

**From:** [REDACTED]  
**Sent:** Friday, 5 September 2025 4:03 PM  
**To:** RRI Consultation  
**Subject:** Submission – CP 385: Proposed update to RG 181 Licensing: Managing conflicts of interest

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By email: [rri.consultation@asic.gov.au](mailto:rri.consultation@asic.gov.au)

Date: 5 September 2025

To: Maria Hadisutanto

Senior Manager, Regulatory Reform and Implementation

Australian Securities and Investments Commission

Dear Ms Hadisutanto

Thank you for the opportunity to provide this submission.

## **1) About me and why I'm writing this submission**

I'm not a lawyer and I'm not part of the industry. I am, however, a long-standing consumer advocate who has spent 15 years facing into bank wrongdoing across multiple institutions; attending parliamentary inquiries up and down the east coast, speaking at AGMs, meeting bank executives and CEOs, regulators and politicians, and helping affected families, farmers and small businesses. I've made numerous public submissions and campaigned to have Model Litigant Obligations adopted by banks as a measure of fairness. Equality of arms should not be a luxury only large institutions can afford. Conflicts of interest sit at the heart of too many poor outcomes. Updating RG 181 is timely and, done well, can restore *faith in the fair go*.

## 2) Summary of position

I support ASIC's plan to modernise RG 181 and agree the obligation in s912A(1)(aa) is broad and principles-based. But principles without sunlight are not enough. To make this guide work in practice, ASIC should:

- Put stopping conflicts first. Where a conflict is serious, stop it rather than just explain it to customers. If it can't be stopped, put in strong controls. Use disclosure as a support, not a substitute. This is in keeping with ASIC's findings elsewhere.
- "*Measure what matters*" Require simple, consistent metrics and board-level sign-off: published each year in annual reports or other easy-to-find public places (not just industry sites) so the mainstream public can see if conflicts are being found and being fixed.
- Tighten expectations for large groups. Spell out how banks and other groups must handle conflicts inside their own structures (for example between product and distribution, between research and banking, between complaints and litigation).
- Map overlaps with other laws and rules (for example ASIC Act misleading conduct, DDO, reportable situations, FAR, APRA CPS 220/511/234, and key ASIC guidance like RG 79/259/265).
- Build in fairness for dispute handling. Require controls so complaint teams, AFCA handling and any legal action are run fairly, with checks to prevent the pervading "*defend at all costs*" culture.

I answer ASIC's questions below and propose plain-English enhancements.

## 3) Responses to ASIC's proposals and questions

B1Q1 – Is the guidance clear?

Yes. Confirming the obligation applies to all conflicts within the financial services business (actual, potential and perceived) is consistent with the law and supports both fair treatment of customers and market integrity.

B1Q2 – Suggested changes

- Add a simple priority order: stop the conflict where you can; if not, control it strongly; then disclose it in a way an average person can actually understand.
- Add a short line that firms must show their arrangements are working, not just have them on paper (see ASIC v Avestra).

## B2Q1 – Clarity

Clear and useful.

## B2Q2 – Changes

- Make the overlaps explicit with:
  - ASIC Act (misleading and deceptive conduct),
  - DDO (bad target-market fit can signal a conflict),
  - Reportable situations (Corporations Act s912D and related sections),
  - FAR (who is accountable for conflicts),
  - APRA CPS 220/511/234 (risk, pay, information security), and
  - ASIC RG 79, RG 259, RG 265.

## B3Q1/B4Q1 – Clarity

Yes. The “situations and examples” approach is helpful.

## B3Q2/B4Q2 – Changes

- Strengthen group and intra-group examples: product vs distribution; research vs banking; complaints vs litigation; and use of common external agents (auditors, valuers, experts).
- Add dispute examples: when complaint handling is influenced by legal strategy; when incentives push for denial over fair redress.
- Replace technical terms: for example, say “trading teams that handle big deals” instead of “wholesale desks”.

## B5Q1 – Clarity

Clear, especially the cycle: *identify, assess, respond, monitor, keep records*.

## B5Q2 – Changes

- Require simple outcome measures, reported each year:
  - how many conflicts found (by type)
  - what action was taken (stopped/controlled/disclosed) and why
  - breaches and reportable situations linked to conflicts
  - pay consequences (malus/clawback) under CPS 511
  - any independent checks and what was fixed.
- Minimum documentation: a standard conflicts register; short decision notes when disclosure is used instead of stopping the conflict.
- Public transparency (scaled): large firms publish the dashboard; small firms keep it internal but ready for ASIC.

## B6Q1 – Clarity

Yes. Smaller firms should not be loaded up with paperwork; large, well resourced firms must do more.

## B6Q2 – Changes

- Offer a simple three-tier model:
  - Tier 1 (simple): template register, annual review.
  - Tier 2 (moderate): sample testing, staff KPIs, product governance link.
  - Tier 3 (complex/group): structural separation where needed, strong information barriers, independent valuations, board oversight, and external assurance.

## B7Q1 – Clarity

Clear and it's good to see that *disclosure on its own often isn't enough*.

## B7Q2 – Changes

- Give more concrete examples of stopping the conflict: ban certain related-party deals unless an independent adviser signs off and a plain English summary is provided; require independent valuation panels where appropriate; avoid people wearing two conflicting jobs at once (for example, don't let the sales boss also conduct or oversee the independent check).
- Deepen control tools: clean teams, hard barriers, second-line oversight outside the profit centre, and independent product governance.
- Sharpen disclosure: when used, make it timely, specific and easy to understand. Pair this with another tool. Recent court outcomes show the cost of poor conduct and weak controls.

## 4) Extra recommendations

1. Board accountability & FAR: Annual board sign-off that the conflicts framework works, with clear accountable-person mapping under the FAR.
2. Whistleblowing and SpeakUp: Strong, independent channels and non-retaliation. Often the first warning sign of conflicts going wrong. Not just a phone line in a separate consultants office.
3. Group “stress-tests”: In banks and other groups, test information barriers, allocation rules and valuation governance across business lines.
4. Complaints and litigation fairness: Separate complaints from litigation strategy; manage conflicts with external law firms and experts; publish de-identified lessons learned (scaled for size). Hold external law firms accountable and other agents to the same in-house standards.
5. Public transparency for larger firms: Short, plain-English dashboards of conflict metrics so the public can see progress; not just industry insiders.

## 5) Regulatory and financial impact (plain-English)

- Benefits: clearer rules of the road; fewer harm events; better market integrity; fewer remediation blow-outs; stronger public trust.
- Costs: upfront work to build and test controls and reporting; heaviest for large groups where the number of consumers is greater and the risks are higher; lighter for small firms.
- Competition: cleaner rules and more sunlight counters the benefit of opaque group structures Helps level the field.
- Trust: The February 2025 Edelman Trust Barometer shows trust in institutions is falling. Reforms that are easy to find and easy to understand for the public...not just industry...will help rebuild trust.

## 6) Closing

ASIC's draft is a solid step. With modest strengthening; especially on stopping serious conflicts, measuring outcomes, easily digested public disclosure, handling group conflicts and clear board accountability, RG 181 can move us beyond "*disclose and move on*" to real protection and integrity.

Sincerely

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<https://www.asic.gov.au/about-asic/news-centre/find-a-media-release/2025-releases/25-150mr-asic-seeks-feedback-on-proposed-updates-to-conflicts-management-guidance/>