

# Attachment to CP 389: Draft regulatory guide



**ASIC**  
Australian Securities &  
Investments Commission

REGULATORY GUIDE 000

## Pre-hedging

June 2026

### About this guide

This guide is for market participants who use pre-hedging to manage risks related to anticipated client transactions. It provides guidance on what market participants should do to meet key obligations when pre-hedging. This guide is also relevant for clients of these market participants.

### 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 draft guide was issued in June 2026 and is based on legislation and regulations as at the date of issue.

This guide, once published, will replace ASIC's open letter to market participants dated 1 February 2024.

### Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the *Corporations Act 2001* (Corporations Act) and other applicable laws apply to you, as it is your responsibility to determine your obligations.

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## A Overview

### Key points

Pre-hedging occurs after receiving information about an anticipated client transaction and before the client has agreed terms or accepted an executable quote.

Pre-hedging can enable you to offer clients better terms for transactions and reduce market impact.

Pre-hedging involves active trading while in possession of confidential information about a client's anticipated trade. This raises potential conflicts of interest and conduct risks.

If you undertake pre-hedging, you must comply with your obligations under the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001* (ASIC Act).

The purpose of this guide is to help market participants understand key obligations related to pre-hedging, and what they should do to comply with those obligations.

### Who this guide is for

- RG 000.1 This guide is for market participants who undertake pre-hedging associated with anticipated client transactions.
- RG 000.2 This guide is also relevant for clients of these market participants.

### Purpose of this guide

- RG 000.3 The purpose of this guide is to help market participants understand key financial services obligations related to pre-hedging, and what they should do to meet those obligations.
- RG 000.4 This guide also provides guidance on conduct that clients should expect of market participants.
- RG 000.5 Our guidance aligns with the recommendations in IOSCO's final report on pre-hedging. Their report seeks to promote a level playing field for all participants across jurisdictions, asset classes and execution types.

Note: See IOSCO, [FR/14/2025 Pre-hedging](#) (PDF 538 KB), final report, November 2025 (IOSCO pre-hedging report).

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## What this guide covers

- RG 000.6 This guide explains:
- (a) how we define pre-hedging, your legal obligations and an overview of related international guidance on pre-hedging (Section B);
  - (b) principles for deciding whether pre-hedging may be used, and what you should consider when applying those principles (Section C); and
  - (c) principles for managing potential conduct risks when pre-hedging, and what you should consider when implementing arrangements to manage those risks (Section D).

### Terms used in this guide

- RG 000.7 In this guide:
- (a) ‘pre-hedging’ reflects the definition in the IOSCO pre-hedging report;
  - (b) ‘market participants’ includes AFS licensees (and other participants in Australian wholesale markets that rely upon ASIC relief from licensing obligations) that undertake the practice of pre-hedging as principal;
  - (c) ‘clients’ includes wholesale counterparties of market participants and does not give rise to any agency relationship or fiduciary duty;
  - (d) ‘you’ and ‘your’ are directed to market participants, not clients; and
  - (e) references to chapters (Chs), parts (Pts), divisions (Divs) or sections (s) are to the Corporations Act, unless otherwise specified.

Note: For more definitions, see the Key terms at the end of this guide.

## Understanding pre-hedging

- RG 000.8 Pre-hedging is a type of trading where you receive information about an anticipated client transaction, and you take an offsetting position to reduce the exposure to that anticipated risk before the client transaction and crystallisation of the risk.

### Benefits and risks

- RG 000.9 Pre-hedging can support the effective functioning of markets by improving execution and risk management in certain circumstances.
- RG 000.10 At the same time, pre-hedging can introduce market and conduct risks. These risks must be managed carefully so any benefits are realised for markets and clients, not just for the market participant.

## Obligations

- RG 000.11 When pre-hedging, you must comply with your obligations under Australian law. This guide does not create a safe harbour from compliance with your obligations. You must carefully consider applicable Australian case law, industry codes and standards.
- RG 000.12 If you are an AFS licensee, or an AFS licence applicant, you must comply with your general licensing obligations under s912A.
- Note: For an overview of the general licensing obligations of AFS licensees, see Regulatory Guide 104 *AFS licensing: Meeting the general obligations* ([RG 104](#)).
- RG 000.13 We have provided a non-exhaustive list of relevant obligations in Table 1.
- RG 000.14 You should also consider how industry standards, guidance and the IOSCO pre-hedging report are applicable to your specific facts, circumstances and practices when undertaking pre-hedging.

## Principles for pre-hedging

### Principles for the use of pre-hedging

- RG 000.15 You should only undertake pre-hedging if you:
- (a) undertake pre-hedging for a risk management purpose associated with anticipated client transaction(s);
  - (b) undertake pre-hedging with the intention of benefiting your client;
  - (c) act efficiently, honestly and fairly in your dealings with clients; and
  - (d) seek to minimise market impact and maintain market integrity in accordance with your obligations (see Table 1).

### Principles for managing potential conduct risks

- RG 000.16 Before undertaking pre-hedging, you must implement adequate arrangements to manage conduct risks and comply with your obligations under the Corporations Act and ASIC Act.
- RG 000.17 You should:
- (a) document and implement appropriate policies, procedures and controls for your pre-hedging activities to effectively supervise and comply with your obligations;
  - (b) have appropriate compliance and supervisory arrangements covering your pre-hedging activities;

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- (c) provide transparent, clear and effective disclosure to clients to enable them to make informed decisions about order execution options;
- (d) seek informed prior consent to pre-hedge from your client at the outset of the relationship and give your client a clear process to modify or revoke that consent;
- (e) appropriately manage access to, and prohibit misuse of, confidential client information and adequately manage any conflicts of interest in connection with pre-hedging; and
- (f) maintain adequate records to facilitate effective supervisory oversight, monitoring and surveillance of your pre-hedging activities.

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## B Understanding pre-hedging: Risks, benefits and key obligations

### Key points

Pre-hedging has potential benefits for your clients and the broader market. It also poses risks.

If you undertake pre-hedging, you must comply with obligations and prohibitions set out in the Corporations Act and the ASIC Act.

Additional obligations apply to AFS licensees, including the general licensee obligations under s912A(1).

We have provided a snapshot of key obligations and related ASIC guidance in Table 1.

You should also consider how industry standards and international guidance apply to you.

### Pre-hedging defined

RG 000.18 In this guide, references to pre-hedging reflect the definition in the [IOSCO pre-hedging report](#) (PDF 538 KB). The report defines pre-hedging as trading undertaken by a market participant when the:

- (a) market participant is dealing on its own account in a principal capacity;
- (b) trades are executed in the same or related instruments after the receipt of information about one or more anticipated client transactions and before the client has agreed on the terms of the transaction(s) and/or irrevocably accepted the executable quote(s);
- (c) trades are executed to manage the risk related to the anticipated client transaction(s); and
- (d) trades are executed with the intention of benefiting the client.

Note: See p. 23 of the IOSCO pre-hedging report.

RG 000.19 Principal trading activity following receipt of confidential client information about an anticipated client order that does not fall within this definition, is not considered to be pre-hedging and creates a heightened risk of constituting market abuse, including insider trading or market manipulation.

RG 000.20 Pre-hedging may be conducted in relation to a range of financial products and asset classes (i.e. equity and fixed income securities, currencies, commodities and their derivatives). Pre-hedging may occur on both exchange and over-the-

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counter markets, in anticipation of client orders or transactions in primary market offerings and secondary market transactions.

- RG 000.21 Pre-hedging occurs *after* receiving information about an anticipated client transaction and *before* the client has agreed terms or accepted an executable quote. For example, you might receive information about an anticipated transaction when a client seeks pricing from you. This may include information about the size, direction, price range or time of execution of the transaction. Pre-hedging may include trading in the same or related financial products involved in the anticipated client transaction.
- RG 000.22 Pre-hedging is different from inventory management. Inventory management occurs when you are not acting in response to a specific inquiry and information about an anticipated client transaction.
- RG 000.23 Pre-hedging is also different from hedging. Hedging occurs *after* the client has agreed the terms of the anticipated transaction and/or the client has irrevocably accepted an executable quote.

## Potential benefits of pre-hedging

- RG 000.24 Pre-hedging has potential benefits for your clients and the broader market, including:
- (a) *Enabling price discovery*: Pre-hedging allows you to explore market prices and depth to evaluate trading conditions before giving a price to your client.
  - (b) *Reducing market risk*: Pre-hedging may help you reduce market risk by offsetting a portion of the transaction ahead of offering a price to your client.
  - (c) *Reducing market impact*: Pre-hedging can reduce the market impact of a transaction by lengthening the execution window.
  - (d) *Assisting liquidity*: Pre-hedging may enable you to source liquidity ahead of providing a price to your clients.
  - (e) *Improved competition*: Pre-hedging may promote competition by allowing smaller market participants—who may not have the balance sheet to carry extensive inventories—to compete with larger market participants.

## Potential risks of pre-hedging

- RG 000.25 Pre-hedging involves actions that may give rise to potential risks. For example:

- (a) *Failure to adequately manage conflicts of interest and misuse of confidential information:* You may fail to comply with your obligations if, when pre-hedging, you:
- (i) misuse confidential client information to benefit yourself or reduce your own risk exposure without a risk management purpose associated with the anticipated client transaction(s);
  - (ii) undertake trading with no intention to benefit the client, for example by seeking to obtain additional margin at the expense of your client; or
  - (iii) fail to adequately manage confidential or material non-public client information.

Note: For an explanation of your legal obligations under the Corporations Act for having adequate arrangements to manage conflicts of interest, see Regulatory Guide 181 *AFS licensing: Managing conflicts of interest* ([RG 181](#)).

- (b) *Adverse price and liquidity effects:* Pre-hedging activity may be conducted in such a manner that may move market prices and reduce available liquidity to your benefit but result in a less favourable execution price for your client. This could be due to a failure to adequately manage conflicts of interest, provide services in an efficient, honest and fair manner or be considered unconscionable conduct. Such trading could also potentially create misleading or false appearances as to the price or volumes in the market.

Note: See *Australian Securities and Investments Commission v Westpac Banking Corporation (Penalty Hearing)* [2024] FCA 52 (Westpac pre-hedging case) at [291].

- (c) *Insider trading:* If the information regarding the anticipated client transaction meets the definition of inside information in s1042A(1) and you trade in a financial product while in the possession of such information, you risk breaching s1043A. This includes ‘tipping’, which involves disclosing inside information to another person if you know, or should reasonably know, that the person may trade.
- (d) *Inappropriate disclosure:* In addition to the prohibition against insider trading, you risk breaching your obligations if you disclose information that is commercially sensitive or was provided in confidence.
- (e) *Lack of transparency:* Pre-hedging practices may not be transparent to your client. If you do not address this information asymmetry, for example through transparent, clear and effective disclosure and obtaining prior informed client consent, you risk engaging in unconscionable conduct and breaching your obligation to act honestly, efficiently and fairly.

Note: See Westpac pre-hedging case at [29].

- (f) *Lack of supervision and compliance monitoring:* If you do not adequately record, supervise and monitor pre-hedging activities, you

risk breaching your obligation to take reasonable steps to ensure your representatives comply with financial services laws. You may also risk breaching your obligations to have adequate arrangements to manage conflicts of interest.

## Key obligations

- RG 000.26 If you undertake pre-hedging, you must comply with obligations and prohibitions set out in the Corporations Act and the ASIC Act.
- RG 000.27 If you are an AFS licensee, you must comply with your additional licensee obligations under s912A(1).
- RG 000.28 See Table 1 for a snapshot of key obligations and related guidance.

**Table 1: Key financial services obligations related to pre-hedging**

Key obligation	Does it apply to AFS licensees?	Does it apply to market participants exempt from AFS licensing?	Additional guidance
Act efficiently, honestly and fairly (s912A(1)(a))	Yes	No	<a href="#">RG 104</a>
Adequate arrangements to manage conflicts of interest (s912A(1)(aa))	Yes	No	<a href="#">RG 181</a> , <a href="#">RG 105</a> , <a href="#">REP 742</a>
Ensure representatives comply with financial services law (s912A(1)(c))	Yes	No	<a href="#">RG 104</a>
Have adequate risk management systems (s912A(1)(h))	Yes	No	<a href="#">RG 104</a> , <a href="#">REP 741</a>
Prohibited conduct—Market manipulation (s1041A)	Yes	Yes	<a href="#">RG 104</a> , <a href="#">RG 265</a> , <a href="#">RG 98</a>
Prohibited conduct—False trading and market rigging (s1041B)	Yes	Yes	
Prohibited conduct—False or misleading statements (s1041E)	Yes	Yes	<a href="#">RG 55</a>

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Key obligation	Does it apply to AFS licensees?	Does it apply to market participants exempt from AFS licensing?	Additional guidance
Prohibited conduct— Dishonest conduct (s1041G)	Yes	Yes	<a href="#">RG 98</a> , <a href="#">RG 264</a>
Prohibited conduct— Misleading or deceptive conduct (s1041H)	Yes	Yes	<a href="#">RG 98</a> , <a href="#">RG 234</a>
Prohibited conduct— Person in possession of inside information (s1043A)	Yes	Yes	<a href="#">RG 181</a> , <a href="#">REP 393</a>
False or misleading documents (s1308)	Yes	Yes	<a href="#">RG 230</a>
Unconscionable conduct in connection with financial services (s12CB of the ASIC Act)	Yes	Yes	
<i>ASIC Market Integrity Rules (Securities Markets) 2017</i>	The rules apply to Securities Market Participants	The rules apply to Securities Market Participants	<a href="#">RG 265</a>
<i>ASIC Market Integrity Rules (Futures Markets) 2017</i>	The rules apply to Futures Market Participants	The rules apply to Futures Market Participants	<a href="#">RG 266</a>

- RG 000.29 Table 1 is not an exhaustive list of your obligations and prohibitions. You must consider other legal requirements, including in common law and equity, that may apply to you. Actual or likely breaches of obligations may require notification to ASIC.
- RG 000.30 Your arrangements for complying with the law should be tailored with your own circumstances in mind and be designed to meet your obligations in relation to the pre-hedging activities you undertake.
- RG 000.31 Whether your arrangements are adequate will depend on several factors, including the nature, scale and complexity of your business. You should consider the information in Sections C and D of this guide as well as industry standards and guidance.
- RG 000.32 If we have reason to believe you are not complying with your obligations, we may take enforcement action. For example, we may commence civil penalty proceedings or take administrative action, such as suspending or

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cancelling your AFS licence or imposing additional licence conditions: see s915C(1) and s914A(1) of the Corporations Act.

Note: Our general approach to enforcement is set out in Information Sheet 151 *ASIC's approach to enforcement* ([INFO 151](#)). If you have reasonable grounds to believe that you have failed to comply with your obligations, you may be required to report this breach to ASIC—see Regulatory Guide 78 *Breach reporting by AFS licensees and credit licensees* ([RG 78](#)).

## International guidance and industry standards

- RG 000.33 You should consider how industry standards, guidance and the IOSCO pre-hedging report are applicable to your specific facts, circumstances and practices when undertaking pre-hedging.

### International guidance: IOSCO final report on pre-hedging

- RG 000.34 The [IOSCO pre-hedging report](#) (PDF 538 KB), published in November 2025, provides a set of recommendations for its members to consider on the risks arising from pre-hedging. The report seeks to facilitate greater consistency and clarity around the oversight of pre-hedging among its members and to promote competitive neutrality across jurisdictions, asset classes and execution types.
- RG 000.35 We have incorporated IOSCO's guidance into this regulatory guide where appropriate, accounting for specific Australian laws and market practices. Our intention is to promote greater consistency and competitive neutrality with other jurisdictions.
- RG 000.36 The IOSCO pre-hedging report also sets out considerations for your clients. We have included these in the appendix.

### Industry standards

- RG 000.37 We acknowledge the work of industry and standard-setting bodies to improve conduct and raise standards on pre-hedging through publishing codes, standards and guidance (see list in the Related information section of this guide). These industry standards differ in scope, focusing on pre-hedging practices for specific asset classes.

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## C Principles for the use of pre-hedging

### Key points

You should only undertake pre-hedging if you:

- undertake pre-hedging for a risk management purpose associated with anticipated client transaction(s);
- undertake pre-hedging with the intention of benefiting your client;
- act honestly and fairly in your dealings with clients; and
- seek to minimise market impact and maintain market integrity in accordance with your obligations (see Table 1).

### Risk management purpose

RG 000.38 **You should undertake pre-hedging for a risk management purpose associated with one or more anticipated client transactions.**

RG 000.39 You must not misuse confidential client information in a way that may harm the client, benefit you or another part of your business, or adversely affect market integrity: see s912A(1)(aa).

Note: For more information about identifying conflicts of interest, see Section C of [RG 181](#).

### Considerations

RG 000.40 Before undertaking pre-hedging, you should carefully consider whether pre-hedging is necessary to manage the risks associated with one or more anticipated client transactions. Your pre-hedging activities should be informed by the following considerations:

- (a) whether there is a reasonable expectation that you will conduct the anticipated client transaction. The reasonableness of this expectation is based on factors such as:
  - (i) having knowledge that you are competing with other market participants;
  - (ii) the relationship and past dealing history of your client; and
  - (iii) the expected competitiveness of the executable quote offered;
- (b) whether the size and nature of the pre-hedging undertaken is reasonable relative to the anticipated client transaction, taking into account prevailing market conditions including volatility and competitive pricing; and

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- (c) the available liquidity or trading volume in the relevant or correlated instruments relative to the size of the anticipated client transaction.

Note: See p. 25 of the [IOSCO pre-hedging report](#) (PDF 538 KB).

### Implications for compliance

- RG 000.41 If you fail to establish a risk management purpose associated with an anticipated client transaction, you may increase the risk that:
- (a) your pre-hedging activities may be considered as insider trading or market manipulation (see s1041A, s1041B and s1043A);
  - (b) confidential client information may be misused through the failure to adequately manage conflicts of interest (see s912A(1)(aa)); or
  - (c) you may breach your general licence obligations to do all things necessary to ensure you are undertaking pre-hedging efficiently, honestly and fairly (see s912A(1)(a)).

### Intention to benefit the client

- RG 000.42 **You should undertake pre-hedging with the intention of benefiting the client.**
- RG 000.43 Your policies, strategies and decision to pre-hedge should clearly demonstrate that pre-hedging is undertaken with the intention to benefit the client.
- RG 000.44 Acting to benefit the client extends beyond the dealing price. It may also include factors such as speed of execution, expected market impact, trade size, liquidity, and other contractual obligations. It also includes your overarching obligation to act efficiently, honestly and fairly: see s912A(1)(a).
- RG 000.45 Pre-hedging may also raise a potential conflict of interest between you and the client concerning misuse of confidential information about an anticipated client transaction. In the *Australian Securities and Investments Commission v Australia and New Zealand Banking Group Limited (Treasury Bonds Case)* [2025] FCA 1592 (ANZ (Treasury Bonds Case)), the court found that there arose an inherent conflict between a financial institution which seeks to manage its risk and make a profit from the provision of a service, and the client who could be disadvantaged by a change to the reference price. While you may undertake pre-hedging with an expectation that you may earn profit or derive other benefits, you should only do so with a clear intention to also benefit the client.

- RG 000.46 If clients engage with you without any knowledge of your specific intentions or transparency into your pre-hedging activities, clients may be placed in a position of informational and situational disadvantage and vulnerability. Clients may rely upon and expect you to effectively manage the inherent conflict of interest in accordance with your obligations: see s912A(1)(aa).

Note: See the ANZ (Treasury Bonds Case) at [18] and [75].

### Considerations

- RG 000.47 You must not misuse confidential client information in a way that may benefit yourself, another part of your business, another client or counterparty, or adversely affect market integrity. If you undertake pre-hedging without an intention to benefit your client, you may fail to comply with your general obligations including to act efficiently, honestly and fairly and have adequate arrangements in place to manage conflicts of interest: see s912A(1)(a) and s912A(1)(aa).

Note: For more information, see Sections C and D of [RG 181](#) and order 2 and 3 of the Westpac pre-hedging case at [29].

- RG 000.48 You may also need to consider and manage other responsibilities or competing interests when pre-hedging, such as the need to provide liquidity to other counterparties or broader risk management responsibilities, such as inventory management. In these circumstances, AFS licensees need to carefully consider whether they have adequate arrangements (e.g. physical and electronic information controls) in place to manage these potential conflicts of interest while pre-hedging: see s912A(1)(aa).

Note: For an explanation of AFS licensees' legal obligations under the Corporations Act for having adequate arrangements to manage conflicts of interest, see [RG 181](#).

## Act fairly and honestly

- RG 000.49 **When undertaking pre-hedging, you should act fairly and honestly in all your dealings with the client.**
- RG 000.50 Acting with honesty and transparency promotes trust and confidence in wholesale markets and fair treatment of clients.

### Considerations

- RG 000.51 To mitigate the risk of misconduct, before you pre-hedge you should plan how you will communicate with the client in a clear, concise and effective manner that is relevant to the trading environment and is not misleading.

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RG 000.52 You must ensure your communications and conduct in relation to financial products or services, including pre-hedging, are not misleading or deceptive, or likely to mislead or deceive, including by omission: see s1041H(1).

RG 000.53 You must also ensure your pre-hedging conduct is not, in all the circumstances, unconscionable: see s12CB of the ASIC Act.

RG 000.54 If you hold an AFS licence, you must do all things necessary to ensure the financial services you provide are provided efficiently, honestly and fairly, including in connection with any pre-hedging: see s912A(1)(a).

Note: See ANZ (Treasury Bonds Case) at [1], [2] and [5].

RG 000.55 Although there are no prescribed steps you must undertake to satisfy your obligations to act fairly and honestly when undertaking pre-hedging, you may consider:

- (a) whether you are complying with any contract or instructions agreed with the client;
- (b) your client's position of informational and situational disadvantage and vulnerability;
- (c) whether you have an adequate policy specifically on pre-hedging of transactions;
- (d) whether you have adequate training, practices or procedures in relation to pre-hedging;
- (e) where appropriate, obtaining consent from clients in relation to pre-hedging that is sufficient to enable clients to make considered and informed decisions about their execution options;
- (f) whether you have adequate mechanisms in place to review the trading undertaken to pre-hedge anticipated client transactions; and
- (g) whether you should conduct a formal review of any pre-hedging transactions after they are executed.

Note: See Westpac pre-hedging case at [29].

### **Implications for compliance**

RG 000.56 Not approaching pre-hedging honestly and transparently, can be unfair or unconscionable and result in poor client outcomes. The court in the Westpac pre-hedging case found that Westpac's conduct in the course of pre-hedging amounted to a contravention of s912A(1)(a).

Note: See Westpac pre-hedging case at [29].

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## Minimise market impact and maintain market integrity

RG 000.57 **When undertaking pre-hedging, you should seek to minimise market impact and maintain market integrity.**

RG 000.58 The way you execute pre-hedging can have market impact that reduces the quality of execution for the anticipated client transaction. Not planning and managing pre-hedging appropriately may adversely affect price discovery and liquidity, resulting in a worse price for the client.

Note: See ANZ (Treasury Bonds Case) [83 to 102].

### Considerations

RG 000.59 You should undertake pre-hedging in an orderly manner. This minimises market disruption, price volatility and price impact, and promotes the fair treatment of your client.

Note: See ANZ (Treasury Bonds Case) [29] and [237].

RG 000.60 Based on the court's commentary in the ANZ (Treasury Bonds Case), to reduce the risk that your pre-hedging arrangements have an adverse market impact or are unconscionable, before you pre-hedge you should consider:

- (a) agreeing on a pre-hedging strategy with the client;
- (b) how the time frame in which you undertake pre-hedging will affect the market and pricing of the anticipated client transaction for your client;
- (c) the likely influence of your pre-hedging activities on market pricing, volatility and liquidity;
- (d) whether there is relevant industry guidance to maintain market integrity and minimise market impact;
- (e) how you will communicate with your client in a timely manner so that the client receives accurate and adequate information prior to the nominated time of the pricing call; and
- (f) nominating a different time for the pricing call or withholding some hedging activity until after the time of the pricing call to avoid placing undue pressure on the reference price.

Note: See ANZ (Treasury Bonds Case) [1] and [83 to 103].

RG 000.61 In circumstances where the anticipated transaction does not proceed, you should carefully consider how to avoid disrupting or adversely impacting market integrity when closing out any positions established as part of a pre-hedging strategy.

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## Implications for compliance

RG 000.62 If you do not take reasonable steps to maintain market integrity and minimise market impact, you may breach your obligations to do all things necessary to ensure financial services are provided efficiently, honestly and fairly (see s912A(1)(a)) and act unconscionably (see s12CB(1) of the ASIC Act). The court in the ANZ (Treasury Bonds Case) found that ANZ's actions in trading a significant volume of bond futures in a compressed time-period would be reasonably expected by ANZ to negatively impact the market for their client, and that this was material to a finding that ANZ had breached its obligations under s912A(1)(a) of the Corporations Act and s12CB of the ASIC Act.

Note: See the ANZ (Treasury Bonds Case) at [1].

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## D Principles for managing conduct risks when pre-hedging

### Key points

Before undertaking pre-hedging, you must implement adequate arrangements to manage conduct risks and comply with your obligations under the Corporations Act and ASIC Act.

You should:

- document and implement appropriate policies, procedures and controls over your pre-hedging activities to effectively supervise and comply with your obligations;
- have appropriate compliance, supervisory and governance arrangements covering your pre-hedging activities;
- provide clear disclosure to clients to enable them to make informed decisions about order execution options;
- seek prior consent to pre-hedge from your client at the outset of the relationship and give your client a clear process to modify or revoke that consent;
- appropriately manage access to, and prohibit misuse of, confidential client information and adequately manage any conflicts of interest in connection with pre-hedging; and
- maintain adequate records to facilitate effective supervisory oversight, monitoring and surveillance of your pre-hedging activities.

### Document and implement appropriate policies, procedures and controls

RG 000.63 **You should document and implement appropriate policies, procedures and controls for pre-hedging to manage conduct risks and help prevent and detect misconduct.**

RG 000.64 Policies, procedures and controls should include pre-hedging monitoring, surveillance, escalation and supervisory oversight in order to ensure compliance with all applicable obligations.

### Considerations

RG 000.65 To ensure your compliance with obligations when pre-hedging, your pre-hedging policies, procedures and controls for managing conduct risks should address:

- (a) how you will identify, assess and manage pre-hedging conduct risks and adherence to relevant standards of behaviour;
- (b) mapping of identified pre-hedging conduct risks to internal controls;
- (c) information barriers, including physical and electronic segregation and controls, to manage conflicts of interest in connection to pre-hedging;
- (d) how you will monitor and conduct surveillance of trading activities and communications;
- (e) how and when issues should be escalated;
- (f) client complaint processes;
- (g) governance and supervisory oversight arrangements; and
- (h) how you will conduct training on your firm's policy and procedure requirements for pre-hedging.

### Implications for compliance

RG 000.66 If you do not have a documented pre-hedging policy, you may fail to meet your obligations to ensure financial services are provided efficiently honestly and fairly under s912A(1)(a). The court in the Westpac pre-hedging case found that a failure to have a policy specifically on pre-hedging transactions was a material factor in finding that Westpac had contravened s912A(1)(a).

Note: See Westpac pre-hedging case at [29].

RG 000.67 If you are an AFS licensee and you do not document and implement appropriate policies, procedures and controls for pre-hedging, you may also be in breach of Pro Forma 209 *Australian financial services licence conditions* (PF 209). Condition 4 of PF 209 states:

[AFS] licensees must establish and maintain compliance measures that ensure, as far as is reasonably practicable, that the licensee complies with the provisions of the financial services laws.

Note: For further guidance on ensuring that documentation and implementation of policies, procedures and controls meet your obligations, see [RG 104](#), in particular RG 104.23–24.

RG 000.68 If you fail to adequately implement or enforce your own policies and procedures related to pre-hedging, this may also contribute to a breach of your obligations under s912A(1)(a).

Note: See ANZ (Treasury Bonds Case) at [5], [203].

## Implement compliance and supervisory arrangements

RG 000.69 **You should have appropriate compliance and supervisory arrangements for pre-hedging.**

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- RG 000.70 This means you should:
- (a) have appropriate compliance and supervisory arrangements that support the implementation of pre-hedging policies, procedures and controls into business practices and employee behaviours;
  - (b) have physical and/or electronic preventative controls, for example, physical separation;
  - (c) have effective front-office supervision of pre-hedging trading; and
  - (d) monitor employee behaviours to ensure they comply with their obligations.

RG 000.71 If you hold an AFS licence, you must take reasonable steps to ensure that your representatives comply with financial services laws and have adequate resources available to carry out supervisory arrangements. The court in the ANZ (Treasury Bonds Case) outlined that AFS licensees have an obligation to establish an adequate system for the supervision of representatives, as well as policies and procedures designed to address risks of non-compliant conduct by representatives.

Note 1: See ANZ (Treasury Bonds Case) at [201].

Note 2: For information on supervising your representative's business communications to prevent, detect and address misconduct and contraventions of financial services law, see Information Sheet 283 *Supervising your representatives' business communications* ([INFO 283](#)).

## Considerations

- RG 000.72 Adequate compliance and supervisory arrangements for pre-hedging may include:
- (a) reviewing your pre-hedging activity and management of conflicts of interest;
  - (b) raising awareness of, and training on, pre-hedging policies and procedures; and
  - (c) having arrangements that allow you to detect and report on whether your pre-hedging:
    - (i) has been conducted for risk management purposes associated with the anticipated client transaction;
    - (ii) is designed to benefit your client;
    - (iii) seeks to minimise market impact; and
    - (iv) is executed in compliance with any transaction documentation, your policies and procedures, and financial services laws.

Note: See the [IOSCO pre-hedging report](#) at p.31 and Westpac pre-hedging case at [29].

## Implications for compliance

RG 000.73 In the Westpac pre-hedging case, the court found that inadequate mechanisms to review pre-hedging transactions, and a failure to conduct formal reviews after the transactions were executed, contributed to a contravention of s912A(1)(a).

Note: See Westpac pre-hedging case at [2], [3].

RG 000.74 The court also found failures to have a pre-hedging policy and adequate pre-hedging training, practices or procedures on disclosure and obtaining consent from clients.

Note: See Westpac pre-hedging case order 2 and 3 at [29].

## Provide transparent, clear and effective disclosure to clients

RG 000.75 **You should provide transparent, clear and effective disclosure to clients of your pre-hedging practices.**

RG 000.76 Disclosure should allow your clients to understand and consider the risks and impact of pre-hedging. It should enable your clients to make informed decisions about the use of pre-hedging and their execution options for anticipated client transactions.

Note: See Westpac pre-hedging case at [29].

RG 000.77 Even sophisticated wholesale clients may be situationally vulnerable when they rely upon your judgement. Providing clear and robust disclosure promotes transparency and enhances clients' understanding of your pre-hedging practices. This supports effective management of conflicts of interest and fair client treatment. For example, in the ANZ (Treasury Bonds Case) the client relied upon a duration manager's expertise and judgement to:

- (a) manage interest rate risk in an orderly manner;
- (b) select the timing of the pricing call; and
- (c) conduct pre-hedging in a way that minimises market disruption, price volatility and impact.

Note: See ANZ (Treasury Bonds Case) [Statement of Agreed Facts](#) at [12 to 15] and [32].

## Considerations

RG 000.78 You should clearly communicate your pre-hedging practices in a manner that is not misleading, is relevant to the trading environment, the market and

asset classes, and is in advance of undertaking any transactions that may be pre-hedged.

- RG 000.79 Your disclosures may include:
- (a) the circumstances in which you will engage in pre-hedging;
  - (b) the process your client can use for modifying or revoking consent;
  - (c) the possibility of potential market impact from pre-hedging; and
  - (d) the influence pre-hedging may have on the quote provided to your client, and that the quote may therefore differ from one that would be offered in the absence of pre-hedging.
- RG 000.80 Additional factors that you should consider include:
- (a) when trade-by-trade disclosure may be appropriate; and
  - (b) how to respond to requests from clients for post-trade disclosure.

### Implications for compliance

- RG 000.81 If you fail to provide adequate disclosure to enable your client to make an informed decision about pre-hedging and their execution options, this may result in a breach of your obligations under:
- (a) s912(A)(1)(a) of the Corporations Act (to act honestly, efficiently and fairly);
  - (b) s912A(1)(aa) of the Corporations Act (to have adequate arrangements to manage conflicts);
  - (c) s1041H of the Corporations Act (prohibits misleading and deceptive conduct); and
  - (d) s12CB of the ASIC Act (unconscionable conduct).

Note 1: See ANZ (Treasury Bonds Case) at [1], [3] and [5]. For more information about your legal obligations to have adequate arrangements to manage conflicts of interest, see [RG 181](#).

Note 2: See Westpac pre-hedging case at [29].

### Seek informed prior consent

- RG 000.82 **You should seek informed prior consent from your client to pre-hedge. You should do this at the outset of the relationship. You should also give your client a clear process to modify or revoke their consent at any time with reasonable notice.**
- RG 000.83 Where you stand to profit directly from price movements caused by your own trading, prior informed consent becomes a critical safeguard.

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## Considerations

- RG 000.84 Your practices, procedures and training for disclosure to clients, and seeking prior consent from clients, should enable them to make informed decisions about the use of pre-hedging and their execution options.
- RG 000.85 If you are acting as a duration manager, you may be expected to take extra steps to ensure clients understand how pre-hedging will be conducted and how it may affect pricing and execution.

Note: See ANZ (Treasury Bonds Case) [74] and [236 to 238].

## Implications for compliance

- RG 000.86 If you fail to seek prior consent from your client to undertake pre-hedging, you may contravene s912A(1)(a) and s912A(1)(aa) of the Corporations Act and s12CB of the ASIC Act.
- RG 000.87 If you fail to comply with client instructions to modify or revoke their consent, you may be acting unfairly under s912A(1)(a) of the Corporations Act or unconscionably under s12CB of the ASIC Act.
- RG 000.88 If you do not act according to an agreement with your client about the execution of pre-hedging, for example a clear market undertaking, you may be acting unfairly under s912A(1)(a) of the Corporations Act or unconscionably under s12CB of the ASIC Act.

Note: See Westpac pre-hedging case at [29].

- RG 000.89 In the Westpac pre-hedging case, the court found that a failure to obtain consent for pre-hedging plans contributed to a contravention of s12CB of the ASIC Act.

Note: See Westpac pre-hedging case at [29].

## Manage confidential information and conflicts of interest

- RG 000.90 **You should appropriately manage access to, and prohibit misuse of, confidential client information. You should adequately manage conflicts of interest, including those that may arise in relation to pre-hedging.**
- RG 000.91 When you receive confidential information about an anticipated client transaction, there is a risk that this information may be used for your own benefit and at the expense of your client. This conflict of interest arises when you prioritise your own financial interests in order to benefit your other trading activities.

## Considerations

- RG 000.92 To manage this risk, you should have in place adequate arrangements to identify, assess and effectively manage any conflicts of interest arising from pre-hedging. This includes the conflict between your interest in undertaking pre-hedging and the client's interest in avoiding a worse execution outcome.

Note: For further details on managing confidential information and conflicts of interest, see Section E of [RG 181](#).

- RG 000.93 You should consider establishing, monitoring and regularly reviewing appropriate physical and electronic information controls to align with changes to your business risk profile. For example, you may consider implementing a 'dark room' with swipe card access to physically and electronically segregate the trader who undertakes pre-hedging. This may assist in managing conflicts arising from your other trading businesses and enhance supervision of your pre-hedging activity.

## Implications for compliance

- RG 000.94 If you fail to establish, monitor and regularly review appropriate behavioural, physical and electronic information controls to align with changes to your business risk profile, you may fail to comply with your obligations. In the Westpac pre-hedging case, the court found that failure to have in place adequate arrangements to manage the conflicts arising from its pre-hedging resulted in a contravention of s912A(1)(aa).

Note: See Westpac pre-hedging case at [29].

## Maintain adequate records

- RG 000.95 **You should maintain adequate records to facilitate supervisory oversight, monitoring, and surveillance.**
- RG 000.96 Record keeping is an important element of effective governance and risk management controls. It supports effective front-office supervisory oversight, and monitoring and surveillance conducted by independent control functions.
- RG 000.97 Record keeping also serves a critical supervisory and accountability function to verify compliance with your obligations.

## Considerations

- RG 000.98 You should keep accurate records of client discussions, disclosures, internal approvals and risk management rationales. This will help you demonstrate that your pre-hedging activities were:

- (a) conducted for risk management purposes associated with the anticipated client transaction;
- (b) designed to benefit your client;
- (c) executed to minimise market impact;
- (d) consistent with disclosure and client consent; and
- (e) executed in compliance with any transaction documentation, your policies and procedures and financial services laws.

RG 000.99 You should also keep records of your monitoring and reporting, including records of reports on compliance and breach notifications.

Note: For further guidance on record keeping practices and compliance measures, see [RG 104](#) at RG 104.29, RG 104.80 and Table 4.

RG 000.100 You should maintain adequate records of internal pre-hedging plans and strategy (including any changes or deviations), limits, operation of compliance and supervisory controls, escalation decisions, and approvals. This provides an audit trail to demonstrate compliance with your policies, legal obligations to your client and regulatory requirements.

RG 000.101 You may not need to create stand-alone record keeping practices for pre-hedging if your current record keeping practices adequately facilitate supervisory oversight, monitoring and surveillance of your pre-hedging activity.

### **Implications for compliance**

RG 000.102 If you fail to maintain records to facilitate supervisory oversight, this may result in a contravention of your obligations to ensure your representatives comply with financial services laws: see s912A(1)(ca).

Note: For more information on appropriate supervision of your representatives, see [INFO 283](#).

RG 000.103 In the Westpac pre-hedging case, the court declared (among other things) that Westpac had inadequate mechanisms in place to review trading and that this was a contravention of s912A(1)(a).

Note: See Westpac pre-hedging case at [29].

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## Appendix: Considerations for clients

RG 000.104 In addition to the conduct expectations set out above, clients may also consider the following practical measures when dealing with market participants who undertake pre-hedging. These measures are based on the list of considerations for clients in Annex 1 of the [IOSCO pre-hedging report](#) (PDF 538 KB).

### Minimise risks of price slippage

RG 000.105 Clients can consider how to minimise factors that introduce a risk of price slippage. Distribution of confidential information regarding the anticipated transaction may be managed to mitigate the risk of potential market misconduct—for example, clients may seek two-way pricing.

### Monitor and review execution quality

RG 000.106 Clients can consider monitoring market pricing, execution outcome, market activity and assess the quality of execution where pre-hedging has been used by a market participant.

### Learning and education

RG 000.107 Clients can educate themselves about pre-hedging practices and the potential impact of pre-hedging, including by asking the market participant about the intended pre-hedging strategy and the potential impact of pre-hedging.

### Select whether to use pre-hedging

RG 000.108 If a client does not want pre-hedging to be used, the client should inform the market participant.

### Seek explanation of pre-hedging activity

RG 000.109 Clients can also consider asking the market participant for information on how pre-hedging was undertaken for their transaction(s).

## Key terms

Term	Meaning in this document
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services  Note: This is a definition in s9.
AFS licensee	A person who holds an AFS licence  Note: This is a definition in s9.
ANZ (Treasury Bonds Case)	<i>Australian Securities and Investments Commission v Australia and New Zealand Banking Group Limited (Treasury Bonds Case)</i> [2025] FCA 1592
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
client	In this guide, 'client' includes a wholesale counterparty or market participants and does not give rise to any agency relationship or fiduciary duty.
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
duration manager	A duration manager manages the interest rate risks associated with the issuance and assumes the risk as principal, and not as agent for the client.
FICC	Fixed income, currencies and commodities
FMSB	Financial Markets Standards Board
INFO 151 (for example)	An ASIC information sheet (in this example numbered 151)
IOSCO	International Organization of Securities Commissions
IOSCO pre-hedging report	IOSCO, <a href="#">FR/14/2025 Pre-hedging</a> (PDF 538 KB), final report, November 2025
market participant	AFS licensees (and other market participants relying upon ASIC relief from licensing obligations that undertake the practice of pre-hedging). Market participant includes 'dealers' as referred to in the IOSCO pre-hedging report.

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Term	Meaning in this document
pre-hedging	<p>Trading undertaken by a market participant when the:</p> <ul style="list-style-type: none"> <li>• market participant is dealing on its own account in a principal capacity;</li> <li>• trades are executed in the same or related instruments after the receipt of information about one or more anticipated client transactions and before the client has agreed on the terms of the transaction(s) and/or irrevocably accepted the executable quote(s);</li> <li>• trades are executed to manage the risk related to the anticipated client transaction(s); and</li> <li>• trades are executed with the intention of benefiting the client</li> </ul> <p>Note: This is the definition provided by the IOSCO pre-hedging report (p. 23).</p>
REP 742 (for example)	An ASIC report (in this example numbered 742)
RG 104 (for example)	An ASIC regulatory guide (in this example numbered 104)
s912A (for example)	A section of the Corporations Act (in this example numbered 912A), unless otherwise specified
Westpac pre-hedging case	<i>Australian Securities and Investments Commission v Westpac Banking Corporation (Penalty Hearing) [2024] FCA 52</i>

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## Related information

### Headnotes

administrative action, AFS licensee obligations, client consent, client disclosure, client outcomes, conduct risk, confidential information, conflicts of interest, execution quality, hedging and pre-hedging, inside information, international standards, inventory management, liquidity risk, market integrity, market manipulation, misleading or deceptive conduct, monitoring and surveillance, post-trade review, pre-hedging practices, price impact, record-keeping, risk management, supervision and governance, surveillance systems, transparency, unconscionable conduct.

### Regulatory guides

[RG 55](#) *Statements in disclosure documents and PDSs: Consent to quote*

[RG 78](#) *Breach reporting by AFS licensees and credit licensees*

[RG 98](#) *ASIC's powers to suspend, cancel and vary AFS licences and make banning orders*

[RG 104](#) *AFS licensing: Meeting the general obligations*

[RG 105](#) *AFS licensing: Organisational competence*

[RG 181](#) *AFS licensing: Managing conflicts of interest*

[RG 230](#) *Disclosing non-IFRS financial information*

[RG 234](#) *Advertising financial products and services (including credit): Good practice guidance*

[RG 264](#) *Sell-side research*

[RG 265](#) *Guidance on ASIC market integrity for participants of securities markets*

[RG 266](#) *Guidance on ASIC market integrity for participants of futures markets*

### Reports

[REP 393](#) *Handling of confidential information: Briefings and unannounced corporate transactions*

[REP 741](#) *Conduct risk in wholesale fixed income markets*

[REP 742](#) *Managing conflicts of interest in wholesale financial markets*

## Information sheets

[INFO 151](#) *ASIC's approach to enforcement*

## Legislation

*Australian Securities and Investments Commission Act 2001*, s12CB

*Corporations Act 2001*, s912A, 1041A, 1041E, 1041G, 1041H, 1043A, 1308

*Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019*

## Market integrity rules

*ASIC Market Integrity Rules (Futures Markets) 2017*

*ASIC Market Integrity Rules (Securities Markets) 2017*

## Cases

*Australian Securities and Investments Commission v Westpac Banking Corporation (Penalty Hearing)* [2024] FCA 52

*Australian Securities and Investments Commission v Australia and New Zealand Banking Group Limited (Treasury Bonds Case)* [2025] FCA 1592

## Other publications and industry standards

AFMA, [Guidance on pre-hedging](#) (PDF 178 KB)

FMSB, [Standard for the execution of large trades in FICC markets](#) (PDF 346 KB)

Global Foreign Exchange Committee, [FX Global Code](#)

IOSCO, [FR/14/2025 Pre-hedging](#) (PDF 538 KB), final report, November 2025

LBMA, [Global Precious Metals Code](#)

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