

Funds Management: Industry briefing

24 November 2017



ASIC

Australian Securities & Investments Commission

Draft RG: Establishing and registering a fund

Existing RG 134

How we apply the constitution content requirements of the Corporations Act when deciding whether to register a managed investment scheme.

Procedural aspects of registration to relocate

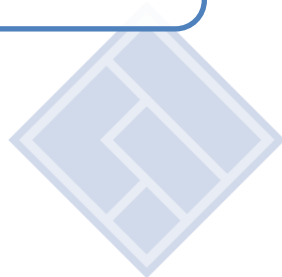
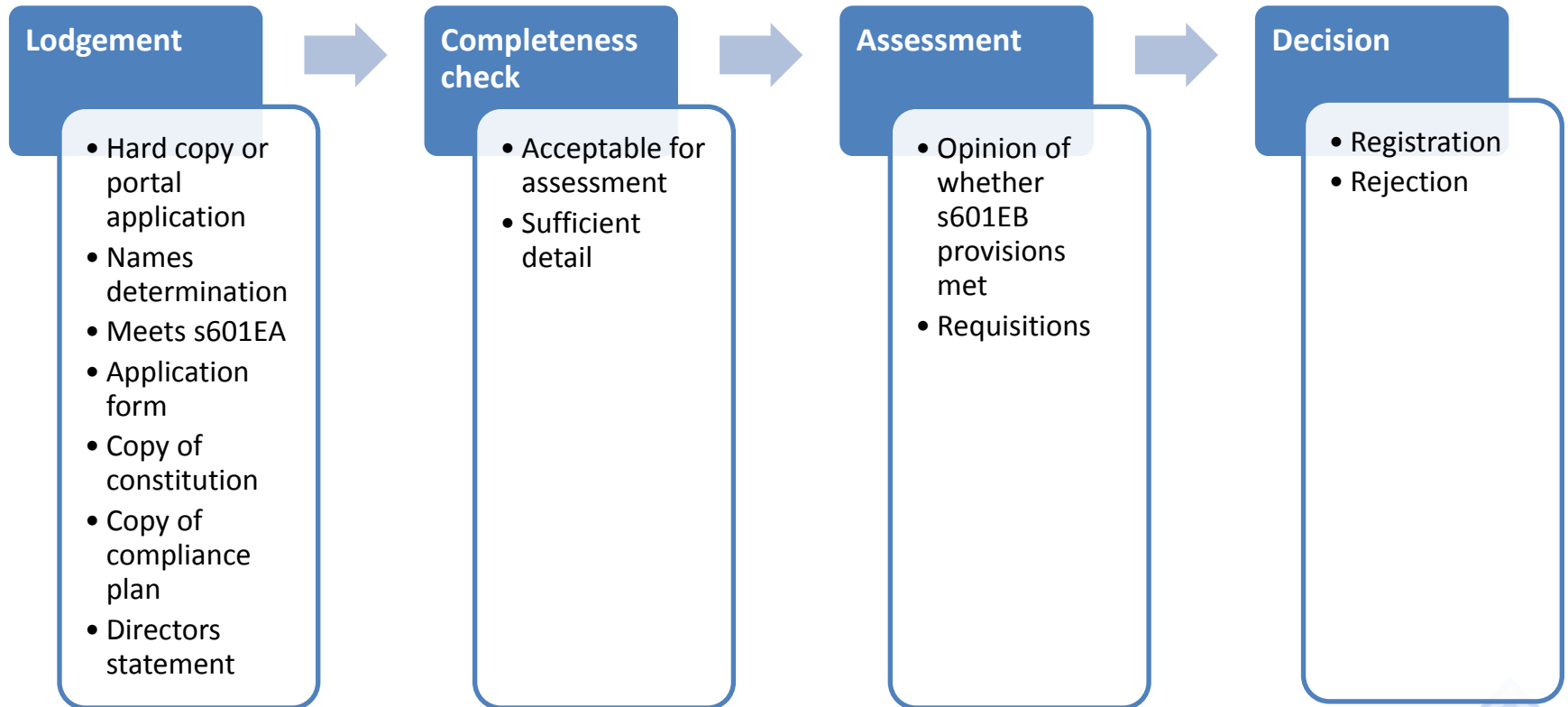
Guidance for operators of managed investment schemes, CCIVs and Australian Passport Funds

How to establish and register a fund

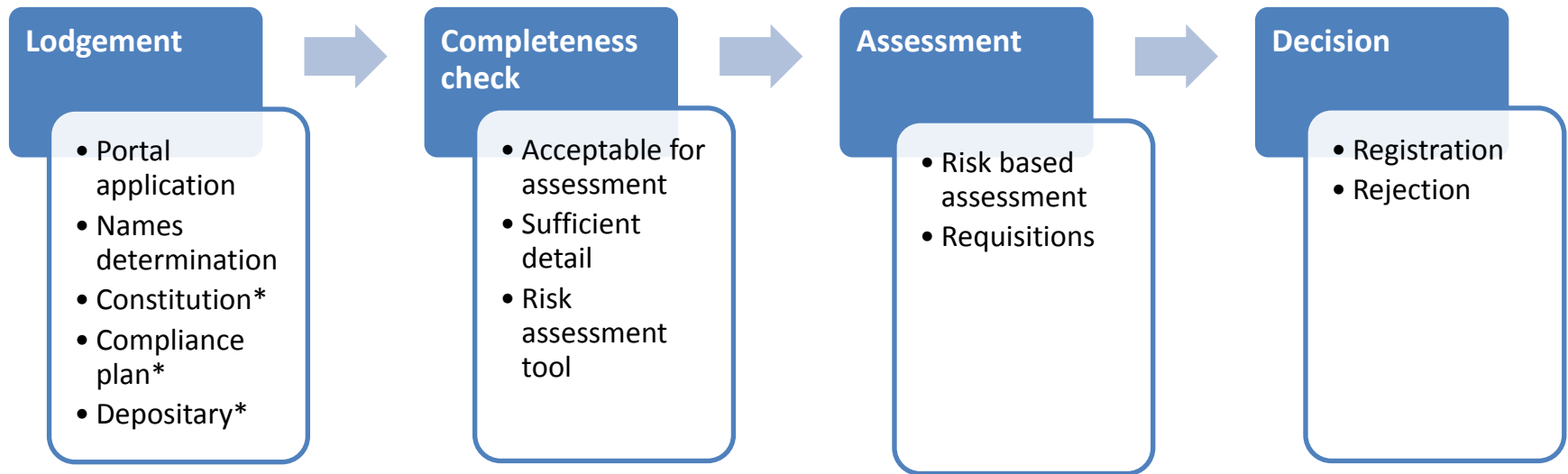
New RG



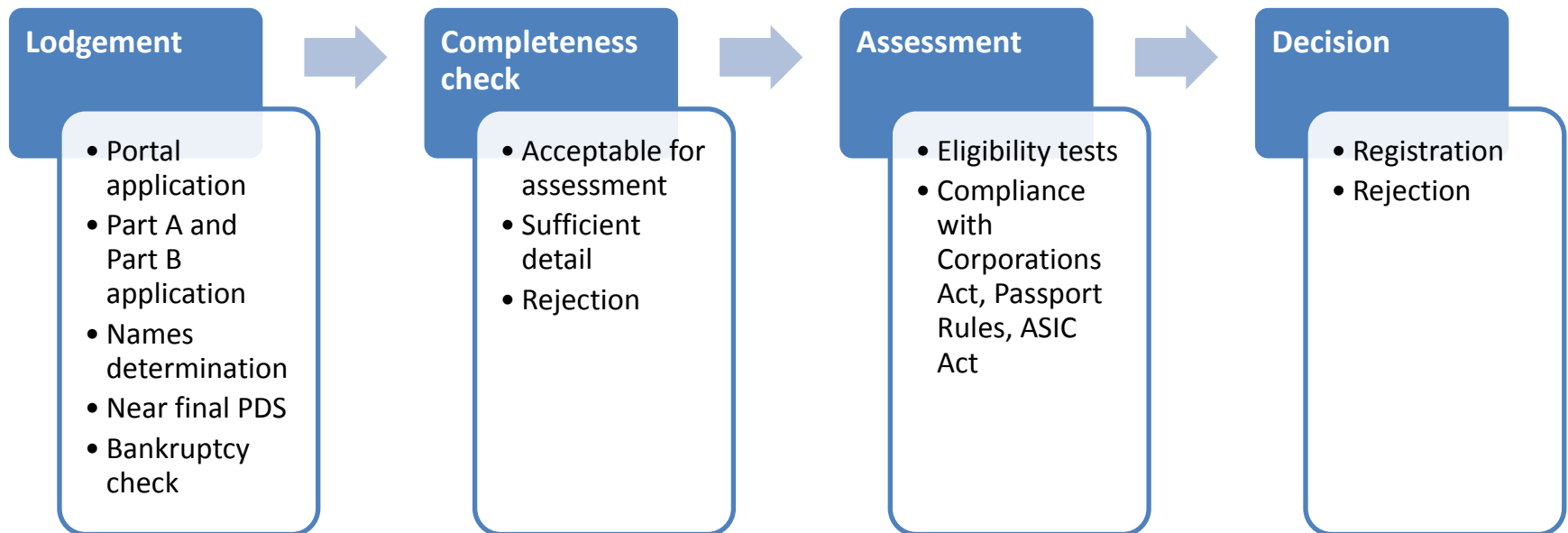
Managed Investment Scheme



Corporate Collective Investment Vehicle



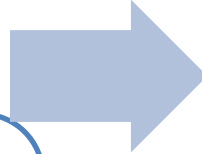
Australian Passport Fund



Draft RG 132: Compliance and oversight

Current approach

- RG 132 *Managed investments: Compliance plans*
- RG 116 *Commentary on compliance plans: agricultural industry schemes*
- RG 117 *Commentary on compliance plans: Financial asset schemes*
- RG 118 *Commentary on compliance plans: Contributory mortgage schemes*
- RG 119 *Commentary on compliance plans: Pooled mortgage schemes*
- RG 120 *Commentary on compliance plans: Property schemes*

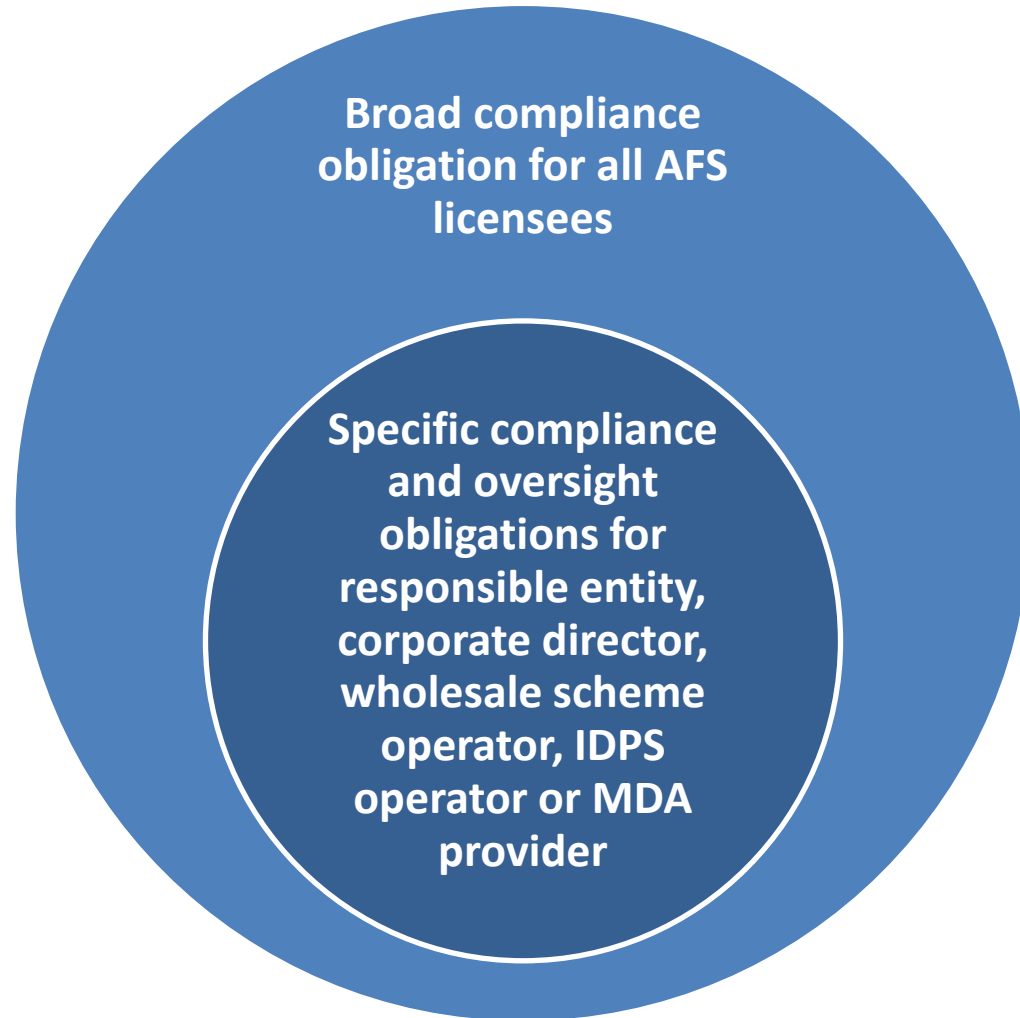


Proposed approach

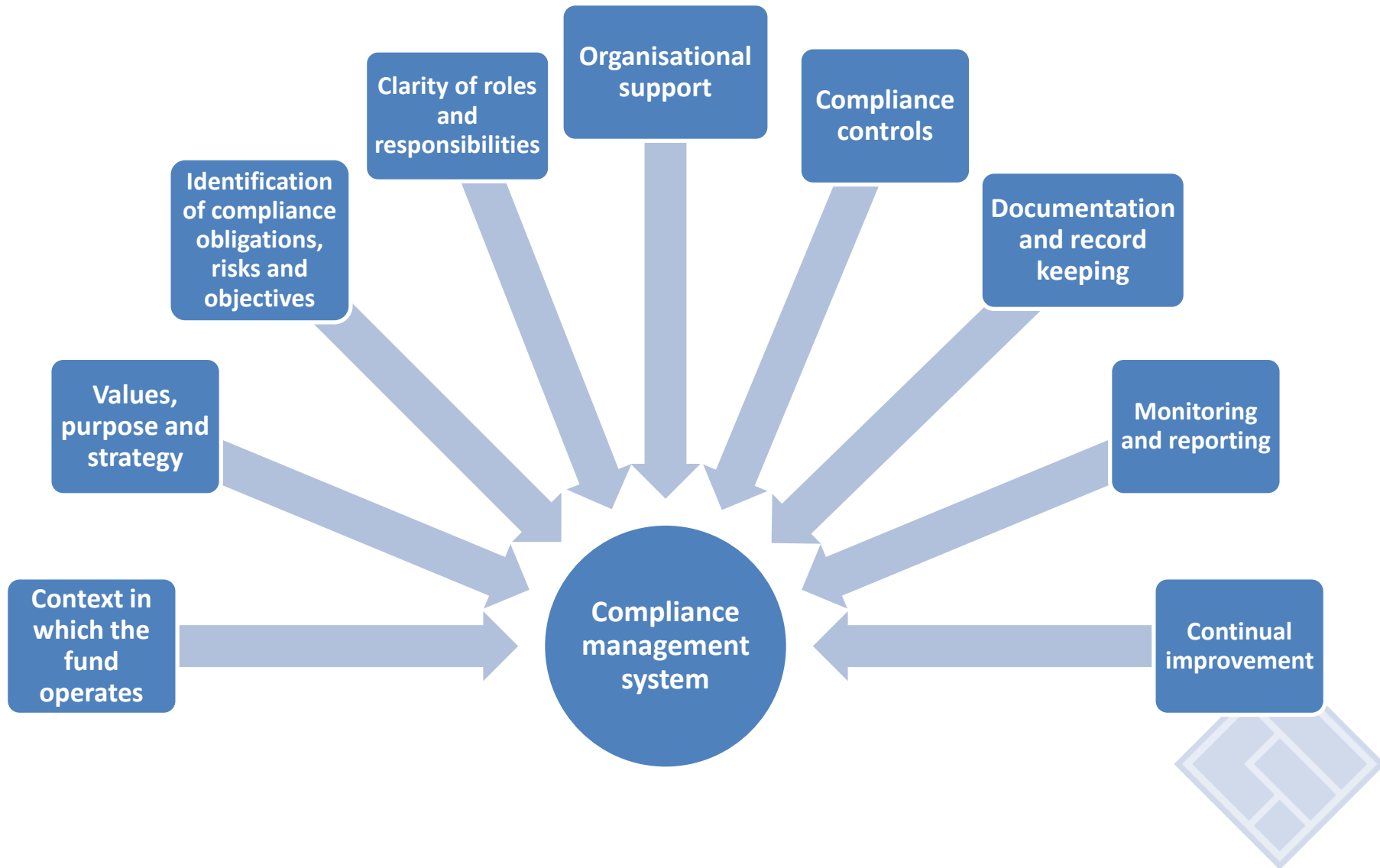
- RG 132 *Funds management: Compliance and oversight*



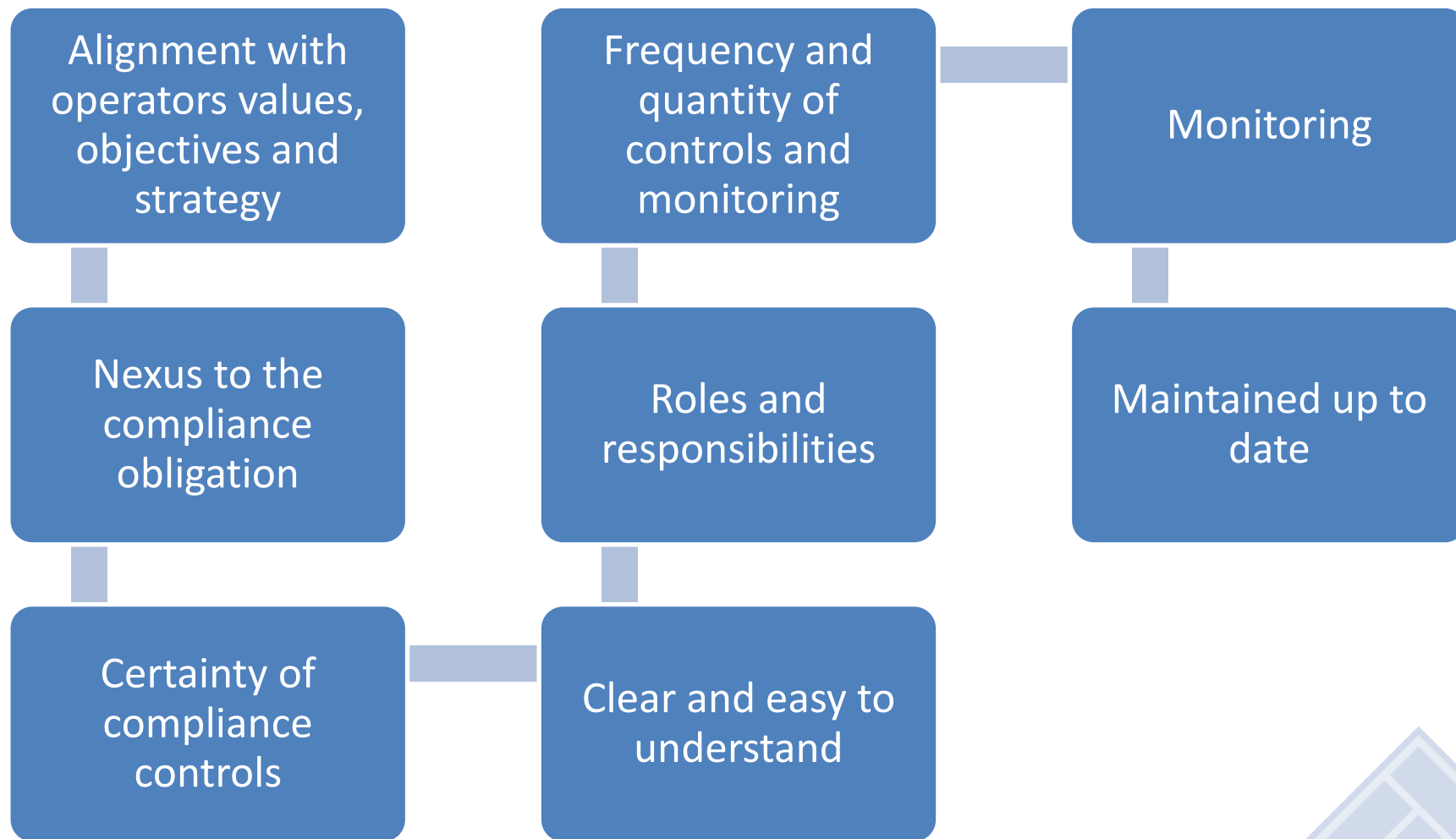
Compliance and oversight obligations



Compliance management system



Compliance plans



Compliance plans cont.

Group level

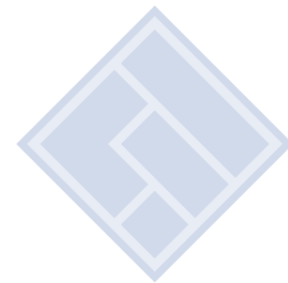
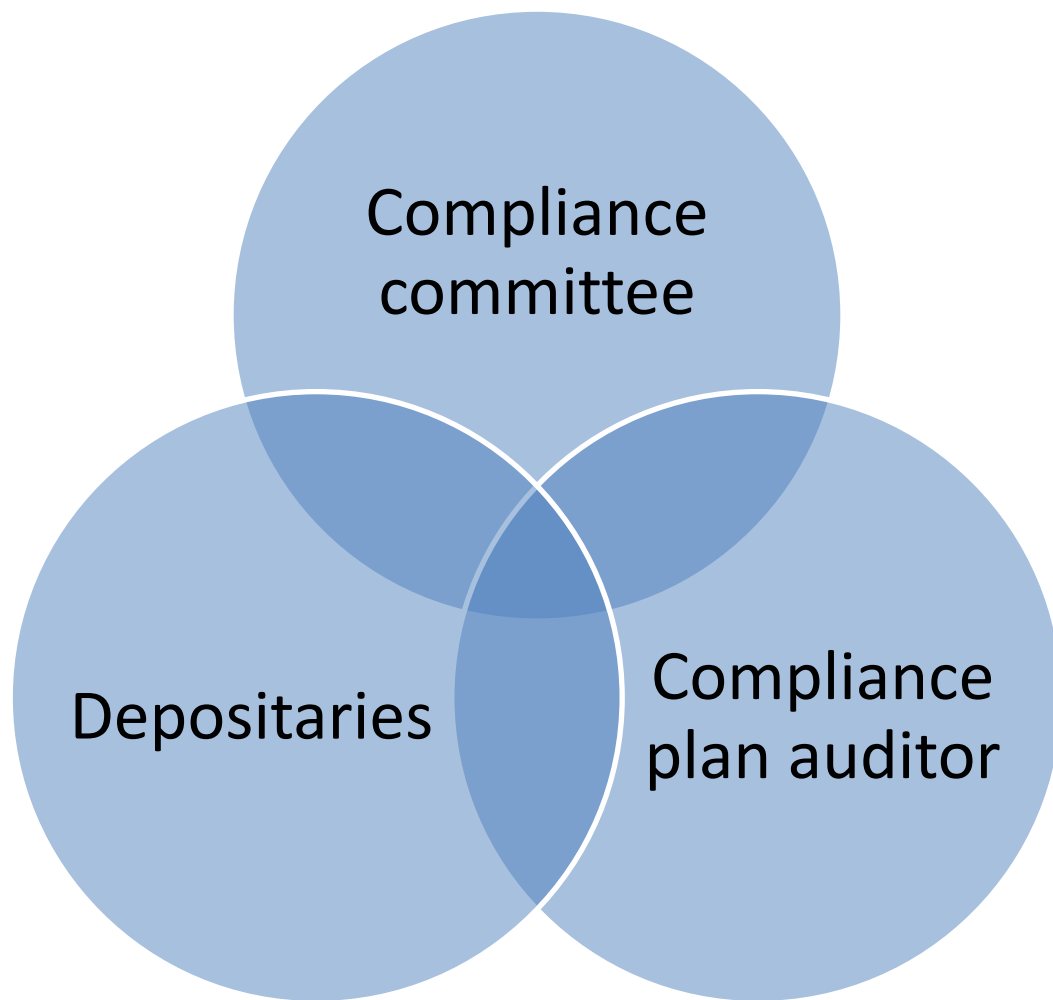
- Management and oversight
- Training, recruitment and experience
- Accounts and record keeping
- Use of external service providers
- Related party issues
- Cyber resilience and business continuity
- Applications, redemptions and distributions
- Disclosure and reporting
- Distribution channels
- Identifying, recording, rectifying and reporting of breaches
- Complaints handling
- Licence conditions



Registered scheme or sub-fund level

- Investment strategy, including sovereign risk, technology dependence, and agricultural and environmental risks
- Fees and costs
- Asset holding and custodial arrangements
- Valuation
- Pricing of interests and shares
- Securities trading
- Leverage
- Credit
- Other business risks

Oversight



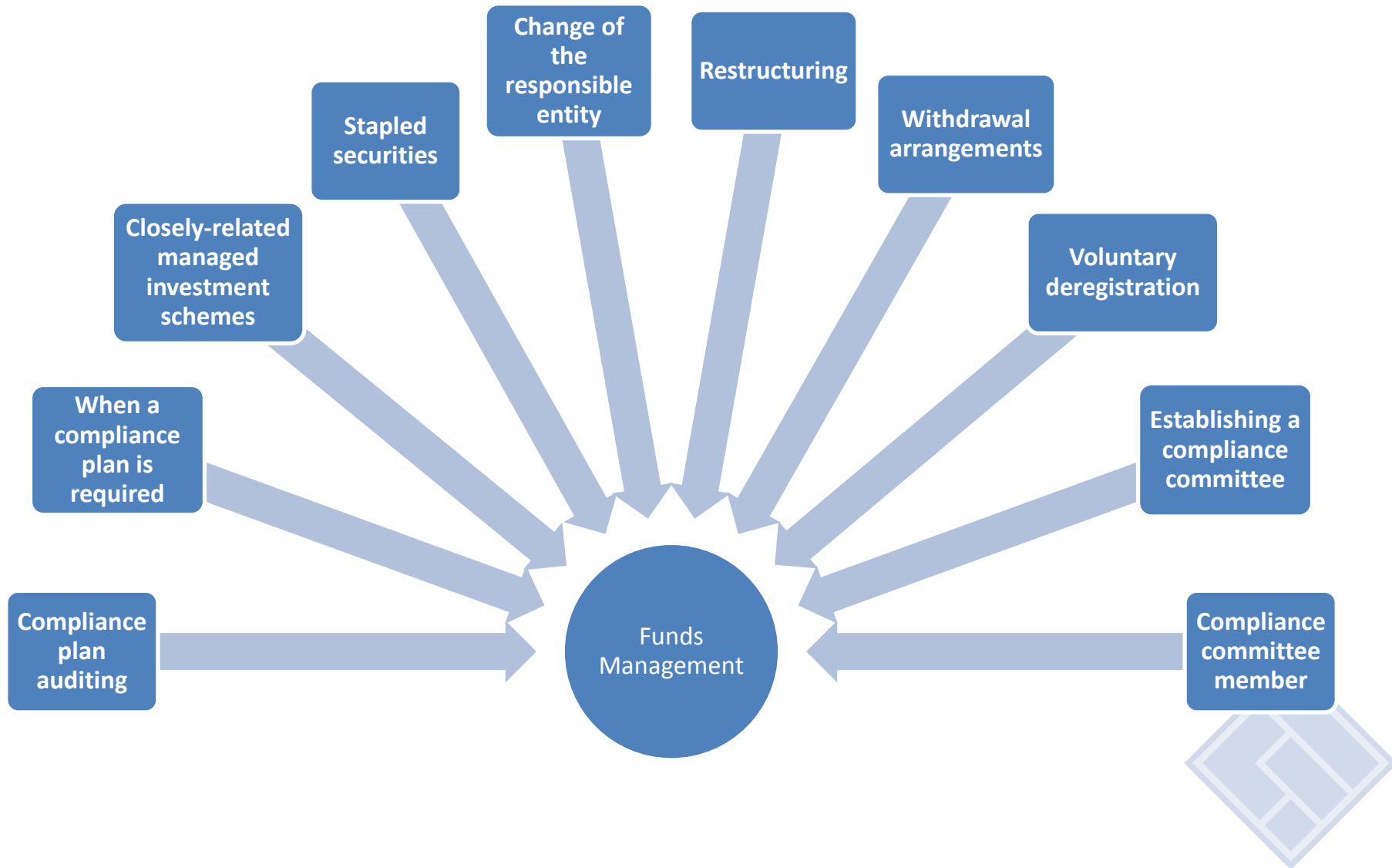
Draft RG 136: Discretionary powers

**Regulatory Guide 51:
Applications for relief**

**Regulatory Guide
136: Funds
management:
discretionary
powers**



Common forms of relief



Draft RG 133: Holding assets

Applies to

CCIVs:

- Corporate Directors
- Depositaries

MISs:

- Responsible entities
- MDA providers
- IDPS operators

Licensed custody providers

Others:

- Non-licensees
- Australian passport fund

Sections

Overview

Holding assets

Engaging asset holders

Compliance controls

Protection for land use in registered schemes

Relief from obligation to separate assets

Relief

CCIVs

- Registered schemes
- MDAs
- IDPSs

Licensed custody providers



Draft RG 134: Constitutions

Applies to:

Registered schemes

CCIVs:

- retail
- wholesale

Australian passport funds

Sections

B: Consideration to acquire

- Expanded to cover acquisition of shares in a retail CCIV

C: Sub-funds and class rights (new)

- New guidance for sub-funds and classes

D: Powers and rights of operators

- New guidance for powers and rights of corporate director of a retail CCIV; incorporates INFO 220 guidance

E: Complaints, disputes and remedies

- New guidance for Australian passport funds; incorporates INFO 220 guidance

F: Changing the constitution (new)

- New guidance for changing the constitution of a registered scheme and retail CCIV

G: Withdrawal

- New guidance for CCIV redemption requirements; incorporates INFO 220 guidance

H: Winding up

- Incorporates INFO 220 guidance

I: Legal enforceability

- No substantive change

J: Incorporation by reference

- New guidance for retail CCIVs



Foreign passport funds

Applies to

Foreign passport funds
and their operators

Sections

Entry requirements

- Application
- Assessment
- Offering in Australia

Ongoing requirements

- Reports
- Change of event notification
- Breach reporting
- Administration of Australian law

ASIC's powers and responsibilities

- Discretionary powers
- Passport Regulator relief
- Confidential information
- Compliance and investigations
- Stop orders
- Civil or criminal action
- Infringement notices
- Enforceable Undertaking

Submissions

- Web** <http://asic.gov.au/regulatory-resources/funds-management>
- Email** polycysubmissions@asic.gov.au
- Due** 8 December 2017

