



ASIC

Australian Securities & Investments Commission

Regulatory developments in asset management

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CHECK AGAINST DELIVERY

Introduction

Good morning and thank you for this opportunity to speak with you.

Much of the conversation today no doubt will be about international developments in the asset management industry and how significant changes to overseas regulations, such as MiFID II, can affect domestic markets.

As a smaller economy, significant differences in regulatory approach between jurisdictions is a real issue for Australia. They can create hurdles for Australian businesses wanting to expand their operations offshore. They also act to reduce opportunities for Australian investors and the sources of finance for Australian business.

We take these issues very seriously – both with regard to our supervision of the domestic market but also with respect to our work with our international partners.

I would like to take this opportunity to discuss some international developments within the regulation of the asset management industry globally, as well as some related domestic initiatives that ASIC is working on. We believe that these domestic initiatives will improve investor confidence and the resilience of the asset management industry in Australia, as well as increasing our international competitiveness.

These domestic initiatives are:

- the release of [Regulatory Guide 259](#) *Risk management systems of responsible entities* (RG 259)
- the new corporate collective investment vehicle regime
- the Asia Region Funds Passport.

FSB recommendations and RG 259

In January this year, the Financial Stability Board (FSB) published its [Policy recommendations to address structural vulnerabilities from asset management activities](#). The policy recommendations aim to enhance the resilience of asset management activities so that this form of market-based finance can help underpin strong, sustainable and balanced economic growth worldwide.

The policy recommendations address structural vulnerabilities from asset management activities that could potentially present financial stability risks. One major area of focus of these recommendations is operational risk and the challenges faced by asset managers during stressed market conditions.

Following on from the FSB recommendations, the International Organization of Securities Commissions (IOSCO) is currently in the process of reviewing its guidance in relation to fund liquidity and risk management to ensure it is current and responsive to the concerns of the FSB. ASIC is contributing to this work.

In March this year, ASIC released our new RG 259. RG 259 is the culmination of extensive work and liaison we have undertaken in this area and provides detailed guidance to responsible entities about what they need to do to ensure they comply with their obligation to have adequate risk management systems in place.

The guidance outlines requirements to have systems in place to identify, assess and manage material risks including, but not limited to, liquidity, market and investment, operational, governance and strategic risks. It also contains some good practice guidance which will assist responsible entities who wish to operate at a level above the minimum statutory requirements.

There have been a number of significant developments in the managed funds sector that have highlighted the importance of having adequate risk management systems in place. These include:

- a number of high-profile collapses of responsible entities. Some examples include Trio, Allco Wholesale Investment Limited, Fincorp Financial Services Limited and LM Investments Limited. Inadequate risk management arrangements were partly responsible for these collapses
- an increase in the diversification of the size, complexity and nature of the types of schemes managed by responsible entities.

Over the past few years we have also identified inconsistencies with the way in which responsible entities have approached their risk management obligations. The domestic industry is diverse, ranging from large multinational asset managers with sophisticated and well-resourced risk management arrangements to smaller players with limited resources.

RG 259 aims to create a benchmark within the industry where there was previously little industry guidance. To ensure it is able to accommodate the differing situations of the many varied Australian managers, the guidance provides flexibility, rather than being prescriptive to suit individual business models.

Within RG 259 there are references to relevant international guidance, including IOSCO's guidance in this field, and it is consistent with this guidance. RG 259 will also ensure that the domestic market is well-placed to respond to further international developments in this area.

Asia Region Funds Passport

Turning to the Asia Region Funds Passport.

It is worth noting that Australia has the third largest pool of funds under management of any international jurisdiction, behind the United States and Luxembourg, and has the largest pool in Asia. However, only about 5% of investors in Australian funds are non-Australians.

The new Asia Region Funds Passport and corporate collective investment vehicle regimes are two initiatives to which ASIC is contributing that will give the Australian funds management industry an increased ability to compete more effectively within the global financial services market.

Once implemented, the Asia Region Funds Passport will provide a multilaterally agreed framework to facilitate the cross-border marketing of managed funds across participating economies in the Asia region. This will open up large markets within the region to Australian fund managers as well as providing extensive new opportunities for Australian investors. Currently Australia, New Zealand, Japan, South Korea and Thailand have signed up to participate in the initiative.

The four key objectives of the Asia Region Funds Passport are to:

- strengthen the capacity and competitiveness of the region's funds management industry
- deepen the region's financial markets by improving liquidity and access to finance
- ensure economies can continue to maintain financial system stability and efficiency
- increase competition within the industry, which may lead to lower fees and greater choice.

This will be done while also providing, most importantly, a high degree of investor protection.

The commencement of the Asia Region Funds Passport will occur when two or more of the participating economies are ready. While there is some uncertainty about the exact start date, it could be as early as 30 December 2017.

Corporate collective investment vehicle regime

In the FY 2015–16 Budget, the Treasurer announced that a new regime for corporate collective investment vehicles will be created as an alternative to the traditional unit trust-based managed investments regime. A further limited partnership collective investment vehicle is proposed to follow.

The introduction of these two new corporate investment vehicles provides greater options for Australian fund managers, which are more closely in line with many other overseas jurisdictions. In many overseas jurisdictions, corporate investment vehicles are a more common and better understood structure for collective investments.

While this is an initiative that has been driven by the funds management industry, ASIC is working hard to make it a reality.

The key drivers for the corporate collective investment vehicle regime are threefold:

- enhance the international competitiveness of the Australian funds management industry through the creation of a regime comparable with UCITS and the Alternative Investment Fund Managers Directive
- expand the range of collective investments offered in Australia
- maximise the economic benefits of the Asia Region Funds Passport regime.

The corporate collective investment vehicle regime is optional. Current structures will not be required to convert, but can choose to convert.

Work is underway in designing what this regime will look like, and the mechanics are still to be settled. As with all new legislation, Treasury and the Office of Parliamentary Council will work closely on the design of the Asia Region Funds Passport and corporate collective investment vehicle bills, with the aim of releasing the draft bills on the Treasury website for public consultation. So, please keep an eye on the Treasury website for more updates.

Following the public consultation, the bills will be submitted into Parliament for consideration.

The aim is for the bills to be introduced into Parliament this year, with the introduction most likely to occur in the spring sitting of Parliament.

We will need to create new regulatory guides for both Asia Region Funds Passport and corporate collective investment vehicles. We are proposing to combine these with

existing guidance for managed investment schemes. At this stage, we envisage having five or six regulatory guides on:

- starting an investment fund
- what the constituent documents of the fund should contain
- corporate governance, compliance and oversight issues
- asset holding
- discretionary powers.

These regulatory guides will be supplemented by a standalone regulatory guide for operators of offshore funds aiming to passport into Australia under the Asia Region Funds Passport regime.

We will – of course – release this guidance for public consultation once the work has progressed.

Conclusion

In conclusion, I want to emphasise that we recognise the importance of the regulator keeping up with the international environment.

As I have outlined, we are an active participant in initiatives to both assist the effective provision of global financial services and to respond to developments.

I also take this opportunity to remind licensees to ensure ongoing compliance with their key obligations to have adequate risk management systems in place to respond to all material risks, in particular liquidity and market and investment risks, and to provide transparent disclosure of fees and costs to investors.

Thank you.