



Attachment 2 to CS 26: Draft updated RG 183—Summary of key changes

This table summarises the key proposed changes to Regulatory Guide 183 *Approval of financial services sector codes of conduct* ([RG 183](#)): see the draft updated RG 183 (draft RG 183) at Attachment 1 to ASIC's consultation *Proposed update to RG 183* (CS 26). Please note that this table does not provide an exhaustive list of all proposed changes to RG 183.

Subject matter	Guidance in existing RG 183 (2013 version)	Guidance in draft RG 183 (2025 version)	Reason for change
Title of guide	The guide is titled ' <i>Approval of financial services sector codes of conduct</i> '.	The guide is titled ' <i>Codes of conduct for the financial services and credit sectors</i> '.	<p>The proposed update to the guide's title reflects that:</p> <ul style="list-style-type: none">the guide applies to both financial services and credit sector codes; andthe content of the guide is not limited to code approval but also addresses a range of other topics.
Application of the guidance	<p>The guide is for:</p> <ul style="list-style-type: none">applicants seeking ASIC approval of a financial services sector code under s1101A of the <i>Corporations Act 2001</i> (Corporations Act);code owners; andfinancial advisers subscribing to a code approved by ASIC under s962CA of the Corporations Act.	<p>The guide is for:</p> <ul style="list-style-type: none">applicants seeking ASIC approval of a financial services or credit sector code under s1101A of the Corporations Act or s238A of the <i>National Consumer Credit Protection Act 2009</i> (National Credit Act); andcode owners, code subscribers, and consumers and other persons who benefit from codes.	<p>The proposed update on the application of RG 183 seeks to clarify that it:</p> <ul style="list-style-type: none">applies to both financial services and credit sector codes; andis directed to a broader audience than just code applicants and code owners. <p>We propose to remove all content on s962CA from the guide as the relevant provisions have been repealed: see 'ASIC approval of a code under s962CA of the Corporations Act' at the end of this table.</p>

Subject matter	Guidance in existing RG 183 (2013 version)	Guidance in draft RG 183 (2025 version)	Reason for change
Types of codes	Not applicable	Draft RG 183.6 sets out the three types of industry codes of conduct that may now exist in the financial services and credit sectors.	<p>We propose to include this content to explain the types of codes that may now exist, given the ability for mandatory codes to be prescribed following the <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i>.</p> <p>RG 183 remains primarily focused on voluntary industry-developed codes that are submitted to ASIC for approval.</p>
ASIC's role in code content	Limited guidance on ASIC's role in relation to code content.	<p>Draft RG 183.12–RG 183.13 provide additional guidance on ASIC's role in relation to code content to clarify that:</p> <ul style="list-style-type: none"> • voluntary codes are developed by industry, and ASIC cannot require a code to be developed or submitted to ASIC to consider for approval; and • 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. 	<p>ASIC's role in relation to code development and content remains unchanged.</p> <p>The proposed further guidance seeks to provide more clarity about ASIC's role in this regard.</p>

Subject matter	Guidance in existing RG 183 (2013 version)	Guidance in draft RG 183 (2025 version)	Reason for change
ASIC's role in code approvals	<p>The guide outlines that ASIC can approve industry codes relating to the activities of Australian financial service (AFS) licensees, authorised representatives of AFS licensees, and issuers of financial products: see RG 183.13.</p> <p>The guide states that for code approval purposes, ASIC's regulatory responsibilities include obligations and provisions set out in the Corporations Act, the <i>Australian Securities and Investments Commission Act 2001</i> and the <i>Insurance Contracts Act 1994</i>: see RG 183.14.</p>	<p>Draft RG 183.15–RG 183.16 provide additional guidance that:</p> <ul style="list-style-type: none"> • ASIC can also approve codes relating to the activities of credit licensees and credit representatives; and • ASIC's regulatory responsibilities for code approval purposes also include obligations set out in the National Credit Act and some obligations in the <i>Superannuation Industry (Supervision) Act 1993</i>. 	<p>The proposed amendments clarify that ASIC can also approve codes relating to credit and superannuation.</p>
ASIC's role in code enforcement	Not applicable	<p>The guide outlines:</p> <ul style="list-style-type: none"> • the types of code provisions directly enforceable by ASIC when breached (see draft RG 183.22); and • ASIC's approach to enforcement action for breaches of enforceable code provisions (see draft RG 183.25). 	<p>The reforms to the codes of conduct statutory framework introduced by the <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i> enable breaches of enforceable code provisions in an ASIC-approved code and provisions of a mandatory code to be directly enforced by ASIC.</p> <p>The proposed new guidance reflects this change and provides some high-level guidance on our approach to code enforcement.</p>
Pecuniary penalties for code breaches	Not applicable	<p>The guide outlines that pecuniary penalties may apply, and sets out the maximum quantum of penalties, for breaches of an enforceable code provision or a civil penalty provision in a mandatory code: see draft RG 183.23–RG 183.24.</p>	<p>The <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i> introduced pecuniary penalties for breaches of these types of code provisions. The proposed new guidance reflects this change.</p>

Subject matter	Guidance in existing RG 183 (2013 version)	Guidance in draft RG 183 (2025 version)	Reason for change
Misrepresentations about codes	The guide states that ASIC will consider investigative or enforcement action if misrepresentations are made about a code: see RG 183.135 and RG 183.148–RG 183.149.	The guide states that ASIC will consider enforcement action if misrepresentations are made about a code: see draft RG 183.26.	We propose minor edits to streamline the relevant guidance and revise its placement in the guide.
Breach reporting obligations	The guide outlines that a breach of a code provision does not, of itself, constitute a breach of the financial services law under which an AFS licensee must report to ASIC under the breach reporting regime: see RG 183.74–RG 183.75.	<p>The guide outlines that AFS and credit licensees may be required to report some code breaches to ASIC under the breach reporting requirements in the Corporations Act and National Credit Act.</p> <p>Whether code breaches are reportable depends on the type of code and code provision that has been breached: see draft RG 183.30–RG 183.31.</p>	The proposed amendments reflect that, following the reforms to both the codes of conduct statutory framework and breach reporting regime introduced by the <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i> , breaches of enforceable code provisions and provisions of mandatory codes will need to be reported to ASIC in some circumstances.
Overview of the code approval criteria	<p>The guide outlines three types of approval criteria that a code must meet to obtain ASIC approval:</p> <ul style="list-style-type: none"> the threshold criteria, which a code must satisfy before ASIC will formally consider an application for approval of a code (primarily in Section B); the general statutory criteria (Section C); and other relevant criteria (Section D). 	<p>The code approval criteria are addressed in Section C of draft RG 183. The guide sets out three types of approval criteria:</p> <ul style="list-style-type: none"> the statutory <i>threshold criteria</i>, which a code must satisfy to be capable of receiving ASIC approval; the statutory <i>evaluative criteria</i>, which ASIC will consider and balance as a whole in determining whether code approval is appropriate; and <i>additional criteria</i> determined by ASIC that we will usually consider when deciding whether to approve a code. 	<p>The proposed amendments:</p> <ul style="list-style-type: none"> streamline the guidance on code approval criteria and consolidate it into a single section for greater clarity and ease of reference; and reflect the reforms to the statutory criteria for code approval introduced by the <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i>.

Subject matter	Guidance in existing RG 183 (2013 version)	Guidance in draft RG 183 (2025 version)	Reason for change
Approval criteria: Where there is legal inconsistency, code imposes more onerous obligations	<p>It is a statutory criterion for code approval that the code is not inconsistent with the Corporations Act or any other Commonwealth law under which ASIC has regulatory responsibilities: see RG 183.30–RG 183.34.</p> <p>The ‘not inconsistent’ test does not prevent a code from containing higher standards than those contained in legislation, or dealing with an issue that is not covered by legislation.</p>	It is a threshold criterion for code approval that any code provisions that are inconsistent with relevant Commonwealth laws impose more onerous obligations on subscribers: see Table 3 in Section C of draft RG 183.	The substance of this criterion remains unchanged. The proposed amendments seek to reflect the minor revisions to this statutory requirement introduced by the <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i> .
Approval criteria: Enforceable code provisions	Not applicable	It is a threshold criterion for code approval that any enforceable code provisions meet specified legislative requirements, have been agreed with the code applicant, and are legally effective: see Table 3 and additional details at draft RG 183.54–RG 183.57.	We propose to include this content to reflect the statutory requirements on enforceable code provisions introduced by the <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i> .
Approval criteria: Code enforceability	<p>There are multiple criteria relating to code enforceability, including:</p> <ul style="list-style-type: none"> • threshold criteria that the code is binding on and enforceable against subscribers through contractual arrangements, and has effective compliance mechanisms (see RG 183.20 and RG 183.25–RG 183.27); • a statutory criterion that ASIC must be satisfied with the applicant’s ability to ensure code compliance (see RG 183.29 and RG 183.35–RG 183.37); and • ‘other relevant criteria’ relating to whether the code provides for adequate dispute resolution, remedies and sanctions (see RG 183.43 and RG 183.63–RG 183.73). 	<p>One of the evaluative criteria for code approval is the extent of code enforceability.</p> <p>In assessing code enforceability, we will consider not only 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: see Table 4 in Section C and additional details at draft RG 183.38–RG 183.59.</p>	<p>Our proposed changes:</p> <ul style="list-style-type: none"> • streamline the guidance on code enforceability and consolidate it into a single criterion for greater clarity and ease of reference; and • reflect the relevant statutory requirements introduced by the <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i> on code enforceability and enforceable code provisions.

Subject matter	Guidance in existing RG 183 (2013 version)	Guidance in draft RG 183 (2025 version)	Reason for change
Approval criteria: Code compliance monitoring	<p>There are multiple criteria relating to effective administrative systems and code monitoring, including:</p> <ul style="list-style-type: none"> • a threshold criterion that the code must have effective administrative mechanisms (see RG 183.20 and RG 183.25–RG 183.27); • a statutory criterion that ASIC must be satisfied with the applicant’s ability to ensure code compliance, including monitoring and reporting on code compliance (see RG 183.29 and RG 183.35–RG 183.37); and • ‘other relevant criteria’ relating to whether the code has effective and independent arrangements for code administration (see RG 183.43 and RG 183.76–RG 183.80). 	<p>One of the evaluative criteria for code approval is the extent to which the code applicant has effective administrative systems for monitoring code compliance and making monitoring information available: see Table 4 in Section C and additional details at draft RG 183.60–RG 183.65.</p>	<p>Our proposed changes:</p> <ul style="list-style-type: none"> • streamline the guidance on code monitoring and consolidate it into a single criterion for greater clarity and ease of reference; and • reflect the relevant statutory requirements introduced by the <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i> on code compliance monitoring and making information obtained as a result of monitoring publicly available.
Approval criteria: List of subscribers	<p>The guide outlines that, where a code is approved under s962CA of the Corporations Act, the code administrator must maintain a public, up-to-date register identifying all code subscribers: see RG 183.109–RG 183.112.</p>	<p>One of the evaluative criteria for code approval is the extent to which the code applicant has effective administrative systems for maintaining, and making available, an accurate list of code subscribers: see Table 4 in Section C of draft RG 183.</p>	<p>We propose to include this content to reflect the statutory requirements on maintenance and availability of a list of code subscribers introduced by the <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i>.</p> <p>We propose to remove all content on s962CA from the guide as the relevant provisions have been repealed: see ‘ASIC approval of a code under s962CA of the Corporations Act’ at the end of this table.</p>

Subject matter	Guidance in existing RG 183 (2013 version)	Guidance in draft RG 183 (2025 version)	Reason for change
Approval criteria: Body of rules	<p>The guide states that:</p> <ul style="list-style-type: none"> a key criterion for code approval is that the code is a body of rules (see RG 183.12); ASIC considers a code to be a body of rules that sets enforceable standards across an industry (or part of an industry) and delivers measurable consumer benefits (see RG 183.19); and the criteria for a code in this guide are designed to exclude single-issue industry guidelines (see RG 183.24). 	One of the additional criteria for code approval is that the code comprises a body of rules and is not a single-issue industry guideline or arrangement: see Table 5 in Section C of draft RG 183.	The substance of this criterion remains unchanged. Our proposed changes seek to clarify the nature of this criterion.
Approval criteria: Uses plain language and clearly sets out objectives, scope and core rules	The guide outlines that one of the 'other relevant criteria' is whether the code contains plain language provisions that clearly deal with the code's scope, objectives and core rules: see RG 183.43 and additional details at RG 183.55–RG 183.62.	One of the additional criteria for code approval is that the code uses plain language and clearly sets out its objectives, scope and core rules: see Table 5 in Section C of draft RG 183.	The substance of this criterion remains unchanged. Our proposed changes seek to clarify the nature and content of this criterion.
Approval criteria: Exceeds or clarifies legal requirements	The guide states that an effective industry code is one that sets standards that elaborate on, exceed or clarify the law. A code that does not meet this requirement will not be considered a 'code' for ASIC approval purposes: see RG 183.22–RG 183.23.	One of the additional criteria for code approval is that the code sets standards that exceed or clarify existing legal requirements: see Table 5 in Section C of draft RG 183.	Our proposed changes seek to clarify the nature of the existing requirement in RG 183. This requirement is also consistent with paragraphs 1.41–1.42 of the Explanatory Memorandum to the <i>Financial Sector Reform (Hayne Royal Commission Response) Bill 2020</i> .

Subject matter	Guidance in existing RG 183 (2013 version)	Guidance in draft RG 183 (2025 version)	Reason for change
<p>Approval criteria: Independent review completed and incorporated</p>	<p>A key criterion for code approval is independent review of the code at intervals of no more than three years: see RG 183.12 and additional details at RG 183.82–RG 183.85.</p> <p>If an existing code not previously approved by ASIC has been operating for more than three years without an independent review, we will also require it to be independently reviewed before we will consider an application for approval: see RG 183.127.</p> <p>The guide outlines that the implementation of any recommendations arising from the independent review must be completed within a reasonable timeframe to maintain confidence in the process and for the code to retain ASIC approval: see RG 183.84.</p> <p>The guide also outlines that codes that are not effectively reviewed and amended will not last: see RG 183.140.</p>	<p>It is an additional criterion that, where a code submitted for approval has operated for more than five years:</p> <ul style="list-style-type: none"> an independent review of the previous code has been completed—this applies both to codes that update existing ASIC-approved codes and codes not previously approved by ASIC; and the code owner should have considered, and where appropriate incorporated, the findings and recommendations from any independent review undertaken of the previous code: see Table 5 in Section C and additional details at draft RG 183.97–RG 183.102. 	<p>Our proposed changes:</p> <ul style="list-style-type: none"> on updates to ASIC-approved codes—reflect the statutory requirements for independent review introduced by the <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i>; on codes not previously approved by ASIC—maintain the existing requirement in RG 183 for an independent review before we will consider an application for code approval, but amend the timeframe to five years to align with the statutory timeframe for review of ASIC-approved codes; and seek to clarify the nature and content of the existing requirement in RG 183 for effective independent review.
<p>Approval criteria: Does not reduce overall consumer benefits</p>	<p>Not applicable</p>	<p>It is an additional criterion that, where an applicant seeks approval of a code that updates an existing ASIC-approved code, the updated code should not result in an overall reduction in consumer benefits, or enforceability or accountability mechanisms: see Table 5 in Section C and additional details at draft RG 183.68–RG 183.69.</p>	<p>We propose to include this content to reflect ASIC’s general expectation that an updated code should not reduce overall consumer benefits.</p>

Subject matter	Guidance in existing RG 183 (2013 version)	Guidance in draft RG 183 (2025 version)	Reason for change
Approval criteria: Harmonisation	It is a statutory criterion for code approval that ASIC may only approve a code of conduct if we consider that it is appropriate to do so, given the desirability of codes being harmonised to the greatest extent possible: see RG 183.29 and RG 183.38–RG 183.41.	Not applicable	The <i>Financial Sector Reform (Hayne Royal Commission Response) Act 2020</i> removed the statutory requirement for ASIC to consider the desirability of codes being harmonised in determining whether to approve a code. The proposed amendment reflects this change.
The code approval process	Section F gives guidance on the process for obtaining and retaining ASIC approval of a code.	<p>Section D of draft RG 183 sets out an indicative five-stage process for obtaining and retaining code approval.</p> <p>Additional guidance on aspects of the process has been included, such as public consultation by ASIC, Office of Impact Analysis processes, submission of codes through the ASIC Regulatory Portal, and ASIC's use of legislative instruments to effect code approval and code revocation.</p>	<p>The proposed updates seek to:</p> <ul style="list-style-type: none"> • make the code approval process simpler for code applicants to understand; and • provide additional detail about aspects of the process to reflect current practices.
ASIC approval of a code under s962CA of the Corporations Act	The guide outlines our approach to approving codes under s962CA of the Corporations Act, primarily in Section E <i>Approving codes under s962CA</i> and the Appendix <i>'If not, why not' code content checklist</i> .	Not applicable	We propose to remove all content on s962CA from the guide, as s962CA and related provisions of the Corporations Act were repealed by the <i>Financial Sector Reform (Hayne Royal Commission Response No. 2) Act 2021</i> .