



ASIC
Australian Securities &
Investments Commission

REGULATORY GUIDE 183

Codes of conduct for the financial services and credit sectors

July 2025

About this guide

This guide is for:

- applicants seeking ASIC approval of a financial services or credit sector code of conduct (code) under s1101A of the *Corporations Act 2001* or s238A of the *National Consumer Credit Protection Act 2009*;
- persons who are responsible for preparing, maintaining and ensuring compliance with these codes;
- persons who are subscribers to codes or otherwise bound by codes; and
- consumers and other persons who benefit from codes.

It gives guidance on ASIC's approach to approving codes, including how to obtain and retain approval. It also explains our role in the content and enforcement of codes.

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 July 2025 and is based on legislation and regulations as at the date of issue.

Previous versions:

- Superseded Regulatory Guide 183, issued 23 February 2005, amended 4 March 2005, reissued March 2013.

Disclaimer

This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview

Key points

Under the relevant legislation, ASIC can approve, on application, codes of conduct that relate to the activities of Australian financial services (AFS) and Australian credit licensees, their representatives or issuers of financial products.

This guide addresses:

- ASIC's role in relation to codes, including code content, code approval, and code enforcement (see Section B);
- how we interpret and apply the criteria for code approval (see Section C); and
- the process for obtaining code approval by ASIC, as well as the review, renewal and revocation of ASIC-approved codes (see Section D).

The role of codes

- RG 183.1 Industry codes of conduct play an important part in how financial products and services and credit activities are regulated in Australia. Where they enjoy the support and commitment of the sponsoring industries, codes can deliver real benefits to both consumers and code subscribers.
- RG 183.2 ASIC considers a code to be essentially a set of enforceable rules for the conduct of code subscribers. Codes should therefore improve consumer confidence in a particular industry or industries.
- RG 183.3 It is not mandatory for any industry in the financial services or credit sectors to develop a code. Where a code exists, it does not have to be approved by ASIC. However, where approval by ASIC is sought and obtained, it is a signal to consumers that this is a code they can have confidence in. We consider an ASIC-approved code to sit at the apex of industry self-regulatory initiatives.
- RG 183.4 We believe that the primary role of a financial services or credit sector code is to raise industry standards and deliver substantial consumer benefits, by complementing existing legislative requirements.
- RG 183.5 We expect an effective code to do at least one of the following:
- address specific industry issues and consumer problems not covered by legislation;
 - elaborate on legislation to deliver additional benefits to consumers; and/or
 - clarify what needs to be done from the perspective of a particular industry, practice or product to comply with legislation.

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Types of codes

RG 183.6 Industry codes in the financial services and credit sectors can take one of the following forms:

- (a) a voluntary code developed by industry, and not approved by ASIC;
- (b) a voluntary code developed by industry, and approved by ASIC under s1101A of the *Corporations Act 2001* (Corporations Act) or s238A of the *National Consumer Credit Protection Act 2009* (National Credit Act); or
- (c) a mandatory code prescribed by the Australian Government under s1101AE of the Corporations Act or s238F of the National Credit Act.

RG 183.7 This regulatory guide primarily focuses on voluntary industry-developed codes submitted to ASIC for approval.

Note: Section B contains some limited information about mandatory codes: see RG 183.22–RG 183.24 and RG 183.30–RG 183.31.

Our approach to approving codes

RG 183.8 ASIC's role in relation to code content, code approval, and code enforcement is set out in Section B.

RG 183.9 As set out in Section C, before approving a voluntary code, ASIC:

- (a) must be satisfied that the code meets each of the threshold criteria;
- (b) must be satisfied that approval of the code is appropriate, having regard to the evaluative criteria—these are criteria that we will consider and balance when determining whether to approve a code; and
- (c) will consider any other matters relevant to the application, guided by additional criteria determined by ASIC.

RG 183.10 ASIC approval of a code is not guaranteed. It is up to the code applicant to show how the code meets the criteria for approval.

RG 183.11 The process for obtaining code approval typically involves five stages, as set out in Section D. ASIC may revoke code approval if we consider that the code no longer meets the approval criteria and other requirements in this guide: see RG 183.107–RG 183.110.

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B ASIC's role in relation to codes

Key points

This section gives guidance on ASIC's role in relation to code content, code approval, and code enforcement.

The content of voluntary codes is a matter for the code owner, and ASIC cannot require codes to be submitted to us for approval.

ASIC can approve voluntary codes related to activities of persons for which we have regulatory responsibility. Approval is considered on a case-by-case basis, having regard to the criteria for approval set out in Section C.

ASIC can take direct enforcement action for breaches of enforceable code provisions in a voluntary code.

Code content

- RG 183.12 Voluntary codes are developed by industry. ASIC cannot require a voluntary code to be developed, or submitted to ASIC to consider for approval.
- RG 183.13 We welcome early engagement with industry on the content of potential codes to be submitted for ASIC approval. While it is the role of the code owner to develop the code, ASIC may provide feedback on issues that are relevant considerations for us in determining whether to approve the code. Early engagement may assist us to deal with applications for approval more efficiently.
- RG 183.14 Voluntary codes approved by ASIC may contain one or more 'enforceable code provisions', a breach of which constitutes a breach of the law. Any enforceable code provision must be agreed to between the code applicant and ASIC, and also must meet certain statutory requirements: see RG 183.54–RG 183.57.

Code approval

- RG 183.15 ASIC can approve voluntary codes that relate to any aspect of the activities of persons for which we have a regulatory responsibility. This includes the activities of:
- (a) AFS licensees;
 - (b) authorised representatives of AFS licensees;
 - (c) issuers of financial products;

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- (d) Australian credit licence holders (credit licensees); and
- (e) credit representatives of credit licensees.

RG 183.16 For code approval purposes, ASIC's regulatory responsibility includes:

- (a) the licensing, conduct and disclosure obligations in Ch 7 of the Corporations Act;
- (b) the consumer protection provisions in Pt 2, Div 2 of the *Australian Securities and Investments Commission Act 2001* (ASIC Act);
- (c) the obligations set out in the National Credit Act;
- (d) the obligations set out in the *Insurance Contracts Act 1984*; and
- (e) a range of conduct and disclosure obligations in the *Superannuation Industry (Supervision) Act 1993*.

RG 183.17 We expect that the primary subscribers to an approved code will be AFS licensees or credit licensees, their representatives, and/or product issuers.

RG 183.18 However, we may still consider approving a code that:

- (a) is open to subscription by others. For example, a code may only deliver substantial consumer benefits if its scope extends to third parties or intermediaries that are not directly regulated by ASIC, but that do business with ASIC-regulated entities; or
- (b) addresses some issues that are not directly within our regulatory responsibility. For example, a code may cover both activities clearly within our jurisdiction (such as deposit taking) as well as other activities (such as compliance with privacy obligations).

RG 183.19 ASIC approval can be sought for:

- (a) an entirely new code that has not operated previously;
- (b) an existing, non-approved code (or an updated version of an existing, non-approved code); or
- (c) an updated version of a code previously approved by ASIC.

Note: An updated code may take the form of an 'amended code' (amending a previously approved code) or a 'replacement code' (fully replacing a previously approved code). See RG 183.103–RG 183.106 for more information about approval of updated codes.

RG 183.20 ASIC approval of any code is not guaranteed. We will determine whether a code is appropriate for ASIC approval on a case-by-case basis, having regard to the criteria for approval (see Section C) and, if necessary, after consultation with other key stakeholders. These stakeholders include industry and consumer representatives, the Australian Financial Complaints Authority (AFCA), as well as other government agencies and regulators where relevant. We may also decide to make any approval conditional.

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- RG 183.21 The requirements in this guide are not intended to affect the application of non-ASIC-administered regulatory regimes. Applicants should consider whether a code's content also requires consultation with or authorisation by other government agencies or regulators.

How does ASIC enforce codes?

- RG 183.22 Only breaches of enforceable code provisions in an ASIC-approved code, and provisions of a mandatory code, are directly enforceable by ASIC.

Note: At the date of issue for this regulatory guide, there are no ASIC-approved codes with enforceable code provisions, nor any mandatory codes in operation.

- RG 183.23 ASIC can take court action seeking pecuniary penalties for breach of any enforceable code provision in an ASIC-approved code, and any civil penalty provision of a mandatory code.

- RG 183.24 Table 1 sets out the applicable maximum pecuniary penalty for these breaches.

Table 1: Maximum pecuniary penalty

Provision type	Maximum pecuniary penalty for breach
Enforceable code provision in ASIC-approved code	300 penalty units
Civil penalty provision in mandatory code	As prescribed in regulations, but not exceeding 1,000 penalty units

Note: The dollar value of a penalty unit is determined by s4AA of the *Crimes Act 1914*.

- RG 183.25 Consistent with our general approach to enforcement in Information Sheet 151 *ASIC's approach to enforcement* ([INFO 151](#)), we are more likely to pursue enforcement action for breaches of enforceable code provisions where the misconduct giving rise to the breach is serious in nature.

- RG 183.26 We will also consider enforcement action if misrepresentations are made about a code—for example:

- representations that an entity complies with a code when it does not;
- representations that a code has ASIC approval when it does not; or
- misrepresentations about the scope or effect of a code, including what ASIC approval of a code means.

- RG 183.27 Enforceability of a proposed code is also a key criterion for code approval by ASIC: see Section C. In assessing this, we will consider not only code enforceability by ASIC through the inclusion of enforceable code provisions, but also whether the code is contractually binding, the ability of the

independent code administrator to enforce the code, and the availability of dispute resolution and other mechanisms to enable consumers to enforce the code and access redress.

Code monitoring by ASIC

- RG 183.28 The code owner (through the independent code administrator where appropriate) as well as code subscribers are responsible for monitoring code compliance.
- RG 183.29 However, from time to time, ASIC will also monitor approved codes, including through review of:
- (a) periodic reporting to us by the code administrator;
 - (b) information derived from liaison work with consumers (including consumer bodies) and industry, AFCA, or compliance monitoring and surveillance work; and
 - (c) the results of any independent review of the code.

Reporting code breaches to ASIC

- RG 183.30 AFS and credit licensees may be required to report their breaches of code provisions to ASIC, under the breach reporting requirements in the Corporations Act and National Credit Act: see Regulatory Guide 78 *Breach reporting by AFS licensees and credit licensees* ([RG 78](#)).
- RG 183.31 Whether or not code breaches are reportable depends on the type of code and the type of code provision breached. The breach reporting requirements for both ASIC-approved and mandatory codes are set out in Table 2.

Table 2: Reportable code breaches under the breach reporting regime

Type of code	Automatically reportable breaches	Potentially reportable breaches (depending on the significance of the breach)
ASIC-approved code	None	Breaches of enforceable code provisions
Mandatory code	Breaches of civil penalty provisions	Breaches of non-civil penalty provisions

Note: For more information, see RG 78, s912D of the Corporations Act, reg 7.6.02A(2) of the *Corporations Regulations 2001*, s50A of the National Credit Act and reg 12A of the *National Consumer Credit Protection Regulations 2010*.

C Criteria for ASIC approval of codes

Key points

This section gives guidance on the criteria for code approval that ASIC applies, consisting of:

- threshold criteria that a code must satisfy;
- evaluative criteria that we will consider and balance when determining whether it is appropriate to approve a code; and
- additional criteria determined by ASIC that we will usually consider when deciding whether to approve a code.

Code approval criteria

- RG 183.32 There are three categories of criteria that ASIC applies when considering approval of a voluntary code.
- RG 183.33 First, the code must meet each of the statutory *threshold criteria*: see Table 3. A code must satisfy all of the threshold criteria to be capable of receiving ASIC's approval.
- RG 183.34 Secondly, we apply the statutory *evaluative criteria*: see Table 4. Unlike the threshold criteria, the evaluative criteria are balanced and considered as a whole when ASIC is determining whether approval of a code is appropriate.
- RG 183.35 Finally, where relevant, we apply the *additional criteria*: see Table 5. These are additional criteria that ASIC has determined we will consider when deciding whether to approve a code. We are less likely to approve a code that does not adequately address these criteria.

Threshold criteria

- RG 183.36 Table 3 describes each of the threshold criteria for code approval. ASIC must not approve a code of conduct unless we are satisfied that these criteria have been met.

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Table 3: Threshold criteria for code approval

Criteria	Description of criteria	Source of criteria
Code provisions that are inconsistent with relevant Commonwealth laws impose more onerous obligations on subscribers	<ul style="list-style-type: none"> Where code provisions are inconsistent with requirements under any relevant Commonwealth laws, the code imposes more onerous obligations on subscribers than the Commonwealth law. The code provision must deliver better outcomes for consumers, compared to the inconsistent Commonwealth law. Compliance with the code provision does not make it impossible to comply with legal requirements under the relevant Commonwealth laws. Relevant Commonwealth laws are the Corporations Act, National Credit Act, or other Commonwealth laws under which ASIC has regulatory responsibilities. 	Statutory: see s1101A(3)(a) of the Corporations Act and s238A(3)(a) of the National Credit Act
Any enforceable code provision has been agreed with the code applicant and is legally effective	<ul style="list-style-type: none"> Enforceable code provisions must meet the statutory requirements in s1101A(2) of the Corporations Act or s238A(2) of the National Credit Act as applicable. The code applicant must agree to the form of all enforceable code provisions. Enforceable code provisions must be expressed in clear and specific language to ensure legal effectiveness. <p>Note: See RG 183.53–RG 183.59 for more information about enforceable code provisions.</p>	Statutory: see s1101A(2) and (3)(b) of the Corporations Act and s238A(2) and (3)(b) of the National Credit Act

Evaluative criteria

RG 183.37 Table 4 describes each of the evaluative criteria for code approval. ASIC must not approve a code of conduct unless we are satisfied it is appropriate to approve the code having regard to these matters. We will consider the evaluative criteria as a whole and assess whether, on balance, the code should be approved.

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Table 4: Evaluative criteria for code approval

Criteria	Description of criteria	Source of criteria
Whether code obligations are capable of being enforced against code subscribers	<ul style="list-style-type: none"> Code obligations should be binding on code subscribers. Code breaches should be enforceable by consumers and the code administrator (or other independent person or body). Appropriate remedies and sanctions should be available for code breaches. Does the code contain enforceable code provisions reflecting key commitments made by code subscribers? <p>Note: See RG 183.38–RG 183.59 for more information.</p>	Statutory: see s1101A(3)(c)(i) of the Corporations Act and s238A(3)(c)(i) of the National Credit Act
Whether the code applicant has effective administrative systems for monitoring compliance with the code and making monitoring information available	<ul style="list-style-type: none"> Code compliance should be subject to independent monitoring. The outcomes of this compliance monitoring should be publicly reported at regular intervals (at least annually). Any person or entity should have standing to make a complaint about code breaches. <p>Note: See RG 183.60–RG 183.65 for more information.</p>	Statutory: see s1101A(3)(c)(ii) of the Corporations Act and s238A(3)(c)(ii) of the National Credit Act
Whether the code applicant has effective administrative systems for maintaining, and making available, an accurate list of code subscribers	<ul style="list-style-type: none"> The code applicant should commit to, and demonstrate adequate arrangements for, maintaining and publishing a full list of code subscribers from commencement of the code. The code subscriber list should remain up to date and publicly available while the code remains in effect. 	Statutory: see s1101A(3)(c)(iii) of the Corporations Act and s238A(3)(c)(iii) of the National Credit Act

Evaluative criteria: How ASIC assesses code enforceability

RG 183.38 The enforceability of code provisions is a central consideration for ASIC approval, given its importance for code effectiveness. ASIC will assess code enforceability by reference to the factors addressed below.

RG 183.39 A code that fully covers these factors, and contains robust mechanisms for enforceability, is substantially more likely to receive ASIC approval.

Contractually binding

RG 183.40 Code subscribers should be contractually bound by the terms of the code (including any subsequent amendments to the code).

RG 183.41 In most cases, subscribers will incorporate their agreement to abide by a code by contracting directly with the code administrator or other independent person or body that has the power to administer and enforce that code. In some cases, subscribers will also incorporate their agreement in individual contracts with consumers (e.g. written directly into the terms and

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conditions of a particular product). We strongly encourage code applicants to consider this approach.

Enforceable by independent body

- RG 183.42 An independent body or person (most commonly a code administrator) should be empowered to effectively administer and enforce the code, including by imposing appropriate sanctions for code breaches.
- RG 183.43 We expect the code applicant to demonstrate that this body or person charged with administering and enforcing the code:
- (a) is independent of the industry or industries that subscribe to the code and provide its funding (e.g. by having a balance of industry and consumer representatives and an independent chair); and
 - (b) has adequate resources to fulfil the relevant functions effectively (including code enforcement) and to ensure that code objectives are not compromised.
- RG 183.44 Code administrators may choose to delegate secretariat functions (not including sanctioning powers) to the AFCA Code Compliance and Monitoring team (which is a separately operated and funded business unit of AFCA). The agreement between the code owner and AFCA to provide those delegated secretariat functions should protect the independence of the code administrator's governance, processes and decision making.

Enforceable by consumers

- RG 183.45 In general, we expect all substantive code obligations to be enforceable by consumers. For any alleged code breach, consumers should have access to internal dispute resolution (IDR) processes, an appropriate external dispute resolution (EDR) scheme (typically AFCA), and potentially also court or tribunal mechanisms.
- RG 183.46 A code should provide for adequate dispute resolution provisions, where they are not already available under applicable legislative obligations (e.g. the IDR and EDR obligations that already apply to AFS and credit licensees, such as membership of AFCA). A code may also extend IDR processes and EDR scheme availability beyond retail clients, and/or set benchmarks or performance measures that exceed a code subscriber's legislative obligations.
- RG 183.47 All codes of conduct (whether approved or non-approved) can be relevant to AFCA's assessment of what is fair in all the circumstances, and what good industry practice looks like when considering complaints. AFCA may award compensation to consumers for loss suffered as a result of code non-compliance, and determinations are binding on financial firms when accepted by the complainant. Whether the code forms part of the contractual relationship between the code subscriber and the consumer is also a matter that AFCA will take into account in considering complaints and the remedies available.

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- RG 183.48 Incorporation of code compliance into individual agreements between code subscribers and consumers (see RG 183.40–RG 183.41) also supports enforceability by consumers—for example, by enabling court action for contractual non-compliance to access remedies that may not otherwise be available through EDR.

Remedies and sanctions

- RG 183.49 Where there has been a code breach, adequate remedies as well as sanctions should be available.
- RG 183.50 At a minimum, available remedies for code breaches should include:
- (a) compensation for any direct financial loss or damage caused by the breach, which could be made available through IDR and EDR mechanisms as noted in RG 183.45–RG 183.47; and
 - (b) the ability for the code administrator to impose binding requirements on a code subscriber to take (or not take) particular action to rectify or resolve the breach.
- RG 183.51 Separately, the code administrator should be empowered to impose sanctions for code breaches where appropriate, to deter non-compliance and support consumer confidence in the code.
- RG 183.52 Sanctions might include formal warnings, public naming of non-compliant code subscribers, corrective advertising orders, fines, suspension or expulsion from the industry association, and/or suspension or termination of subscription to the code.

Note: Suspension or expulsion may raise competition issues requiring consideration by the Australian Competition and Consumer Commission (ACCC).

Enforceable code provisions

- RG 183.53 In determining whether to approve a code, ASIC will also consider whether the code contains any enforceable code provisions reflecting key commitments made by code subscribers.
- RG 183.54 A code provision is only identifiable as an enforceable code provision if it meets the following statutory requirements:
- (a) the provision represents a commitment by a code subscriber to a person, relating to transactions or dealings in relation to the person; and
 - (b) a breach of the provision is likely to result in significant and direct detriment to that person.

Note: Any additional criteria or matters prescribed by the regulations must also be satisfied or given regard to (see s1101A(2) of the Corporations Act and s238A(2) of the National Credit Act).

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- RG 183.55 Code provisions that are broad, aspirational, or in-principle in nature may not satisfy the requirement for an enforceable code provision to represent a commitment by a code subscriber to a person.
- RG 183.56 In considering the requirement for a breach of an enforceable code provision to likely result in significant and direct detriment, ASIC may consider:
- (a) the nature and extent of the likely detriment arising, including both financial and non-financial detriment; and
 - (b) the impact of the likely detriment on consumers, including for single or multiple breaches of the provision.
- RG 183.57 In addition to meeting the above statutory requirements for identifying an enforceable code provision, each enforceable code provision must be agreed upon with the code applicant and be legally effective. These are threshold criteria for code approval: see Table 3.
- RG 183.58 The inclusion of enforceable code provisions in a code will generally be considered to enhance code enforceability (all else being equal), as breaches of these provisions are privately actionable by consumers who have suffered damage as a result of the breach, and are also directly enforceable by ASIC: see RG 183.25 for ASIC's enforcement approach to breaches of enforceable code provisions.
- RG 183.59 However, the absence of enforceable code provisions from a code will not, of itself, typically result in ASIC declining to approve a code. As noted in RG 183.37, the evaluative criteria that apply to code approval will be considered as a whole.

Evaluative criteria: How ASIC assesses code compliance monitoring systems

- RG 183.60 Without appropriate monitoring mechanisms, code non-compliance may go undetected and unaddressed, reducing the effectiveness of the code. ASIC will assess the adequacy of code compliance monitoring systems by reference to the following factors.

Monitoring of code compliance

- RG 183.61 Code compliance should be subject to formal monitoring and reporting by an independent body or person (most commonly a code administrator): see RG 183.43 for our expectations on independence and resourcing.
- RG 183.62 The monitoring process overseen by the code administrator should also provide for some form of external or independent monitoring or auditing from time to time. If the monitoring process relies on self-reporting by code subscribers, the code administrator should consider shadow-shopping exercises or other activities to check code compliance.

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Reporting of compliance monitoring outcomes

- RG 183.63 The outcomes of the compliance monitoring should be publicly reported at regular intervals, occurring at least annually. This public reporting of compliance outcomes can take the form of de-identified information about the number of instances of, and reasons for, the code non-compliance identified. Public naming of non-compliant code subscribers may also be appropriate in some circumstances.
- RG 183.64 Adequate arrangements should also be in place for systemic and serious code non-compliance to be reported to ASIC.

Complaints about code non-compliance

- RG 183.65 Any person or entity (not just affected consumers) should be able to make a complaint about code non-compliance to the code administrator. Bodies such as consumer groups may be better placed than individual consumers to raise these concerns in some circumstances.

Additional criteria determined by ASIC

- RG 183.66 Table 5 describes additional criteria that we will usually consider when deciding whether to approve a code. We are less likely to approve a code of conduct that does not adequately address these criteria.
- RG 183.67 ASIC will also consider any other matters that are relevant to a particular application.

Table 5: Additional criteria for code approval

Criteria	Description of criteria	Source of criteria
Code comprises a body of rules	The code comprises a body of rules and is not a single-issue industry guideline or arrangement.	ASIC
Code uses plain language and sets out its objectives, scope and core rules	<p>The code is expressed in plain language and clearly sets out:</p> <ul style="list-style-type: none"> the objectives intended to be met by the code; the scope of the code—including which industry sector(s) the code applies to, which products or services it applies to, and which consumers are covered; and the core rules and obligations set by the code. 	ASIC

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Criteria	Description of criteria	Source of criteria
Code sets standards that exceed or clarify existing legal requirements	<p>The code:</p> <ul style="list-style-type: none"> • delivers greater protections or other benefits to consumers than what is required under existing laws; and/or • provides greater clarity or specificity about matters covered by existing laws, without reducing the protections or other benefits accruing to consumers under those laws. <p>Note: See paragraphs 1.41–1.42 of the Explanatory Memorandum to the Financial Sector Reform (Hayne Royal Commission Response) Bill 2020.</p>	ASIC
Independent review of the code has been completed and incorporated (where applicable)	<ul style="list-style-type: none"> • Where a code submitted to ASIC for approval has been in operation for more than five years, an independent review must be completed before ASIC will consider an application to approve the code. This applies to both codes that update existing ASIC-approved codes and codes not previously approved by ASIC. • The code owner should have considered, and where appropriate incorporated, the findings and recommendations from any independent review undertaken of the previous code. <p>Note: See RG 183.97–RG 183.102 for more information.</p>	ASIC
For an amended code or replacement code, it does not result in an overall reduction in consumer benefits or enforceability	<p>For any application to amend or replace an existing approved code of conduct:</p> <ul style="list-style-type: none"> • the code should not represent an overall reduction in consumer benefits, or enforceability or accountability mechanisms, compared with the approved code; and • removal of provisions from the approved code on the basis of duplication should be limited to provisions that are fully duplicative of existing legislative requirements. <p>Note: See RG 183.68–RG 183.69 for more information.</p>	ASIC

Additional criteria: How ASIC assesses amended or replacement codes

- RG 183.68 For any application to amend or replace an existing approved code of conduct, the code should not reflect an overall reduction in consumer benefits or reduced enforceability or accountability mechanisms, compared with the approved code.
- RG 183.69 If an amended code or replacement code involves the proposed removal of an existing code provision on the basis that it duplicates a legal requirement, the onus will be on the code applicant to demonstrate that, compared to the code provision proposed to be removed, the legal requirement involves the same or greater:
- (a) obligation to be met;

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- (b) coverage in terms of persons or entities subject to the legal requirement;
- (c) coverage in terms of consumers or other persons who obtain a benefit from the legal requirement; and
- (d) remedies and sanctions for breach.

Supporting documents

- RG 183.70 Beyond the code itself, there may be related documents relevant to the administration and practical operation of the code—for example:
- (a) documents setting out the process for how the code administrator monitors code compliance and handles non-compliance issues;
 - (b) the form of agreement by which code subscribers agree to be bound by the code; and/or
 - (c) issue-specific protocols or guidelines that the code requires subscribers to comply with.
- RG 183.71 While ASIC will not generally need to expressly approve these code-related documents, we will examine whether the code, when read in conjunction with them, meets the approval criteria set out in this section.
- RG 183.72 We will consider if any of these code-related documents should be made publicly available, and may request their publication.
- RG 183.73 We may also require that ASIC be notified of any subsequent changes made to these related documents.

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D The code approval process

Key points

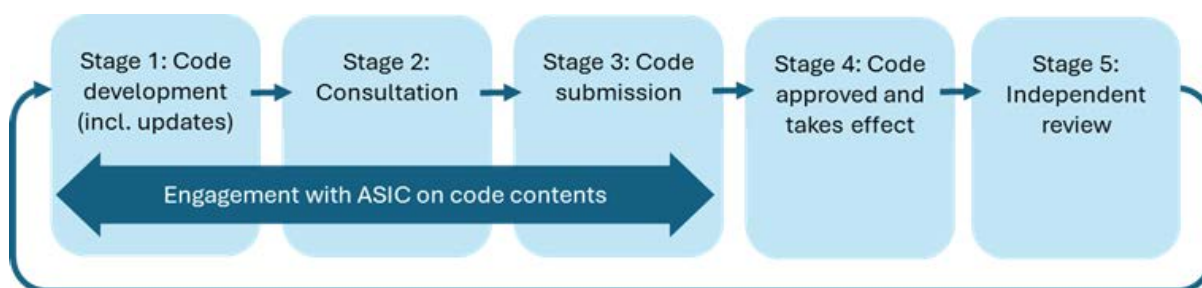
This section outlines the process for obtaining and retaining ASIC approval for a code. It also sets out:

- why updated codes require approval; and
- when ASIC will revoke code approval.

Stages of approval

RG 183.74 Obtaining code approval typically involves five stages: see Figure 1. These stages are indicative only. Not all codes will proceed through each stage, or in the sequence presented.

Figure 1: Process map



RG 183.75 Before formal ASIC approval of a code, the code owner (or code applicant) will engage with ASIC on the content of the proposed code. Early versions of supplementary materials to support the formal code approval application (see RG 183.90) may also inform this engagement.

RG 183.76 ASIC will consider whether the code is likely to satisfy the threshold, evaluative and additional criteria outlined in Section C (including enforceability and monitoring mechanisms), and may provide feedback on issues that are relevant considerations for us in determining whether to approve the code.

Stage 1: Code development (including updates)

RG 183.77 To begin the process, the code owner develops and drafts the code, or updates the content of an existing code.

RG 183.78 The code development process is important for the effectiveness of the code and the degree of confidence in it. We expect code development (including

updates) to occur in an appropriately consultative manner. This should involve consultation with at least:

- (a) relevant consumer representatives, to ensure that issues of concern to consumers are identified and considered for inclusion;
- (b) potential or existing code subscribers, to ensure the code is one that subscribers would be willing and able to comply with; and
- (c) the code administrator, if applicable.

RG 183.79 Due consideration should be given to stakeholder views and information. It may be necessary, for example, to review relevant IDR and EDR complaints data, and conduct stakeholder roundtables and other engagement to find mutually acceptable solutions on how the code might respond to identified consumer and industry issues.

RG 183.80 In developing a *new* code, the code owner should adopt transparent procedures (e.g. issuing a discussion paper, recommendations and/or a draft code for public consultation purposes). In most cases, it would be appropriate to appoint an independent party to conduct public consultations and/or to make public recommendations about the code.

RG 183.81 If the code owner is seeking approval for an *existing or updated code*, an independent review will be necessary in the following circumstances:

- (a) *for an existing, non-approved code* (or an updated version of a non-approved code)—if the code has been operating for more than five years without an independent review, our policy is to require it to have been independently reviewed before considering an application for approval; and
- (b) *for an amended or replacement code that updates a previously approved code*—it is a statutory requirement for the previously approved code to have been independently reviewed at least every five years.

Note: Stage 5 describes the independent review process (see RG 183.97–RG 183.102).

Stage 2: Consultation

RG 183.82 Both the code owner and ASIC may consult with other parties on the draft code.

RG 183.83 We encourage the code owner to consult publicly on the draft code. The code owner may also conduct further consultation with code subscribers or other stakeholders up to the point of submitting a code to ASIC for approval.

RG 183.84 ASIC may consult directly with other government agencies, AFCA, the relevant code administrator or other key stakeholders, and/or seek feedback through public consultation. We will consider all feedback and, to the extent

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relevant and appropriate, we may incorporate aspects of the feedback into our discussions with the code owner and into our final decision on approving the code.

- RG 183.85 ASIC will be more likely to consult publicly if:
- (a) the proposed code represents a major change for code subscribers or consumers;
 - (b) the content of the code is contested, with significant differences in stakeholders' views;
 - (c) independent review recommendations were not fully adopted by the proposed code; and/or
 - (d) consultation by the code owner was insufficient.
- RG 183.86 The draft code may be revised by the code owner based on the feedback received through consultation, and further considered by ASIC.
- RG 183.87 In addition, as ASIC's approval of an industry code has the potential to result in a more than minor change in behaviour or impact for people or businesses, before approving the code, ASIC will liaise with the Office of Impact Analysis (OIA) to determine whether a formal Impact Analysis is required. If this is required, ASIC will engage with the code owner on the Impact Analysis process, requirements, and timeframes.

Note: For more information, see the [OIA](#) website.

Stage 3: Code submission

- RG 183.88 Following the completion of any additional consultations and revisions to the draft code, the code owner (or code applicant) submits the proposed code to ASIC for approval. The code owner may first submit a draft code to ASIC, then after further engagement with ASIC, make any additional adjustments before the final code is submitted for ASIC approval.
- RG 183.89 Formal applications for code approval by ASIC are submitted through the [ASIC Regulatory Portal](#) and a fee will be payable.
- RG 183.90 The code owner should provide the following supplementary materials to support their application (where applicable):
- (a) a summary table outlining how the code satisfies each of the approval criteria;
 - (b) details of the conduct of an independent review (including evidence of broad consultation with stakeholders) and/or any other pre-approval consultation undertaken (see RG 183.78–RG 183.81 and RG 183.97–RG 183.102);

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- (c) details of how any independent review recommendations have been adopted, and an explanation for any recommendations not adopted;
- (d) details of any other changes made to the code (including reasons);
- (e) details of the history of the operation of the code;
- (f) details of subscribers to the code, including samples of any contractual agreements that code subscribers must enter into with the code administrator and/or with consumers directly to affirm they will comply with the code; and
- (g) all relevant code-related documents (see RG 183.70–RG 183.73).

RG 183.91 If the application is for a replacement code (i.e. an updated code that will replace an existing approved code), the code owner will also need to formally apply for revocation of the previous code.

Stage 4: Code approved and takes effect

RG 183.92 In this stage, ASIC will formally approve the code by making a legislative instrument. If the code being approved is a replacement code, ASIC will also make a legislative instrument to revoke approval of the previous code.

Note 1: Under the *Legislation Act 2003*, legislative instruments are generally required to be tabled in Parliament and are subject to a disallowance process. Legislative instruments are also repealed automatically after 10 years (or earlier date specified in the instrument), unless remade.

Note 2: ASIC may, by legislative instrument, approve a variation to an existing approved code where approval has been sought for an amended code.

RG 183.93 Once the code has been formally approved, we expect the code owner to publish the code on their website as soon as practicable.

RG 183.94 The code approval will take effect on a specified future date agreed to by ASIC and the code owner. This date will generally have regard to the time required for code subscribers to make any adjustments to their systems and processes to ensure code compliance.

RG 183.95 Once the code is operational, a key ongoing responsibility of code owners is monitoring and oversight. As discussed in Section C, an independent code administrator will generally be empowered to monitor and enforce code compliance. Effective monitoring supports code compliance by code subscribers, and ensures that the code itself remains relevant in delivering benefits to consumers, and therefore continues to meet ASIC's approval criteria over time.

RG 183.96 The code owner (through the independent code administrator where appropriate) should also ensure that:

- (a) staff are appropriately trained in the code and that subscribers make provision for this training; and

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- (b) the code is adequately promoted.

Note: Examples include providing training for community sector case workers on code provisions, ensuring that all subscribers have copies of the code at public offices, or communicating code information through call centre hold messages or in Product Disclosure Statements.

Stage 5: Independent review

- RG 183.97 If applicable, the code owner must ensure that an independent review of the operation of the code is conducted. For codes that have previously been approved by ASIC, this is a mandatory (statutory) requirement: see s1101AB of the Corporations Act and s238C of the National Credit Act.

Note: As outlined at RG 183.81, we expect code owners to follow a similar process for existing, non-ASIC approved codes that have operated for more than five years without review. In such cases, an independent review must be completed before ASIC will consider an approval application.

- RG 183.98 The independent review process supports the continued relevance of the code. It provides an opportunity for stakeholders (including both consumer and industry stakeholders) to give feedback on the effectiveness of the code and offer suggestions for improvement. The independent reviewer should base their review on the process described in RG 183.78–RG 183.80, as the principles applying to code development also apply to ongoing code review.

- RG 183.99 The independent review of an approved code must be subject to public consultation: see s1101AB(2) of the Corporations Act and s238C(2) of the National Credit Act. The review must be *completed*:

- (a) within five years of the day the code of conduct was approved by ASIC (for the first review); or
- (b) within five years of the day that the report of the previous review was provided to ASIC (for subsequent reviews).

- RG 183.100 The code owner can arrange for the independent review to be undertaken at an earlier time. We encourage earlier review where appropriate—for example, a change to the law may prompt a review of a code.

- RG 183.101 The review is completed when the report of the review is given to ASIC. Within 10 business days of providing the report of the review to ASIC, the code owner must publish the report on its website. We expect the independent review report to be publicly available for at least five years after its completion.

- RG 183.102 ASIC also expects the recommendations of the independent review to be considered and addressed to the greatest extent possible in developing the next version of the code. The review and implementation of any recommendations should be completed within a reasonable timeframe to maintain confidence in the process.

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Why do updated codes need approval?

RG 183.103 We expect that an existing approved code will need to be updated (i.e. either amended or replaced) periodically in response to:

- (a) recommendations resulting from its regular, independent review;
- (b) the emergence of new consumer, industry or market issues;
- (c) changes to the relevant laws that regulate the conduct of the industry participants who are subscribers to the code;
- (d) an expanded subscriber base, which involves the code covering a new sector of the industry; and/or
- (e) any other circumstance requiring procedural or technical changes to the code.

RG 183.104 Generally, if a code is updated, we consider that it is no longer the same as the version we originally approved.

RG 183.105 To update an approved code of conduct, the code owner (or code applicant) will need to apply to ASIC for approval. In assessing an updated code, we will consider whether the code satisfies the criteria in Section C.

Note: Where a code update is purely technical in nature (e.g. a change in the name of an organisation or statute referred to in a code), ASIC may conduct a streamlined approval process.

RG 183.106 If we do not approve the updated code but the code owner wishes to proceed with it, the code owner (or code applicant) should apply for revocation of the approval of the previous code so that consumers are not misled and to avoid uncertainty about the application of the previous code.

When will ASIC revoke code approval?

RG 183.107 Because ASIC approval of a code is a signal to consumers about the worth of a code, approval should only remain in place for codes that are effective and are delivering significant benefits to consumers. Consumers need to be confident that a code with our approval continues to meet the criteria and other requirements set out in this guide.

RG 183.108 We will take appropriate action if we consider that a code no longer meets these criteria and requirements. We may revoke any code approval we have granted if:

- (a) we consider that the code no longer meets (or substantially meets) the criteria outlined in Section C;
- (b) a code no longer has any current subscribers or ceases to have a sufficient number of subscribers to be viable;

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- (c) a five-year independent review has not been completed in accordance with RG 183.97–RG 183.102; or
- (d) the original code applicant, code owner or code administrator applies for revocation of approval (a fee will be payable).

RG 183.109 When deciding whether to revoke approval of a code, we will apply the principles of procedural fairness, including providing code owners with an opportunity to state their case and, usually, an opportunity for corrective action.

RG 183.110 We will publicise code revocations on our website at www.asic.gov.au.

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Key terms

Term	Meaning in this document
ACCC	Australian Competition and Consumer Commission
AFCA	Australian Financial Complaints Authority—The EDR scheme for which an authorisation under Pt 7.10A of the Corporations Act is in force
AFS licensee	A person who holds an Australian financial services licence
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i> , including regulations made for the purposes of that Act
authorised representative (of an AFS licensee)	A person authorised by an AFS licensee, in accordance with s916A or 916B of the Corporations Act, to provide a financial service or financial services on behalf of the licensee
code	For the purposes of this guide, a financial services or credit sector code of conduct
code administrator	The independent person or body appointed by the code owner to administer, monitor compliance with, and enforce the code. In some contexts, the code administrator may take the form of, and be referred to as, a code compliance committee or code monitoring body
code applicant	The person or body who submits a code to ASIC for the purposes of requesting approval under s1101A of the Corporations Act or s238A of the National Credit Act. This may be the code owner or a representative of the code owner
code of conduct	Has the same meaning as code of practice
code owner	The person or body (typically an industry association) who is ultimately responsible for preparing, maintaining and ensuring compliance with the code. The code owner may appoint a code administrator to undertake activities related to the functions and responsibilities of the code owner under the code
code subscriber	An industry participant who has signed up to, and thus committed to complying with, the code
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act

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Term	Meaning in this document
credit licensee	A person who holds an Australian credit licence under s35 of the National Credit Act
credit representative	A person authorised to engage in specified credit activities on behalf of a credit licensee or registered person under s64(2) or 65(2) of the National Credit Act
EDR	External dispute resolution
enforceable code provision	A provision of a code approved by ASIC that meets certain statutory requirements: see Section C at RG 183.54–RG 183.57
IDR	Internal dispute resolution
IDR process	An internal dispute resolution process that complies with standards and requirements made or approved by ASIC
issuer (in relation to a financial product)	Has a meaning affected by s761E of the Corporations Act
National Credit Act	<i>National Consumer Credit Protection Act 2009</i> , including regulations made for the purposes of that Act
OIA	Office of Impact Analysis
retail client	A client as defined in s761G of the Corporations Act

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Related information

Headnotes

AFCA, AFS licensees, amendments, approval, code administration, compliance, content, core rules, credit licensees, development, EDR, enforceability, enforceable code provisions, financial services, IDR, industry codes, internal and external dispute resolution, monitoring, review, revoking code approval

Legislation

Australian Securities and Investments Commission Act 2001, Pt 2, Div 2

Corporations Act 2001, Ch 7, s912D, 1101A–1101AF

Corporations Regulations 2001, reg 7.6.02A(2)

Financial Sector Reform (Hayne Royal Commission Response) Bill 2020

Insurance Contracts Act 1984

National Consumer Credit Protection Act 2009, s50A, 238A–238G

National Consumer Credit Protection Regulations 2010, reg 12A

Superannuation Industry (Supervision) Act 1993

Consultation

[CS 26](#) *Proposed update to RG 183*

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