australia, it is important that users (and prospective users) of research, be they retail or wholesale clients, have clear, comparable and meaningful information about:

- (a) the different research report providers in the market;
- (b) the strengths and limitations of different research approaches; and
- (c) a clear understanding of how research recommendations or ratings are produced and what they mean.

RG 79.43 Factual and relevant information about the research service gives important context to the research, improves users' ability to understand the research and decide whether to use and rely on it, and to what extent.

RG 79.44 Our guidance gives providers flexibility in how they communicate this information to users and prospective users of their research services. Some disclosures are appropriate for the broader market while others are specific to the research report. Consistent with international regulators, our objective with this guidance is to create 'an environment where the research produced by analysts for clients is objective, clear, fair and not misleading'.

Note: See *IOSCO Statement of principles for addressing sell-side securities analyst conflicts of interest: A statement of the Technical Committee of the International Organisation of Securities Commissions*, 25 September 2003, p. 2, at www.iosco.org.

RG 79.45 We expect AFS licensees that prepare research reports to give the following information about their research products and services:

- (a) scope and expertise of the research service;
- (b) process by which products are selected for coverage and filters applied;
- (c) research methodology applied;
- (d) spread of ratings; and
- (e) conflicts management policy.

- RG 79.46 We expect AFS licensees preparing research reports to give this information in a relevant and meaningful way so that users can understand and compare research services. Giving meaningful information about product coverage and filters, methodology and ratings spreads in particular, is critical for users of research to conduct a proper assessment of the research service and any limitations that apply to it.
- RG 79.47 Providers can make this information available in a number of ways and as appropriate to their business model or client group. For example, summary information may be publicly available on a website or in a separate document such as a Financial Services Guide (FSG) as appropriate to the provider's business model. More detailed information may be made available to clients, subscribers and end users through direct communications or in the research report. We expect providers to direct users to this information in each research report. Where research is on-distributed to other licensees, we expect the research report to direct end users to these disclosures.
- RG 79.48 We will monitor compliance with our guidance in the course of future surveillance activities. Where these disclosures are not achieving the policy objective of improving the transparency and comparability of investment research, we will consider the need to impose licence conditions on AFS licensees providing research reports.

Scope and expertise of research service

- RG 79.49 Research report providers should clearly communicate the nature and scope of their research service. This includes clearly communicating the extent to which they are promoting themselves as experts and the basis for this (e.g. providers should give summary information about the expertise, qualifications and experience they and their staff possess).
- RG 79.50 We expect research report providers to give sufficient information for a client or prospective client to understand the scope of the service and the expertise the provider brings to the research task. We do not expect these disclosures to include commercially sensitive aspects of the business.

Coverage and filters

- RG 79.51 Many research report providers filter the financial products they cover in order to form smaller portfolios of products for more detailed research. The selection process may often be qualitative and users of the research should be made aware of this process and any selection biases that may affect research report providers' coverage decisions.
- RG 79.52 Regardless of the research report provider's approach, it should be clear to users (and prospective users) how a provider makes coverage decisions, what criteria they apply and any important limitations. For example, for equities

research, a provider may choose to cover equities on the basis of a certain sector of the economy or market capitalisation. For managed funds research, a provider may cover funds within an index or on the basis of some other criteria.

- RG 79.53 Coverage decisions can be relatively stable or dynamic depending on the business model adopted by the research report provider. We expect each provider to determine its approach to communicating product coverage. The purpose of such information is to give users a meaningful guide as to the approach adopted by that provider and any limitations in that approach.
- RG 79.54 If a research report provider begins or ceases to cover a financial product, or class of financial products, this information should be made available to clients or subscribers and, where practicable, providers should give reasons. For example, a provider may:
- (a) expand coverage to new sectors of the economy;
 - (b) limit coverage to a narrower class of products than previously covered or within a class of products;
 - (c) change the categories to which funds are allocated for rating which may have a significant impact on ratings spreads; or
 - (d) publish research on a managed fund which is subsequently frozen and therefore cease coverage of the fund (see RG 79.100–RG 79.106).
- RG 79.55 Research report providers should publish on their website or with the research report, as appropriate, either:
- (a) a list of all financial products they currently cover; or
 - (b) a description of the classes of products they cover and the scope (or percentage, as appropriate) of that coverage.
- RG 79.56 This description should include all products that are below the research report provider's investment grade (or similar) rating. This information will give users a more holistic view of the available products, and align the risk profile of the products in the broader investment universe to which that product belongs.
- RG 79.57 Many research houses classify managed funds into specific peer groups to simplify the comparison of funds. These groups are defined by selecting funds which are similar in terms of asset class, asset size, investment objectives, risk, and investment style. The research report provider should explain the rationale for that selection and any limitations that apply.
- RG 79.58 Coverage policy is an important issue for users of research to understand to make sense of individual product ratings. A research report provider may give summary information about its coverage policy by type of product and indicate the extent of coverage within that category. We expect this information to be updated regularly for users of the research.

Example 1

A research report provider conducts a fact find and segments the market against certain criteria. The excluded products may have been filtered out on the basis of quality or certain qualitative and quantitative criteria and the rated products considered the ‘best of breed’ and therefore warranting further analysis. This process should be clear as the ratings spread is likely to mean more positive product ratings are likely to result and this information is important for readers of the resultant research. See RG 79.65–RG 79.69 on the spread of ratings.

Methodology

- RG 79.59 We recognise that research report providers employ different methodologies. We do not seek to prescribe the way research report providers approach investment research, nor do we expect all providers to adhere to the same methodology. However, regardless of these differences, we expect research report providers to maintain and follow a robust methodology in their research and to be transparent in the methodology adopted and how it is applied.
- RG 79.60 To help users of research to assess different research models, research report providers should publish (in summary form) their methodology for assessing or rating products. We expect that this will include an explanation of their rating system, including the definitions, criteria and assumptions used. We do not expect providers to publish confidential, proprietary information. However, the information should be sufficient for a reader to understand the key elements of the methodology applied and any important limitations that may apply to it.
- RG 79.61 Regardless of where the information is published (e.g. on the provider’s website or in the FSG), research reports should direct readers to this information in the report.

Example 2

Some research report providers employ a quantitative methodology, where ratings are generated based on past performance of the funds. This includes factors such as historical returns, volatility, performance ratios, age of fund and size of fund. Where the primary input is data from historical financial reports, for example, it is essential that users understand the extent to which those data inputs are reviewed (e.g. audited) or subject to any further review or analysis by the research report provider. Publishing ratings on the basis of such data may be misleading where users do not have sufficient information to evaluate the methodology employed.

Reviewing and rating products

- RG 79.62 There are different ratings schemes (i.e. definitions or classifications) across the spectrum of research report providers. In some sectors, classifications and definitions (e.g. ‘buy, sell and hold’, ‘recommended, neutral, not recommended’) are relatively well understood. In other sectors, a lack of

consistency in definitions of ranking classification has affected the ability of users to make an accurate judgement of the quality of research. For example, when rating fund managers, there is no single or agreed method for classification of the type of fund manager within the investment universe.

- RG 79.63 This can lead to confusion among users about:
- (a) whether a product rating should be seen as an absolute conviction about the quality of a product, or a relative one against its peer group; and
 - (b) whether the user can compare different research report providers' classification of products.
- RG 79.64 We expect research report providers to provide a clear indication of the type and classification of products that they research and evaluate.

Spread of ratings

- RG 79.65 Information about how the ratings methodology is selected and applied *in practice*—that is, beyond any general statement of principle—is important for readers relying on the research.
- RG 79.66 Providing information about the spread of ratings is an important accountability and transparency measure for both research report providers and users of their services. We expect research report providers to give information about the spread of their ratings (i.e. how many products or what percentage received each type of rating during the relevant period). This will give users of the reports another tool to gauge the quality and reliability of a particular research report provider.
- RG 79.67 These disclosures should be sufficient to assist users (and prospective users) to assess the methodology applied without including commercially sensitive aspects of the business.
- RG 79.68 Some research report providers already provide this information to their subscribers on their websites or with their research to their clients. For example, some providers are subject to international obligations to disclose their analysts' spread of 'buy, sell and hold' recommendations over a given period. Providers should consider how they can meaningfully communicate their ratings spread in the context of the coverage decisions they make and the filters they use to select products for research.
- RG 79.69 Ratings spreads can also be affected by issuers withdrawing from the research process (where research is commissioned). Where this occurs, we expect providers to disclose how many issuers withdrew from the ratings process in a relevant period (such as the past year). Providers should give sufficient information for users to form a meaningful view of how these factors may affect the ratings spread and therefore a more holistic view of the research service.

Example 3

Some research report providers provide higher ratings or more positive recommendations more frequently than others. This is an important piece of information for users of these services.

Conflicts management policy

- RG 79.70 Robust processes for managing conflicts of interest are important legal requirements and essential to producing good quality research. Users of research reports should have enough information to form a realistic view about the potential impact of any conflicts of interest on the quality and objectivity of the research service. If research report providers rely on a general disclosure obligation about how they manage conflicts of interest, this disclosure should include a statement on how such conflicts are managed where research is concerned.

Testing the quality and integrity of research

- RG 79.71 Back-testing is a process by which a research report provider may compare the past performance of researched or rated products against relevant benchmarks. In our view, back-testing can be usefully employed as part of a research report provider's review processes to test the rigor of a ratings methodology or the integrity of conflicts management processes.
- RG 79.72 While we do not require such processes under this guidance, we consider self assessment processes that review research methodologies, assumptions or ratings spreads, for example, to be best practice both for the research report provider and for wholesale clients such as financial advisers that rely on the research. We note that some research report providers already conduct such reviews in compliance with international obligations.
- RG 79.73 We consider that best practice review processes would include an annual review with the results being made available to the users of research reports by the same method that the research is generally distributed. We recommend that wholesale clients such as financial advisers consider whether such processes are in place, as part of their due diligence when purchasing research. We may revisit this issue in the context of any future compliance activity.

Example 4

A research report provider conducts back-testing of past ratings to examine correlations between the ratings and the actual performance of products for a period, appropriate to a typical investment horizon of the product type (e.g. one year for equities, or three to five years for managed funds) after the research is published.

Example 5

Reviewing ratings spreads, such as the proportion of 'buy' recommendations a banking group's corporate clients receive over a 12-month period compared to those of non-corporate clients, may provide a good indicator as to whether the research is of good quality and that conflicts are being effectively managed.

Allocating appropriate resources

RG 79.74 AFS licensees have general obligations under s912A(1) of the Corporations Act to:

- (a) do all things necessary to ensure that the financial services covered by their licence are provided efficiently, honestly and fairly;
- (b) comply with the conditions on their licence;
- (c) take reasonable steps to ensure that their representatives comply with the financial services laws;
- (d) have adequate financial, technological and human resources to provide the financial services covered by their licence and to carry out supervisory arrangements;
- (e) maintain the competence to provide the financial services covered by their licence; and
- (f) ensure that their representatives are adequately trained and competent to provide those financial services.

Note: See Regulatory Guide 104 *Licensing: Meeting the general obligations* (RG 104) and Regulatory Guide 105 *Licensing: Organisational competence* (RG 105).

RG 79.75 As the complexity of some financial products increases, it is essential that research analysts have the requisite skills and experience supported by an appropriate level of supervision and adequate sign-off processes to produce high-quality research.

RG 79.76 Human resources are a key input to research report providers' processes and output. Research report providers should allocate sufficient resources to support the effective performance of their research staff.

RG 79.77 In some cases, research is heavily relied upon in the distribution of complex products to retail clients who are unlikely to properly understand the product their adviser recommends they invest in. Where this is the case, the expertise of the research analyst and the quality measures adopted by the research report provider are particularly important in ensuring retail investors (and their advisers) are making properly informed decisions.

RG 79.78 Research report providers often cover a substantial number of financial products of varying complexity. Careful consideration needs to be given to balancing the commercial imperative to provide broad product coverage with the need to maintain the quality of research output and the allocation of adequate staff time to each research report.

Staff competence and expertise

- RG 79.79 To analyse financial products well, research report providers need to allocate appropriate resources to each research task. This includes allocating sufficient numbers of staff with suitable qualifications for the research task and setting appropriate timelines for the completion of tasks.
- RG 79.80 In light of continuing product innovation and developments in financial markets, research report providers should continue to train and supervise the work of their research analysts, particularly junior staff. This can be done by setting up mentoring and supervisory arrangements and ongoing training and development initiatives.
- RG 79.81 The requirements set out in Regulatory Guide 146 *Licensing: Training of financial product advisers* (RG 146) are a minimum, general standard for advisers. This standard establishes a basic level of competency, a platform upon which we expect AFS licensees to build to create the appropriate level of competency required for analysts to perform credible research.

Rotating research analysts

- RG 79.82 Rotation of research analysts can be a useful way to reduce the risk that a research analyst becomes too familiar or close to the products and the product issuers under review, which may give rise to conflicts of interests.
- RG 79.83 If a research report provider decides not to rotate analysts in its practice, careful consideration should be given to how it will manage any possible conflicts of interest that may arise. For example, a research report provider might be too small for analyst rotation or believe that the benefits of analysts developing specialist knowledge and expertise in particular industries exceed the risks involved. Each provider should consider whether it is reasonable in the circumstances to rotate analysts. This issue should be the subject of internal compliance controls and monitoring.

Research sign-off process

- RG 79.84 It is essential that an appropriate sign-off process is incorporated into a research report provider's work process. All research should be subject to proper evaluation (e.g. via a peer review process) and a proper approval process (e.g. involving a committee of senior research staff: see RG 79.142).
- RG 79.85 Research reports should be based on reasonable grounds. It is important that the content of each research report reflects the view of the research report provider, and it may be misleading for a research report provider to publish a report containing views it does not agree with. An appropriate sign-off process would reduce the incidence of this risk: see RG 79.89–RG 79.91.

Preparing the research report

RG 79.86 Quality measures operate in tandem with measures to manage conflicts of interest. They are mutually reinforcing and should be read together.

Table 3: Quality and transparency measures for the research report

Quality measures	Description
Reasons for opinions or recommendations	Report should have clear, unambiguous reasons for its recommendations.
Reports based on 'reasonable grounds'	Research reports should be based on 'reasonable grounds', with each research report reflecting the views of the research staff who wrote or approved it.
Reports for 'proper purpose'	Offers or threats of favourable or unfavourable research must not be used to solicit benefits or other business, and research must not be used to <i>unfairly or artificially</i> increase trading volumes or to otherwise generate revenue for the provider's ancillary businesses, for example.
Past performance warning	Where research ratings are based on past performance the past performance warning should be given.
Who commissioned or paid for the research	Where this occurs, it should be clearly and prominently disclosed in the research report.
Publishing all (including adverse research)	Many providers publish all research regardless of the rating while others only publish research where certain rating criteria are met. Publishing <i>all</i> research (broadly or limited to subscribers only) demonstrates research coverage and reduces the perception that conflicts of interest may interfere with the research process and outcome.
Research should be dated and users should have information to assess the currency of research	Providers should maintain the currency of research based on the parameters in this guide. Information about the currency of research must be made available to users.
Research ratings should be available	Research, both positive and negative, should be available with access to historical research to counter any perception that conflicts of interest may influence the ratings process.

Reasons for opinions or recommendations

RG 79.87 The research report (or accompanying disclosures) should state the reasons for the opinions and recommendations. This will help clients form a view about the research report and whether to rely on it. We expect all research report providers to take reasonable steps to ensure that their recommendations, and the basis for these recommendations, are clear, unambiguous and transparent.

Note: This is particularly so for the main recommendation or opinion given in the report (if any). For example, research report providers should ensure that research reports explain terminology, rating systems and valuation methods used in the report.

- RG 79.88 Research report providers should:
- (a) ensure each piece of research expresses an unambiguous view (noting that this does not exclude a qualified view) on each product researched, and uses clear, transparent and easily understood language;
 - (b) where research ratings or recommendations are based on past performance, ensure the report carries a past performance warning;
 - (c) ensure that each research report clearly and prominently states who commissioned it and who paid for it; and
 - (d) maintain the currency of research in accordance with this guide, publish all research (broadly or to clients or subscribers) and ensure that ratings are available for a reasonable period of time within the parameters set out in this guide.

Example 6

Research reports should be clear when giving an opinion, recommendation or rating of a particular product as to whether the particular product is 'highly recommended' relative to the market as a whole, or only relative to a particular peer group (e.g. equity funds).

Reports based on 'reasonable grounds'

- RG 79.89 Research report providers should ensure that research reports are based on objective, verifiable facts and analysis, and not on the special interests of the research report provider's research staff, the product issuer or others. Research reports that are not based on reasonable grounds may be misleading or deceptive within the meaning of the Corporations Act: s1041H.
- RG 79.90 Cases decided under the analogous provisions of the (then) Trade Practices Act, (now the *Competition and Consumer Act 2010*) have held that a statement of opinion by a person in their professional capacity involves an implied assertion that the opinion has a reasonable basis, is the result of the exercise of due care and skill, and is able to be relied upon: see RG 79.41.
- RG 79.91 To reduce the risk that research reports are not based on reasonable grounds, research report providers should ensure that each report reflects the views of the person who takes responsibility for it (e.g. the person who prepared it or the person who approved its distribution).

Reports for 'proper purpose'

- RG 79.92 Research report providers should ensure that favourable research is not offered, or changes to research threatened, as an inducement to secure the business of a corporate client or receive other benefits.

RG 79.93 Care needs to be taken to ensure research reports are not used to artificially increase trading volume and revenue or secure corporate advisory business, for example. While high quality research may well attract dealing business to research report providers, their conflicts management arrangements need to identify and respond to the risk that attempts to attract dealing business do not unduly distort the content of any research reports: see Section D of this guide.

Note: If research report providers were able to use research reports as a way to artificially increase trading volume, there would be a risk that, for example, they might be tempted to make a disproportionate number of 'buy' and 'sell' (as opposed to 'hold') recommendations to increase trading volume.

Past performance warning

RG 79.94 Where research ratings are based on past performance, the report should carry the standard past performance warning (i.e. past performance is not an indication of future performance). It is important that clients do not place undue reliance on past performance information, directly or indirectly via qualitative research. For more information on the use of past performance information, see Regulatory Guide 53 *The use of past performance in promotional material* (RG 53).

RG 79.95 However, a past performance warning on its own will not be sufficient to communicate important limitations applying to quantitative research that generates ratings on the basis of a very limited number of data inputs (e.g. a product issuer's financial reports). If a provider adopts such a methodology where there is little or no additional qualitative assessment of the data done by the research report provider, it is essential that users of such research receive the past performance warning in addition to relevant disclosures to help them understand the methodology employed and the limitations that apply.

Who commissioned or paid for the research

RG 79.96 Where research is commissioned, we expect research report providers to state clearly who commissioned or paid for the report. For example, where a report was commissioned and paid for by the product issuer, the report should clearly and prominently disclose this, preferably on the front or covering page of the report.

RG 79.97 The research report (or accompanying disclosures) should state:

- (a) the date the research report was prepared or finalised; and
- (b) who takes responsibility for the report (e.g. the person who prepared it or the person who approved its distribution).

RG 79.98 We believe that clients will reasonably require disclosure about each of these matters in forming a view about the research report and whether to rely on it.

RG 79.99 Section D of this guide deals with the disclosure of conflicts of interest such as benefits and associations and relationships: see RG 79.143 and RG 79.164. However, we consider it important that disclosure of any structural conflicts, such as business model conflicts, is included with the headline disclosures about the nature of the business: see RG 79.35–RG 79.36, RG 79.70 and RG 79.123–RG 79.124.

Currency of research

- RG 79.100 Research reports are prepared based on information available at the time of preparation. It is important that the currency of the research is clear on the face of the research and where research is not current, that users can easily access information to help assess the current status of the research.
- RG 79.101 Ratings that are not monitored or updated can be misleading unless research report providers prominently state how currency will be communicated to users, including whether the research is being monitored or whether it will be updated in future.
- RG 79.102 To assist users, providers should maintain a log of historical research. Where research reports and their recommendations are no longer current (e.g. where there have been material changes to the product or market), the research should be clearly flagged as historical and providers should indicate that the original recommendation no longer applies. Failure to do so affects the reliability of the research report and the credibility of the provider and risks misleading users relying on that research.
- RG 79.103 Depending on the class of product that is the subject of the research, update and review cycles differ. Equities research, for example, is current at a ‘point in time’. Updates occur frequently at the discretion of the analyst in response to market events or compliance obligations on the part of the provider. Other research is less sensitive to market developments, less time critical and is updated less frequently. For example, in the case of much managed funds research, updates and reviews may occur annually and the research, once published, is considered to be current on an ongoing basis until the next scheduled review.
- RG 79.104 Irrespective of the underlying product, it is essential that meaningful information about the currency of a piece of research and the status of the report is available. We expect research report providers to maintain and communicate the currency of their research as appropriate to the products they provide research about and the research methodology they employ.
- RG 79.105 All research report providers should ensure that
- (a) each research report has the date of issue and a statement that the report is current ‘as at’ that date; and
 - (b) clients or subscribers can access a log of historical research where they can see, for example, the research history relevant to that product; and

- (c) where a provider claims that a research report is current on an ongoing basis, the report should include a statement that the research is current until it is replaced, updated or withdrawn and, if this is the case, communicate to users or subscribers how they can find out if the report has been replaced, updated or withdrawn. This may be in the form of an alert to subscribers about current research status or directing users to the historical log to check the status of research.

RG 79.106 We expect research report providers to communicate the currency of their research to clients or subscribers in such a way that a reasonable investor can understand it. Regardless of business model, client base or researched products, currency should be clearly communicated and sufficient to ensure a reasonable investor is not misled.

Example 7

A research report provider publishes a research report which highly rates a managed fund. Months later, the product issuer publishes material disclosures about the negative performance of the underlying investments in the fund. The provider does not update or review the research or rating and gives no guidance to users as to how they can assess the currency of the research and whether and to what extent they rely on it. Such research is likely to be misleading.

Example 8

Where a research report provider's service includes quantitative research that is updated regularly (e.g. daily or weekly) based on financial disclosures, the currency requirement may be met by ensuring the research is dated, the update cycle is communicated to clients who can also access and review the historical log of research about a particular entity and those clients have information about the research methodology employed, consistent with the requirements in Section B of this guide (e.g. a past performance warning is given and any limitations on the reliability of the data is given so that users can make an informed decision about the data and any rating attached).

Publishing all (including adverse research)

RG 79.107 Many providers publish all research regardless of the rating while others only publish research where certain rating criteria are met. Publishing all research (broadly or limited to clients or subscribers only) demonstrates research coverage and reduces the perception that conflicts of interest associated with the research process affect the research process.

Example 9

Where a product issuer commissions research, the terms of engagement should be clear that the resulting research report and rating (regardless of rating) will be published (broadly or to subscribers). See RG 79.96–RG 79.99 and Table 5.

Research ratings should be available

- RG 79.108 It is an important principle that product ratings are made available (published to clients or subscribers), irrespective of whether they are positive or negative.
- RG 79.109 External scrutiny of the research and ratings process and outcome is necessary to limit any potential for product issuers shopping for ratings without leaving a ‘footprint’ that a product has been subject to a research process that has had, or may potentially have had, an adverse result.
- RG 79.110 We expect research ratings to be made available for a reasonable period of time. What is a ‘reasonable period’ will depend on a number of factors which may affect the currency of the research report and its recommendation and require its withdrawal. These may include:
- (a) a response to market events;
 - (b) a provider’s need to comply with other regulatory obligations;
 - (c) the closure of an offer period to which the research related; or
 - (d) the issue of a supplementary Product Disclosure Statement (PDS) in relation to the researched product.
- RG 79.111 Where such factors affect the longevity of a piece of research, providers can comply with our expectations that research is made available by ensuring users can access the research history of a product, including the rating the product had when it was current, that it is no longer current and cannot be relied upon, with a short explanation as to the reason. Ensuring access to historical research will help manage any perception that conflicts of interest may influence the ratings process or outcome. It also allows users to see that a product has been the subject of research and the outcome of that process. See RG 79.100–RG 79.106.

Compliance reporting

- RG 79.112 Compliance reporting is a measure that research report providers can use to assess their compliance against the key issues in this guide. There are regulatory costs and benefits of a compliance reporting requirement and we do not require mandatory compliance reporting at this time. We will conduct targeted surveillance on research report providers to assess compliance with this guide. The focus of surveillance activity may be compliance in general, or a select group of issues (e.g. conflicts management).
- RG 79.113 A sample compliance report is attached as an appendix to this guide. It is intended as a useful checklist to guide research report providers in complying with their obligations. Providers that choose to use this compliance report format may customise it to suit their business models and compliance arrangements. It is not a requirement to complete the compliance report and it is not a template for future ASIC surveillance activity.
- RG 79.114 We may revisit the need for compliance reporting in the future based on the outcome of our surveillance activities.

D Avoiding, controlling and disclosing conflicts of interest

Key points

Conflicts of interest, whether direct or indirect, can reduce the quality, integrity and reliability of research.

Some conflicts of interest should be avoided entirely.

Other conflicts of interest can be managed by:

- adopting an appropriate business model and ensuring the organisation is structured to minimise and manage real and potential conflicts;
- adopting robust research processes;
- having adequate controls in place to manage conflicts; and
- giving meaningful disclosure to help users of the research understand any conflicts, how they are managed and the extent to which they can rely on the research.

Conflicts and the research industry

- RG 79.115 The conflicts management obligation in the Corporations Act requires a licensee to have adequate arrangements to manage conflicts of interest: s912A(1)(aa). This obligation and our guidance in RG 181 apply to all licensees, including research report providers, and relate to the integrity of any research. What an individual licensee needs to do to comply with the obligation varies according to the nature, scale and complexity of its financial services business.
- RG 79.116 RG 181 focuses on broad principles and guidance for licensees generally in managing conflicts of interest, and sets out expectations that licensees should meet in order to comply with the conflicts management obligation see RG 181.16. Our guidance in this section supplements RG 181, and should be read together with it.
- RG 79.117 The three key mechanisms we expect research report providers generally to use to manage conflicts of interest are controlling, disclosing and avoiding conflicts of interest: see RG 181.20. To control conflicts of interest, research report providers should have mechanisms to:
- (a) identify conflicts of interest;
 - (b) assess and evaluate those conflicts; and
 - (c) decide upon and implement an appropriate response to those conflicts: see RG 181.29.

- RG 79.118 We expect research report providers to take reasonable steps to ensure that conflicts of interest:
- (a) do not compromise the integrity of the advice they give in their research reports;
 - (b) do not result in the licensee breaching its duties including (but not limited to) the duty to act efficiently, honestly and fairly; and
 - (c) are adequately disclosed.
- RG 79.119 A culture of integrity that includes an ethical approach to conflicts of interest should be encouraged. However, this is no substitute for implementing, maintaining and monitoring robust policies and procedures. Research report providers should avoid placing an unacceptable level of reliance on staff integrity.
- RG 79.120 Our guidance for research report providers focuses on the following issues:
- (a) adopting an appropriate business model and ensuring the organisation is structured to minimise and manage real and potential conflicts associated with internal research processes; and
 - (b) having adequate controls in place to manage conflicts, including avoiding conflicts that cannot otherwise be managed; and
 - (c) giving meaningful disclosure to help users of the research understand any conflicts, how they are managed and the extent to which they can rely on the research.
- Note: See also the related discussion of disclosure issues in Sections B and C of this guide, particularly disclosure of products and services and clarity and transparency.

Table 4: Summary of issues to consider in managing conflicts of interest

Issue	Description
Business model and organisational structure	<i>Different business models can increase or reduce the incidence of certain conflicts arising and influencing the research process and outcome.</i>
Information barriers and segregation of business units	Information barriers should be robust to protect the objectivity and independence of the research process and its outcome. Research staff should be physically separate from, and not supervised by, any staff that are performing an investment banking, corporate advisory, consulting or dealing function. Similarly, electronic systems and communications systems should be restricted to access by research staff only.
Provision of non-research services	Research report providers should have a policy on how and when non-research services are provided to an issuer for whom the research report provider also produces research. Ancillary services that may conflict with the research function should be strictly and formally segregated. Such services may include where a provider offers funds management or consulting services. Where segregation is not sufficient to manage the conflict, it should be avoided.

Issue	Description
General advice about products issued by a licensee or related body corporate	General advice about a licensee's own or related party products is not research for the purposes of this guide: see RG 79.26(d) and the examples in Table 1.
Controls	<i>Having adequate controls in place to manage conflicts ensures that conflicts are identified and dealt with appropriately as they arise.</i>
Documentation	Conflicts management arrangements should be documented.
Monitoring compliance	There should be a person or separate unit responsible for monitoring compliance with the research report provider's conflicts management arrangements.
Communication	Research report providers should have a detailed policy on communications within and outside the licensee, including ensuring that research reports are not communicated outside the research report provider before they are broadly distributed.
Approval before distribution	To maintain the quality and integrity of reports, research reports should be reviewed and approved by an experienced supervisor (or by a group of peers) before they are distributed to clients.
Benefits and remuneration	Decisions about the remuneration of research staff should be made by staff not directly connected with another business unit.
Trading restrictions	Research report providers should have a policy on trading restrictions.
Disclosure of conflicts of interest	<i>Specific, prominent and meaningful disclosures about conflicts of interest allow users to form a realistic view about the research and whether to rely on it.</i>
Issuer paid research	Where research is commissioned, we expect research report providers to clearly and prominently disclose who commissioned and paid for the research, preferably on the front or covering page of the report.
Interests	Research report providers should disclose in or with each research report whether they (or any associated persons) have, or are likely in the future to have, a material interest in financial products that are the subject of the report. Disclosure will generally need to cover both the existence and extent of the interest
Benefits	Research report providers should disclose whether they (or any associated persons) are likely to receive any benefits from the report. This includes disclosure that the research has been commissioned and by whom.
Assistance provided by product issuer	The research report (or accompanying disclosures) should disclose whether the research staff who prepared the research report were helped in any way by the product issuer and the type of assistance given.
Quality research processes	<i>Robust research processes also ensure that real or potential conflicts are less likely to have an adverse impact on research quality: see Section C of this guide.</i>

Business model and organisational structure

- RG 79.121 The structure of a business may increase or reduce the incidence of conflicts of interest. It can affect the independence of the research and the extent to which a user can rely, with confidence, on the integrity of that research. Research report providers should consider the impact of such conflicts in developing their business model and adopt appropriate controls to preserve the objectivity and independence of the research process and outcome. See RG 181.15.
- RG 79.122 Business or professional relationships with entities commissioning research, or entities the subject of research, and any fee or benefit or other financial interests capable of influencing the research report provider's ability to give an independent and objective assessment of the product should be disclosed.

Business model conflicts

- RG 79.123 Business model conflicts may be direct or indirect. There is a distinction between conflicts that are directly related to a specific piece of research—for example, that the research report provider has also been an underwriter for an initial public offering (IPO)—compared to indirect business model conflicts that apply across your business model. Indirect conflicts can be as corrosive as direct conflicts to the integrity of the research.

Example 10

Direct conflicts include circumstances where another part of the business (e.g. investment bank) has provided underwriting or consulting services to an entity that is the subject of the research.

Example 11

Direct conflicts include issuer commissioned research. The research report provider's dependence on the income stream generated by the client relationship has the potential to adversely influence the independence of the research, ratings process and outcome.

Example 12

Indirect conflicts include circumstances where the client relationships and revenue streams generated by ancillary business units such as consulting or funds management services may indirectly conflict with the integrity of the research service. Such conflicts may not directly relate to or affect a specific piece of research on a specific product or issuer. Nevertheless, these indirect conflicts share the potential to negatively affect the independence and integrity of the overall research process. Unlike direct conflicts, this impact may not be as readily apparent to a user of the research.

RG 79.124 Research report provider selects their own business models and each model has the potential to present certain conflicts of interest. Our expectation is that business model conflicts, whether direct or indirect, should be avoided unless there are robust processes and controls in place and meaningful disclosure. We do not require avoidance of conflicts of interest associated with issuer pays research at this time. However, if an outcome of our surveillance activity is that this conflict is not being robustly and effectively managed, we will revisit the need for avoidance.

Table 5: Conflicts and controls with direct and indirect business model conflicts

Conflict	Control
Commercial imperatives to generate and guarantee ongoing revenue streams create potential conflicts which may have an adverse influence on research analysts by creating pressure to give favourable ratings rather than truly independent ratings	<p>Fee and contractual arrangements for the research services should be clearly separated from the research or rating process and outcome.</p> <p>The research service should be clearly separated from the providers business management or consulting services. If this cannot be achieved, the conflict should be avoided.</p>
Relationship between the research report provider and commissioning party	<p>Adopt clear, written terms of engagement with the commissioning party to ensure interactions are free from undue influence. This should specify:</p> <ul style="list-style-type: none"> • fees for service; • avenues of communication; • access to information and commitment to the ratings process; • use and distribution of the report; and • publication of the research (irrespective of the final rating). <p>Clear disclosure to users that the issuer has paid for the research</p> <p>Entities with this conflict should consider the analogous requirements in RG 112 on independence of experts.</p>
Contractual arrangements should support robust research processes	<p>Where a product issuer directly commissions research from a research report provider, the provider should contract with a product issuer to ensure they provide all necessary information to enable a proper assessment. Such arrangements can help manage conflicts of interest and improve the quality of information for the provider and ultimate end user.</p>
Fee structures that create a nexus between remuneration and research	<p>Research and rating fees should be transparent.</p> <p>Split payment arrangements such that an entity may pay a fee only if their product gets to a certain phase of the research process, should be avoided.</p> <p>Such arrangements risk compromising the integrity of the research in linking the remuneration too closely to the research process and outcome.</p>

Conflict	Control
Cross subsidisation arrangements	<p>Revenue sources and cross subsidisation relationships should be managed to preserve the independence of the research process. They should be clearly disclosed for end users to assess any impact on the integrity of the research. This includes any fees charged for the use of the rating in advertisements or other licensing arrangements or outsourced research services.</p> <p>The impact of this potential conflict should be considered, reviewed and disclosed in the context of the overall business model. Where such conflicts cannot be managed, they should be avoided.</p>
Selection bias and coverage decisions can lead to conflicts or perceived conflicts of interest.	<p>Because investment research is not conducted in a vacuum, controls and adequate disclosures are necessary to address selection bias in research coverage so users can understand coverage decisions and derive meaning from a research rating.</p> <p>Users need to be able to evaluate a rating in context (e.g. whether the rating is an absolute conviction about the quality of a product or a rating of the product relative to its products in its peer group).</p> <p>Publishing ratings spreads and ratings outcomes helps users to assess the value and integrity of the research service. See RG 79.65–RG 79.69.</p>
Poor transparency in ratings processes	<p>All ratings should be published (to subscribers or clients) to allow external scrutiny of the process and to avoid issuers shopping for ratings without leaving a 'footprint'. Where a product issuer withdraws from the ratings process, providers should publish that information and the reasons why.</p>

Note: This is not an exhaustive list of business model conflicts or controls.

Information barriers and segregation of business units

- RG 79.125 Robust information barriers and the segregation of business units help preserve the objectivity and independence of the research process and are essential for a research report provider to manage their conflicts of interest. It is the responsibility of each research report provider to achieve this separation in an operationally effective way given the nature, size and complexity of the business.
- RG 79.126 To be effective, robust information barriers (physical and electronic) must actually prevent information passing between research staff (and their managers) and other staff. Electronic controls should prevent the flow of and access to research data by non-research staff. The effectiveness of such controls should be the object of regular review.
- RG 79.127 We expect research report providers to ensure that research staff are structurally and physically separated from (and are not supervised by) any staff who are performing an investment banking, corporate advisory, consulting, or dealing function or are involved in product design or development.

- RG 79.128 For research to be genuinely objective and independent, research staff must be quarantined from other business units such as units who have client relationship management responsibilities. Segregating research staff from roles relating to the management of client relationships should also be supported by electronic separation of research data. Staff working in non research business units should not be able to access research data, working files or draft research.
- RG 79.129 What will be appropriate structures and supervision practices for a research report provider will depend on the nature, scale and complexity of its business: see RG 181.35–RG 181.37. Smaller firms may have less capacity to fully separate research and other staff, and may need to consider other measures to ensure their research reports are provided efficiently, honestly and fairly and that the integrity of the advice they contain is not compromised (e.g. internal, independent and senior approval of research reports: see RG 79.84–RG 79.85).

Provision of non-research services

- RG 79.130 If research report providers also provide non-research services to a product issuer, there is a potential conflict of interest. Conflicts management arrangements need to take this into account to ensure the integrity of research reports is not compromised. Whether the non-research services have, or are likely to have, an impact on the preparation of research will depend on all of the facts and circumstances.
- RG 79.131 If research cannot be separated from other services to issuers, or ‘add on’ consultancy services cannot be provided at arm’s length from the research service, the conflict should be avoided.
- RG 79.132 Examples of non-research services include:
- (a) underwriting a public offering;
 - (b) advice about the prospects for a potential public offering (including likely reception in the financial market);
 - (c) help in marketing and promoting a public offering (including participation in ‘roadshows’ and ‘conference calls’);
 - (d) advice on structuring and developing new financial products; and
 - (e) business management or consulting services on investment manager selection and asset allocation or the offering of ‘fund of funds’.
- RG 79.133 Research report providers will need to consider, among other measures, whether they should:
- (a) ensure that research on a product issuer is not published while non-research services are being provided to the product issuer, and for a short period afterwards (i.e. a ‘quiet period’); and/or
 - (b) fully disclose in relevant research reports the nature of any non-research services provided to a product issuer: see also RG 79.164.

- RG 79.134 What is an appropriate solution will depend on the circumstances and the nature of the non-research services being provided. Senior management will need to consider how they manage the conflicts of interest inherent in providing non-research services to entities that they publish research about.

Note: What is an appropriate solution will also depend on the extent to which robust information barriers ensure that research staff are not aware of any non-research services being provided to an issuer: see RG 79.125–RG 79.129.

General advice about own products

- RG 79.135 Some research report providers are also product developers and issuers. Where a provider's research analysts produce information, analysis or other material about its own products or products produced by a related body corporate for internal use, such information is *not* research for the purposes of this guidance. See RG 79.26 and the examples in Table 1. For example, although a licensee's analysts may produce such general advice for promotional purposes, it is not advice to which this guide applies. Because such general advice is not a research report, it should not claim to be one, as it does not have the requisite objectivity, rigor or independence that typically characterises a 'research report'.
- RG 79.136 Where a licensee wishes to broadly distribute research about its own products a clear conflict of interest arises. In such cases and consistent with industry practice, we expect licensees to avoid the conflict by obtaining research from an external source.

Controls

Documentation

- RG 79.137 Research report providers should maintain specific policies and procedures for managing conflicts of interest, and make these available to all staff. To be adequate, these policies and procedures need to be documented: see RG 181.44–RG 181.48.

Monitoring compliance

- RG 79.138 Research report providers also need to ensure their conflicts management policies and procedures are implemented, maintained and actually complied with in practice. The appropriate monitoring and supervision practices for a research report provider will depend on the nature, scale and complexity of its business: see RG 181.35–RG 181.37.

Note: We expect that conflicts management policies will include specific reference to supervision, monitoring, review, audit and disciplinary matters.

- RG 79.139 Generally, research report providers should maintain an organisational unit separate to the business units (e.g. part of the compliance area) that is responsible for ensuring that conflicts management arrangements are implemented, monitored, reviewed and updated. It is important that the unit responsible for monitoring the research report provider's compliance with its conflicts management obligations is separate from the business units where the potential conflicts are likely to arise. In smaller firms, it may be an individual person rather than an organisational unit who has this responsibility.

Note: We expect that all units of the research report provider will contribute to its management of conflicts of interest, not just the compliance unit.

Communication

- RG 79.140 A communications policy should outline appropriate and inappropriate communications practices within the organisation and with external parties. Particular attention needs to be paid to communications between research staff and other staff of the research report provider, and between research staff and external organisations (particularly product issuers). The communications policy should be made clear to all staff (both research staff and others). This includes, but is not limited to, information barriers: see RG 79.125–RG 79.129.
- RG 79.141 Research report providers should ensure that research reports or information about their contents are not communicated outside the research report provider before the report is provided to clients in the normal course of business. This does not mean that a research report provider cannot check the factual accuracy of parts of a research report with a product issuer before it is provided to clients. However, we expect that this checking would be done in a carefully controlled way (e.g. without communicating the recommendations or opinions also contained in the report).

Approval before distribution

- RG 79.142 To maintain the quality and integrity of reports, research reports should be reviewed and approved by an experienced supervisor or by a group of peers (e.g. review committee) before they are distributed to clients. Reports should not be reviewed or approved by staff from another business area (e.g. investment banking, corporate advisory or dealing function), other than a restricted review for factual accuracy purposes. A written record should be kept of the review and approval of each research report. See RG 79.125–RG 79.129.

Benefits and remuneration

- RG 79.143 Decisions about the remuneration of research staff should not be made by staff that are directly connected with another business unit (e.g. investment

banking, corporate advisory or dealing). Remuneration decisions should not be contingent on:

- (a) research staff introducing new clients or retaining existing clients for the investment banking, corporate advisory or dealing units;
- (b) any specific investment banking, corporate advisory or dealing transaction; or
- (c) the level of any asset management fee.

Trading restrictions

RG 79.144 If research report providers or their research staff trade in the financial products that they publish research about, there is a potential conflict of interest. Conflicts management arrangements need to take this into account to ensure the integrity of research reports is not compromised.

RG 79.145 What is an appropriate solution will depend on the circumstances but some of the things a research report provider may need to consider include:

- (a) ensuring it has a policy on the distribution of research reports on financial products that the research report provider or its research staff have an interest in;
- (b) ensuring it does not unfairly trade ahead of the distribution of a research report (e.g. through appropriate compliance arrangements and information barriers); and
- (c) having formal review and approval processes for trading by its research staff.

Having an interest in the researched product

RG 79.146 Research report providers need to consider whether there are any types of conduct that are so inconsistent with proper management of conflicts of interest that they should be avoided completely: see RG 181.42.

RG 79.147 Having a material interest in the researched product presents a potential conflict of interest. General advice that is provided only to related bodies corporate of the licensee and general advice that is only about products issued by the licensee or its related bodies corporate is *not* research for the purposes of this guide and should not be described or distributed as such: see RG 79.26.

RG 79.148 If research reports are provided about products that the provider's research staff hold a material interest in, there is a potential conflict of interest. Research report providers should ensure that this conflict does not result:

- (a) in a failure to comply with their duties as licensees (including the duty to act efficiently, honestly and fairly); or
- (b) in the integrity of the advice contained in their research reports being compromised.

- RG 79.149 Research report providers may wish to consider adopting one or more of the following approaches:
- (a) prohibiting their research staff from holding or trading in financial products that they prepare research on;
 - (b) adopting robust information barriers (see RG 79.125–RG 79.129) that ensure that research staff are not aware of the trading conducted by the research report provider; and
 - (c) ensuring that any holding or trading of financial products by their research staff is properly approved.
- RG 79.150 What is an appropriate solution will depend on the circumstances. The senior management of each research report provider will need to consider how the research report provider manages the conflicts of interest inherent in trading in financial products it publishes research about. Whatever arrangements are put in place, care should be taken by the research report provider to ensure that its trading intention or trading strategy, or that of its research staff, does not affect the contents of its research reports.

Note: For example, a research report provider may prohibit research staff from trading in securities (or derivatives of that security) that they cover, or any securities in that industry sector (e.g. following the relevant sector indices). Trading restrictions should take into account both direct and indirect interests (e.g. a person may have an indirect interest due to derivatives they hold, or the assets of a discretionary account that they manage).

Trading ahead of distribution

- RG 79.151 Care needs to be taken where the research report provider or its research staff trade in a financial product before (or shortly after) the research report provider broadly distributes a research report about that product (e.g. proprietary trading by or on behalf of the research report provider and personal trading by research staff). A research report provider may wish to consider the following approaches:
- (a) imposing a ‘quiet period’ on itself and/or its research staff; or
 - (b) adopting robust information barriers that ensure that trading staff are not aware of pending research.
- RG 79.152 If adopting a quiet period, the research report provider will need to assess what is a reasonable period before and/or after the distribution of research for trading to be restricted. Quiet periods may also need to cover:
- (a) discretionary trading on accounts managed by the research report providers (as well as dealings on the research report provider’s own account); and
 - (b) dealings in derivatives of the financial products that are the subject of research reports.

- RG 79.153 Research report providers should take reasonable steps to ensure that their research staff do not circumvent any trading restrictions by encouraging or arranging for others (e.g. the staff member's family or other associated persons) to deal during the quiet periods. Generally, the trading activities of research staff should be monitored and recorded.
- RG 79.154 Non-public information about the timing of and recommendations contained in future research reports may amount to inside information: s1042A. This is especially so where the report is based on information which is itself not generally available. To the extent that the research report itself is or involves 'inside information', trading before or shortly after its publication is likely to amount to insider trading: s1043A(1).

Note: Information barrier defences may apply: s1043F–1043G. However, it is important that product issuers and research report providers take reasonable steps to avoid selective disclosure.

Disclosure of conflicts of interest

- RG 79.155 Research reports are relied on by retail and wholesale clients as a source of useful information for making decisions about investing in financial products. Users of research reports should be given enough information about conflicts of interest relating to a report to form a realistic view about the report and whether to rely on it. Specific, prominent and meaningful disclosures about conflicts of interest should be included either in or with each research report: see RG 181.52. The disclosures should focus on material conflicts: see RG 79.161–RG 79.162.

Note: As a matter of good practice, the research report (or accompanying disclosures) should also state who prepared the report and when (see RG 79.96–RG 79.99) and the reasons for the opinions and recommendations (see RG 79.87–RG 79.88).

- RG 79.156 We recognise there are some situations where disclosing a particular conflict will be inappropriate (e.g. where the relevant matter is highly confidential). In these situations, research report providers will need to assess whether the conflict can be adequately managed through other mechanisms. If it cannot be adequately managed, research report providers may need to avoid the conflict altogether: see RG 181.60.
- RG 79.157 Conflicts of interest disclosures are important, regardless of whether the client is wholesale or retail. We expect that research report providers' conflicts management arrangements will include procedures to ensure all clients receive conflicts of interest disclosure (not just retail clients): see RG 181.58–RG 181.59. What is appropriate disclosure to a wholesale client will depend on all the facts and circumstances. We acknowledge that in some cases, the disclosure a research report provider needs to give to a wholesale client to comply with the law may be less detailed than for a retail client: see RG 181.58.

- RG 79.158 Research report providers should provide conflicts of interest disclosure to all clients, including generally disclosing:
- (a) any material interests they have in financial products that are the subject of the report (see RG 79.161–RG 79.162);
 - (b) any benefits they are likely to receive from the report (see RG 79.163);
 - (c) their relationship (if any) to the product issuer, including any other services they provide to the product issuer (see RG 79.164); and
 - (d) any help they were given by the product issuer (see RG 79.165);
 - (e) the date the research report was written and who took responsibility for it; and
 - (f) the reasons behind the opinions and recommendations in the research report.
- RG 79.159 We would expect research report providers to take into account the factors in RG 181.58 in assessing the disclosure that should be provided to any given client.
- RG 79.160 Robust information barriers (see RG 79.125–RG 79.129) may mean the staff preparing and authorising a research report are unaware of some of these matters. To be effective, such barriers must actually prevent information going to research staff. For example, research staff may be unaware of some confidential non-research services being provided to a product issuer by another department. In this case, we would not expect the research report to include disclosures relating to that service. Whether any particular matter does not need to be disclosed in a research report will, of course, depend on the facts and circumstances: see RG 181.62.

Interests

- RG 79.161 Research report providers should disclose in or with each research report whether they (or any associated persons) have, or are likely in the future to have, a material interest in financial products that are the subject of the report. Disclosure will generally need to cover both the existence and extent of the interest.
- Note: For example, the disclosures should cover:
- (a) beneficial interests in and derivatives relating to the financial product;
 - (b) likely allocations as part of a public offering; and
 - (c) significant interests that the research report provider (or its staff) may have in the product issuer.
- RG 79.162 It is important that conflicts of interest disclosures are specific and clear. It would be inadequate simply to make a generic statement that the research report provider may from time to time have interests in those financial products that are the subject of research: see RG 181.53. It would also be inappropriate for these disclosures to be hidden in small print or otherwise obscured.

Benefits

RG 79.163 Research report providers should disclose whether they (or any associated persons) are likely to receive any benefits from the report. Disclosure will generally need to cover both the existence and extent of the benefits: see RG 181.54.

Note: For example, the disclosures should generally cover if:

- (a) the research staff member principally responsible for preparing the report received, or expects to receive, any benefit or inducement; and
- (b) the research report provider (or its research staff) received compensation from the subject of the report recently, or if the research report provider (or its research staff) expect to receive compensation in the near future.

Associations or relationships

RG 79.164 If any of the following associations or relationships apply and assuming the provider does not need to avoid the conflict, they should be disclosed in or with the research report:

- (a) that the research report provider (or an associated person) provides underwriting, managerial, consultancy or market-making services to the product issuer;
- (b) that the product issuer is otherwise a corporate client of the research report provider; or
- (c) that the product issuer is related to or otherwise associated with the research report provider.

Note 1: For example, the disclosures should cover the following relationships (if present) between the research report provider (or its associates) and a product issuer (or its associates):

- (a) underwriting or sub-underwriting;
- (b) making a market in the relevant financial product;
- (c) acting as broker or sponsor in a securities issue;
- (d) holding a position (including as a director) with the issuer;
- (e) providing expert opinions; and
- (f) investment banking, corporate advisory and dealing services.

Note 2: The disclosures should cover at least the last 12 months.

Assistance provided by product issuer

RG 79.165 The research report (or accompanying disclosures) should disclose whether the research staff who prepared the research report were helped in any way by the product issuer. Disclosure will generally need to state the type of assistance given.

Note: For example, the disclosures should refer to any assistance provided via site visits or other means.

Additional disclosure issues

Focus on material conflicts

- RG 79.166 Adequate disclosure means providing enough detail to allow clients to make an informed decision about how the conflict may affect the service being provided to them. We expect disclosure by research report providers to focus on material conflicts: see RG 181.50. Overly detailed or irrelevant disclosure is likely to confuse clients and reduce the effectiveness of the disclosure: see RG 181.61.
- RG 79.167 Other matters that a reasonable person might take into account in assessing the impact of conflicts of interest on a research report and whether to rely on it should also be disclosed. This information could be provided in a number of ways, including in or with research reports, in a separate document and on the research report provider's website.

E Users of research

Key points

We expect users of research, such as financial advisory firms and industry associations, to conduct careful due diligence on research report providers they intend to rely on in preparing approved product lists and Statements of Advice (SOAs).

More detailed and specific guidance for advice providers is set out in Regulatory Guide 175 *Licensing: Financial product advisers—Conduct and disclosure* (RG 175).

- RG 79.168 As providers of general advice, research report providers are important gatekeepers in the provision of financial product advice to Australian investors. The quality of the research produced by research report providers and their conduct has a material impact on the integrity of the financial planning industry, and the quality of advice they produce.
- RG 79.169 Our guidance in this section is designed to help improve the quality of research and any personal advice prepared in reliance on third party research produced by research report providers. Users of research can place more confidence in research where there is:
- (a) greater transparency by research report providers in communicating key features, strengths and limitations of their research services;
 - (b) a clearly articulated and applied research methodology and effective research processes; and
 - (c) appropriate and compliant management of conflicts of interest.

FOFA reforms

- RG 79.170 From 1 July 2013, AFS licensees and their representatives that provide personal advice to clients must comply with the best interests duty and related obligations unless they elect to comply before this date (from 1 July 2012).
- RG 79.171 These obligations are part of the Australian Government's Future of Financial Advice (FOFA) reform package under the *Corporations Amendment (Further Future of Financial Advice Measures) Act 2012* (FOFA Act No.2). The FOFA reforms are aimed at improving the trust and confidence of retail investors in the financial advice sector.
- RG 79.172 The best interests duty and related obligations replace the conduct obligations in Subdiv B of Div 3 of Pt 7.7 of the Corporations Act relating to the basis of advice—that is, the requirement to have a reasonable basis of personal advice (s945A), and the obligation to warn the client if advice is based on incomplete or inaccurate information (s945B).

- RG 79.173 These obligations require the ‘advice provider’—generally the individual who provides the personal advice—to:
- (a) act in the best interests of the client: best interests duty (s961B);
 - (b) provide appropriate advice (s961G);
 - (c) warn the client if advice is based on incomplete or inaccurate information (s961H); and
 - (d) prioritise the interests of the client (s961J).
- RG 79.174 In satisfying these obligations, where an advice provider considers it would be reasonable to recommend a financial product, the provider must:
- (a) conduct a reasonable investigation into financial products that might achieve the objectives and meet the needs of the client that would reasonably be considered relevant to the subject matter of the advice (s961B(2)(e)(i)); and
 - (b) assess the information gathered in the investigation (s961B(2)(e)(ii)).

Due diligence

- RG 79.175 Our expectations of advice providers in relying on research produced by external research report providers in preparing approved product lists or Statements of Advice (SOAs) are set out in Regulatory Guide 175 *Licensing: Financial product advisers—Conduct and disclosure* (RG 175).
- RG 79.176 We expect AFS licensees (including advice providers) to conduct appropriate due diligence in choosing a research report provider. Our guidance is designed to assist and support licensees and advice providers in that process. This is particularly important where general advice prepared by research report providers is relied upon in preparing approved product lists or SOAs. Not all research is the same and we expect AFS licensees who provide personal advice to apply the requisite level of rigour in assessing the quality of the research when preparing personal advice.
- RG 79.177 In conducting due diligence, we expect advice providers to take into account the business model and conflicts of interests associated with each potential service provider, as well as ensuring they understand and take into account the disclosures each research report provider makes about its business model, product selection processes, scope and coverage of research service, ratings spread and conflicts management in accordance with our guidance.

Personal advice

- RG 79.178 In addition to conducting appropriate due diligence in selecting a research report provider, we expect advice providers to make their own inquiries and research into the products they give advice on. While they may rely to some extent on various service providers, such as research report providers, advice providers are still responsible for the advice they give clients: see RG 175.
- RG 79.179 When using research, advice providers should ensure that they have read and understood the research report before relying on it. We expect advice providers to critically evaluate research reports, including considering the scope and coverage of the research, the nature of the rating applied, the methodology applied and the currency of the research. When users of research better understand the nature, scope and expertise that different research report providers bring to the research task, they can better assess the value of the research and the extent to which they can rely on it.

Key terms

Term	Meaning in this document
advice provider	<p>A person to whom the obligations in Div 2 of Pt 7.7A of the Corporations Act apply when providing personal advice to a client. This is generally the individual who provides the personal advice. However, if there is no individual that provides the advice, which may be the case if advice is provided through a computer program, the obligations in Div 2 of Pt 7.7A apply to the legal person that provides the advice (e.g. a corporate licensee or authorised representative)</p> <p>Note: These obligations will apply from 1 July 2013, or a person may elect to comply from 1 July 2012.</p>
AFS licence	<p>An Australian financial services licence under s913B that authorises a person who carries on a financial services business to provide financial services</p> <p>Note: This is a definition contained in s761A of the Corporations Act.</p>
AFS licensee (or licensee)	<p>A person that holds an Australian financial services (AFS) licence</p> <p>Note: This is a definition in s761A of the Corporations Act.</p>
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
associated person	An associate (within the meaning of Div 2 of Pt 1.2 of the Corporations Act) of the research report provider, including its research staff
conflicts management obligation	Section 912A(1)(aa) of the Corporations Act, which takes effect on 1 January 2005
conflicts of interest	<p>As defined in RG 181.15, that is:</p> <p>...conflicts of interest are circumstances where some or all of the interests of people (clients) to whom a licensee (or its representative) provides financial services are inconsistent with, or diverge from, some or all of the interests of the licensee or its representatives. This includes actual, apparent and potential conflicts of interest.</p>
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
financial product	<p>A facility through which, or through the acquisition of which, a person does one or more of the following:</p> <ul style="list-style-type: none"> • makes a financial investment (see s763B); • manages financial risk (see s763C); and/or • makes non-cash payments (see s763D) <p>Note: This is a definition in s763A of the Corporations Act.</p>

Term	Meaning in this document
financial product advice	<p>A recommendation, a statement of opinion or an interpretation of information, or a report of any of those things, that:</p> <ul style="list-style-type: none"> • is intended to influence a person(s) in making a decision about a particular financial product or class of financial products, or an interest in a particular financial product or class of financial products; or • could reasonably be regarded as being intended to have such an influence; <p>but does not include anything in an exempt document</p> <p>Note: This is a definition in s766B of the Corporations Act.</p>
Financial Services Guide (FSG)	<p>A document that must be given to a client in relation to the provision of a financial service in accordance with Div 2 of Pt 7.7 of the Corporations Act</p> <p>Note: See s761A of the Corporations Act for the exact definition.</p>
FOFA reforms	<p>A package of proposed reforms to the regulation of financial advice issued by the Australian Government in response to the PJC report Inquiry into financial products and services in Australia, November 2009:</p> <p>http://futureofadvice.treasury.gov.au</p>
general advice	<p>Financial product advice that is not personal advice</p> <p>Note: This is a definition in s766B of the Corporations Act.</p>
personal advice	<p>Financial product advice given or directed to a person (including by electronic means) in circumstances where:</p> <ul style="list-style-type: none"> • the provider of the advice has considered one or more of the client's objectives, financial situation and needs; or • a reasonable person might expect the provider to have considered one or more of these matters <p>Note: This is the definition contained in s766B(3) of the Corporations Act.</p>
Product Disclosure Statement (PDS)	<p>A document that must be given to a client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act</p> <p>Note: See s761A for the exact definition.</p>
representative	<p>In the case of an AFS licensee:</p> <ul style="list-style-type: none"> • an authorised representative of the licensee; • an employee or director of the licensee; • an employee or director of a related body corporate of the licensee; or • any other person acting on behalf of the licensee <p>Note: This is a definition in s910A.</p>
research report	As defined in RG 79.25–RG 79.26

Term	Meaning in this document
research report provider	As defined in RG 79.27
retail client	A client as defined in s761G of the Corporations Act and Div 2 of Pt 7.1 of Ch 7 of the Corporations Regulations 2001
RG 181	An ASIC regulatory guide (in this example numbered 181)
s912A (for example)	A section of the Corporations Act (in this example numbered 912A)
SOA (Statement of Advice)	A document that must be given to a client for the provision of personal advice under Subdivs C and D of Div 3 of Pt 7.7 of the Corporations Act Note: See s761A for the exact definition.
Trade Practices Act	<i>Trade Practices Act 1974</i>

Related information

Headnotes

avoiding, conflicts of interest, conflicts management, disclosure, information barriers, internal controls, research analyst, research report, research report provider, securities analyst

Pro formas

PF 209 *Australian financial services licence conditions*

Regulatory guides

RG 53 *The use of past performance in promotional material*

RG 104 *Licensing: Meeting the general obligations*

RG 105 *Licensing: Organisational competence*

RG 111 *Content of expert reports*

RG 112 *Independence of experts*

RG 146 *Licensing: Training of financial product advisers*

RG 175 *Licensing: Financial product advisers—Conduct and disclosure*

RG 181 *Licensing: Managing conflicts of interest*

Legislation

Corporations Act, Div 2 of Pt 1.2, Div 3 of Pt 7.7, Div 2 of Pt 7.7A, s761G, 763, 766B, 910A, 912A(1)(aa), 912A(1)(a), 945A, 945B, 1041H and 1042A

Corporations Amendment (Further Future of Financial Advice Measures) Act 2012

Trade Practices Act, s52

Cases

Bathurst Regional Council v Local Government Financial Services Pty Ltd (No 5) [2012] FCA 1200

Chiarabaglio v Westpac Banking Corporation (1989) ATPR 40–971

MGIGA (1992) Ltd v Kenny & Good Pty Ltd (1996) 70 FCR 236

RAIA Insurance Brokers Ltd v FAI General Insurance Co Ltd (1993) 41 FCR 164

Consultation papers and reports

CP 171 *Strengthening the regulation of research report providers (including research houses)*

REP 143 *Review of credit rating agencies and research houses: A joint report*

REP 318 *Response to submissions on CP 171 Strengthening the regulation of research report providers*

Other documents

IOSCO, *IOSCO Statement of principles for addressing sell-side securities analyst conflicts of interest: A statement of the Technical Committee of the International Organisation of Securities Commissions*, 25 September 2003

Appendix: Sample compliance review

This appendix is intended as a useful checklist for research report providers in meeting their obligations, including any relevant licence conditions. Providers can use it as a tool to review current and ongoing compliance with RG 79 and to assess the implementation and timing of any planned measures. The topics and processes can be tailored to suit a provider's particular business model or compliance arrangements.

Note: It is not a requirement to complete a compliance review and this appendix is not a template for future ASIC surveillance activity.

Compliance topics

Topics that can be reviewed include:

- research methodology and processes;
- internal conflicts management procedures;
- research publication and distribution;
- conflicts disclosure to users;
- monitoring and updating research;
- staff training and supervision;
- compliance and risk management; and
- procedures for managing research quality and transparency.

Compliance processes

For any planned measures:

- explain when and how the measures will be implemented;
- include an explanation of how the relevant measure will ensure compliance with the law, licence conditions and RG 79;
- describe the resources, including the internal compliance resources, allocated to the measures;
- detail any testing and reviews of the measures that have been or will be conducted and the results of those tests and reviews;
- where a measure necessarily involves the disclosure of information, include a hyperlink to access such disclosed information;
- identify any failings of the measures against their aims and explain how those failings have been or will be addressed;
- identify by name any existing or planned policies or similar documents;
- only address any measure that has been implemented or planned, or any failing that has occurred, since any previous compliance review; and
- address the specific instructions, if any, given for a topic.