

This catalogue summarises some of the key obligations that apply to those operating wholesale private credit funds and is designed to assist fund operators more easily identify and comply with existing regulatory obligations. It may be useful for operators of other types of wholesale funds.



KEY OBLIGATIONS

This section sets out some of the key legal obligations under the Corporations Act that apply to operators of wholesale funds.

Corporations Act (Act)

General Australian financial services (AFS) licensee obligations s912A(1)

- › do all things necessary to ensure that AFS covered by the licence are provided efficiently, honestly and fairly
- › have in place adequate arrangements for the management of conflicts of interest
- › comply with conditions on the AFS licence
- › comply with financial services laws
- › have adequate resources to provide those financial services
- › maintain competence to provide financial services covered by the licence
- › have adequate risk management systems

Various provisions of the ASIC Act also apply, including the misleading or deceptive conduct prohibitions and unconscionable conduct prohibition.

Note that the principal AFS licensee must take all reasonable measures to ensure its representatives comply with financial services laws.

This section sets out some of ASIC's Regulatory Guides that apply to operators of wholesale funds. The Regulatory Guides provide guidance and information on complying with the legal obligations discussed under 'Key Obligations'.

GUIDANCE & FURTHER INFORMATION

General licensee obligations

- › [RG 104 AFS licensing: Meeting the general obligations](#): guidance on general obligations for Australian financial services (AFS) licensees and AFS licence applicants.
- › [RG 105 AFS licensing: Organisation competence](#): guidance on compliance obligations for AFS licence holders and applicants
- › [RG 166 AFS licensing: Financial requirements](#): if an AFS licensee operates a wholesale scheme that is not registered, the licensee is not caught by a special category of financial resource requirements for wholesale funds.

Risk management

- › [RG 259: Risk management systems of fund operators](#): relevant to wholesale unregistered funds
- › [RG 132 Funds management: Compliance and oversight](#): Section B is relevant to wholesale unregistered funds.

Managing conflicts of interest

- › [RG 181: Licensing: Managing conflicts of interest](#): guidance on obligation to manage conflicts of interest.

Fees and transparency

- › [RG 170: Prospective financial information](#): contains guidance about section 1041H of the Act, which prohibits misleading or deceptive conduct.

Valuations

- › A PCF operator's valuation practices are affected by some general AFS licensee obligations.
- › [RG 94 Unit pricing-guide to good practice](#): does not apply to the pricing of interests in wholesale funds but refers to wholesale funds in fund-of-fund structures (see pages 38 and 40).

Marketing and advertising

- › A PCF operator's general AFS licensee obligation under s912A(1)(c) to comply with financial services laws is relevant to advertising of PCFs
- › [RG 234: Advertising financial products and services \(including credit\): Good practice guidance](#): guidance for advertising of financial products to retail investors

Governance

- › [RG 259: Risk management systems of fund operators](#)

The catalogue is not intended to be a substitute for legal advice and may be relevant to funds with investment strategies beyond private credit. Please also refer to other relevant ASIC Info Sheets and ASIC public reports such as [REP 820](#) which set out additional relevant information.

Note: a 'wholesale fund' is scheme that has only 'wholesale clients' as defined in s761G and, therefore, does not need to be registered with ASIC.

This catalogue summarises some of the key obligations that apply to those operating retail private credit funds and is designed to assist fund operators more easily identify and comply with existing regulatory obligations. It may be useful for other types of retail funds.



KEY OBLIGATIONS

This section sets out some of the key legal obligations under the Corporations Act that apply to operators of retail funds.

Corporations Act (Act)

Responsible entity duties (Chapter 5C). Also see Chapter 7 for further obligations:

- › act honestly
- › exercise care and diligence
- › act in the best interests of members and to prioritise members' interests if they conflict with a responsible entity's own interests
- › comply with the scheme's compliance plan
- › ensure scheme property is valued at regular intervals

General AFS licensee obligations s912A(1)

- › do all things necessary to ensure that AFS covered by the licence are provided efficiently, honestly and fairly
- › have in place adequate arrangements for the management of conflicts of interest
- › comply with conditions on the AFS licence
- › comply with financial services laws
- › have adequate resources to provide those financial services
- › maintain competence to provide financial services covered by the licence
- › have adequate risk management systems

Various provisions of the ASIC Act also apply, including the misleading or deceptive conduct prohibitions and unconscionable conduct prohibition.

This section sets out some of ASIC's Regulatory Guides that apply to operators of retail funds. The Regulatory Guides provide guidance and information on complying with the legal obligations discussed under 'Key Obligations'.

GUIDANCE & FURTHER INFORMATION

General licensee obligations

- › [RG 104 AFS licensing: Meeting the general obligations](#): guidance on general obligations for Australian financial services (AFS) licensees and AFS licence applicants.
- › [RG 105 AFS licensing: Organisation competence](#): guidance on compliance obligations for AFS licence holders and applicants
- › [RG 166 AFS licensing: Financial requirements](#): financial resource requirements for all categories of AFS licensees.

Risk management

- › [RG 259: Risk management systems of fund operators](#): guidance on risk management systems for registered retail funds, including on valuation and liquidity risk
- › [RG 132 Funds management: Compliance and oversight](#): guidance on compliance and oversight obligations of responsible entities or retail funds
- › [RG 45: Mortgage schemes: Improving disclosure for retail investors](#): guidance on retail mortgage fund disclosure.

Managing conflicts of interest

- › [RG 181: Licensing: Managing conflicts of interest](#): see above
- › [RG 259: Risk management systems of fund operators](#): see above.

Fees and transparency

- › [RG 97: Disclosing fees and costs in PDS and periodic statements](#): guidance on fee and cost disclosure for responsible entities, superannuation trustees, IDPS operators and IDPS-like schemes
- › [RG 168: Disclosure: Product Disclosure Statements \(and other disclosure obligations\)](#): guidance on financial product and other disclosure requirements to retail clients acquiring financial products
- › [RG 45: Mortgage schemes: Improving disclosure for retail investors](#): see above
- › [RG 46: Unlisted property schemes: Improving disclosure for retail investors](#): guidance on retail unlisted property fund disclosure
- › [RG 231: Infrastructure entities: Improving disclosure for retail investors](#): guidance on disclosure by retail infrastructure entities, including retail funds

The catalogue is not intended to be a substitute for legal advice and may be relevant to funds with investment strategies beyond private credit. Please also refer to other relevant ASIC Info Sheets and ASIC public reports such as [REP 820](#) which set out additional relevant information.

- › [RG 170: Prospective financial information](#): guidance on use of prospective financial information.

Valuations

- › [RG 259: Risk management systems of fund operators](#): see above
- › [RG 94 Unit pricing-guide to good practice](#): guidance on unit pricing
- › [RG 45: Mortgage schemes: Improving disclosure for retail investors](#): see above.

Design and distribution

- › [RG 274: Product design and distribution obligations](#): outlines ASIC's policy on design and distribution obligations for issuers and distributors of financial products to retail investors
- › [RG 234: Advertising financial products and services \(including credit\): Good practice guidance](#): guidance for advertising of financial products to retail investors
- › [RG 45: Mortgage schemes: Improving disclosure for retail investors](#): see above.
- › [RG 46: Unlisted property schemes: Improving disclosure for retail investors](#): see above
- › [RG 53: The use of past performance in promotional material](#): guidance on the use of past performance information in advertising/promotional materials to potential investors

Governance

- › [RG 132 Funds management: Compliance and oversight](#): covers the content requirements for retail fund compliance plans.
- › [RG 259: Risk management systems of fund operators](#): see above.

Responsible entity obligations

- › [RG 131: Funds management: Establishing and registering a fund](#): procedural requirements and ASIC's policies regarding establishing and registering retail funds
- › [RG 134: Funds management: Constitutions](#): guidance regarding constitutions of registered (retail) funds, CCIVs and Australian passport funds
- › [RG 76: Related party transactions](#): summarises the framework for the regulation of related party transactions.