



Attachment 2 to CS 42: Draft updated RG 43— Summary of changes

This table summarises proposed changes to Regulatory Guide 43 *Financial reports and audit relief* ([RG 43](#)): see the draft updated RG 43 (draft RG 43) at Attachment 1 to ASIC's consultation *Proposed updates to guidance on financial reporting and audit relief in RG 43* ([CS 42](#)).

Note: The table is not an exhaustive list of all wording and stylistic changes.

Table: Summary of changes

Topic	Proposed changes	
Title of guide	Changes title of RG 43 to <i>Financial reporting and audit relief</i>	
Section A		
Overview of record keeping and annual reporting requirements	Adds a summary of the financial reporting, sustainability reporting and audit requirements, including for corporate collective investment vehicles (CCIVs), registrable superannuation entities (RSEs) and notified foreign passport funds.	
The objectives of the financial reporting and audit requirements	Simplifies and streamlines the guidance.	
Section B		
Eligibility for relief	Consolidates and simplifies guidance in Sections A and B and extends it to include guidance on CCIVs and RSEs. Clarifies that although we have the power to grant relief from the obligation to keep financial or sustainability records, we are very unlikely to do so. Notes ASIC's other discretionary powers to provide individual relief under sections 342AA, 342AB and 342A of the <i>Corporations Act 2001</i> (Corporations Act). Also notes guidance in Regulatory Guide 280 <i>Sustainability reporting</i> (RG 280) about satisfying relief criteria for relief applications from the sustainability reporting and audit requirements.	
Our general approach to relief applications	Consolidates and simplifies guidance in Sections A and D and provides further examples of conditions that may be imposed on individual relief and circumstances where we may decide not to grant individual relief for an indefinite period.	
ASIC relief	Moves Table 1 from Section C, retaining the associated ASIC guidance and updating this list to include legislative instruments providing class relief that have been made since RG 43 was last issued. Moves guidance for disclosing entities about relief under section 111AT of the Corporations Act from Section C.	

Topic	Proposed changes
Retrospective relief	Moves guidance from Section D, adding examples of when we are unable to provide retrospective relief and when we may be able to grant prospective relief.
No-action letters	Moves guidance from Section D, adding examples of when we are unlikely to provide a no-action letter.
Late lodgements	Clarifies that entities that lodge their reports late without relief may still face further action or penalties (e.g. prosecution or an infringement notice), even if they have paid late lodgement fees.
Section C	
Discretionary power to grant individual relief	Consolidates and simplifies guidance in Sections A and B, extending guidance to CCIVs and RSEs.
	Notes guidance in RG 280 and that we will also consider the implications of financial reporting relief on any sustainability reporting obligations. Also notes other implications of relief.
	Simplifies guidance from Section B about the principles for assessing relief applications and presents this information in Table 2. Adds 'conduct or compliance history of applicant' as a principle we will consider. Clarifies we will consider these principles in relief applications generally.
Relief for when compliance would make the report misleading	Moves and simplifies guidance in Section B. Adds examples about when we are unlikely to provide relief, clarifying that we do not accept that modified auditor opinions make a report misleading.
Relief for when compliance would be inappropriate in the circumstances	Moves and simplifies guidance in Section B. Adds examples about when we are unlikely to provide relief.
	Retains reference to <i>Re Mazda Australia Pty Ltd and ASC</i> (1992) 8 ACSR 613— all other caselaw has been removed from RG 43 to simplify guidance.

Topic	Proposed changes
Relief for when compliance would impose unreasonable burdens	<p>Consolidates guidance in Sections B and C.</p> <p>Simplifies and clarifies examples of ASIC's approaches to these applications and presents these examples in a table. Table 3 includes new examples:</p> <ul style="list-style-type: none"> in the context of corporate restructures following a merger or acquisition; to clarify we will generally not give relief from the obligation to keep financial records, noting guidance in Regulatory Guide 174 <i>Relief for externally administered companies and registered schemes being wound up</i> (RG 174) at RG 174.31; about relief provided to Australian companies in a dual-listed company (DLC) arrangement. This guidance incorporates and updates the guidance in Regulatory Guide 29 <i>Financial reporting by Australian entities in dual listed company arrangements</i> (RG 29). We propose to withdraw RG 29 after the updated RG 43 is published; to clarify we will generally not give relief that is inconsistent with an ASIC or shareholder direction; to clarify that we will generally not grant relief where an auditor has not sufficiently planned its processes; and to clarify the extent of our powers to facilitate different reporting periods. <p>Includes guidance about information that applications for relief based on competitive disadvantage or change of reporting period should address.</p>
Section D	
Application requirements	Moves and simplifies guidance in Section C, clarifying that applications must be submitted through the ASIC Regulatory Portal and that applicants should allow sufficient time for ASIC to consider their application.
Application fees	Moves guidance in Section C, adding information about the calculation of fees and payment options through the ASIC Regulatory Portal.
When an application is unsuccessful	Adds guidance about what happens when applications are unsuccessful.