



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 178

Foreign collective investment schemes

Related instruments [CO 04/526] and [CO 98/55]

Chapter 5C—Managed investment schemes, Chapter 6D Fundraising, Chapter 7 Financial services and markets

Issued 31 May 2004

Editor's note: See also Information Sheet 93 *Practical guidance for operators of foreign collective investment schemes seeking to offer in Australia* (INFO 93).

From 5 July 2007, this document may be referred to as Regulatory Guide 178 (RG 178) or Policy Statement 178 (PS 178). Paragraphs in this document may be referred to by their regulatory guide number (e.g. RG 178.1) or their policy statement number (e.g. PS 178.1).

What this guide is about

RG 178.1 This guide sets out how we will exercise some of our general exemption and modification powers under the *Corporations Act 2001* (Corporations Act) for operators of foreign collective investment schemes (FCIS) who are authorised in other jurisdictions. We explain the relief we will give to:

- (a) FCIS operators who want to operate in Australia; and

- (b) responsible entities of Australian-registered managed investment schemes who want to invest scheme property in an unregistered FCIS.

Note: Foreign collective investment scheme (FCIS) is defined in Schedule 1 of this guide: see RG 178.101.

RG 178.2 This guide sets out:

A a summary of our policy

see RG 178.8–RG 178.9

B our general approach to relief

see RG 178.10–RG 178.39

C what relief is available

see RG 178.40–RG 178.84

D how to obtain relief

see RG 178.85–RG 178.100

RG 178.3 We have also included two Schedules:

- (a) Schedule 1 sets out ASIC’s interpretation of the Corporations Act as it applies to an FCIS (see RG 178.101); and
- (b) Schedule 2 sets out examples of questions about an FCIS operator’s home regulatory regime that an applicant should generally address (see RG 178.102).

RG 178.4 This guide replaces Superseded Policy Statement 65 *Foreign collective investment schemes* [SPS 65] and paragraph (b) of RG 136.34 and RG 136.52 of Regulatory Guide 136 *Managed investments: Discretionary powers and closely related schemes* (RG 136).

RG 178.5 Many collective investment schemes are ‘managed investment schemes’ under the Corporations Act. They are regulated by ASIC under Chs 5C and 7 of the Corporations Act, which require:

- (a) some managed investment schemes to be registered and to conform with certain structural and compliance requirements (‘registration requirements’);
- (b) responsible entities of registered schemes to be licensed (‘licensing requirements’); and
- (c) certain disclosures to be made to retail investors who invest in registered managed investment schemes (‘product disclosure requirements’).

Note 1: For a list of ASIC guides that set out how we administer the provisions governing registered managed investment schemes, see ‘Related information’.

Note 2: The term ‘managed investment schemes’ does not include corporations: see Schedule 1. This policy also deals with relief for corporations that are investment companies.

RG 178.6 This guide deals with applications for exemption only from:

- (a) a body corporate that is an FCIS;
- (b) an operator of a managed investment scheme that is an FCIS;
- (c) a responsible entity of a registered scheme considering investing in an FCIS; or
- (d) an industry association.

RG 178.7 If an overseas regulatory authority wishes to initiate an approval process for the purposes of exemption under this guide, it should contact us to express its interest in approval and discuss the appropriate process. In considering an application from an overseas regulatory authority, we may ask questions about the overseas regulatory regime as set out in Schedule 2: see RG 178.102.

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Important note: The contents of this guide are based on the law as at 31 May 2004. Examples in this guide are purely for illustration: they are not exhaustive and are not intended to impose or imply particular rules or requirements. This guide does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act applies to you.

A Summary of our policy

RG 178.8 We will only exempt an FCIS operator from certain requirements, or modify the application of Australian requirements as they apply to the FCIS, if the FCIS operator is authorised under a sufficiently equivalent regulatory regime in its home jurisdiction and satisfies certain other criteria: see RG 178.10. If a jurisdiction has been previously assessed as sufficiently equivalent, we will take this into account when assessing any future applications relating to that jurisdiction. We will also provide relief to Australian schemes investing in an FCIS where the FCIS is regulated in a foreign jurisdiction and satisfies certain criteria: see RG 178.11.

RG 178.9 Table 1 summarises our policy on FCISs operating in Australia for the three types of relief available (i.e. registration, licensing and product disclosure relief). Table 2 summarises our policy on Australian-registered schemes investing scheme property in an unregistered FCIS.

Table 1: An FCIS operating in Australia

Situation/activity	Summary of the law/our policy	Relevant relief power	Conditions of relief ¹
(a) Registration relief for an FCIS wishing to accept money from Australian retail investors			
Certain FCIS operators of particular kinds of schemes regulated in the USA and New Zealand (i.e. a specified form of authorisation from a jurisdiction listed in [SPS 65.47] and from which an FCIS is currently operating in Australia).	Operators from certain jurisdictions that have previously received relief are approved under this policy. For transition to this policy, we will institute deregistration under s601PB. Transitional exemptions will be provided until completion of the deregistration process.	s601QA	Standard conditions of relief apply: see RG 178.72–RG 178.79. Class order relief will apply (see Class Order [CO 04/0526]).

¹ In addition to the standard and specific conditions listed, we may set tailored conditions for a particular FCIS operator or FCIS, if the circumstances warrant it.

Situation/activity	Summary of the law/ our policy	Relevant relief power	Conditions of relief ¹
<p>Certain FCIS operators of particular kinds of schemes regulated in the UK, Hong Kong, Guernsey, Jersey and the Isle of Man (i.e. a jurisdiction listed in [SPS 65.47]) and from which no FCIS is currently operating in Australia.</p>	<p>The home regulatory regime for particular kinds of schemes as specified in [SPS 65.47] is considered equivalent at the date of this policy: see RG 178.15–RG 178.16.</p> <p>However, an FCIS operator must tell us if there is a significant change to the home regulatory regime after the issue of this policy.</p> <p>Registration relief will be given if the home regulatory regime remains sufficiently equivalent and other criteria in RG 178.10 are satisfied.</p>	s601QA	<p>Standard conditions of relief apply: see RG 178.72–RG 178.79.</p> <p>Class order relief will generally apply if relief is subject to the standard conditions of relief only.</p>
<p>An FCIS operator operates a managed investment scheme regulated by a jurisdiction that is sufficiently equivalent to the Australian regulatory regime and satisfies our other criteria in RG 178.10.</p>	<p>Relief granted from registration requirement.</p>	s601QA	<p>Standard conditions of relief apply: see RG 178.72–RG 178.79.</p> <p>Class order relief will generally apply if relief is subject to the standard conditions of relief only.</p>
<p>(b) Licensing relief for an FCIS wishing to accept money from Australian retail investors</p>			
<p>FCIS operator deals in financial products that are scheme assets on behalf of Australian investors.</p>	<p>Relief from s601ED (the requirement to register a scheme) will also qualify an FCIS operator for relief from AFS licensing requirement in respect of this activity: see RG 178.50–RG 178.55.</p>	s911A(2)(1)	<p>Standard conditions of relief apply: see RG 178.72–RG 178.79.</p> <p>Class order relief will generally apply if relief is subject to the standard conditions of relief only.</p>

Situation/activity	Summary of the law/ our policy	Relevant relief power	Conditions of relief ¹
FCIS operator deals in derivatives or foreign exchange contracts	Relief from s601ED (the requirement to register a scheme) will also qualify an FCIS operator for relief from AFS licensing requirement in respect of this activity: see RG 178.50–RG 178.55.	s911A(2)(1)	<p>Standard conditions of relief apply: see RG 178.72–RG 178.79.</p> <p>Certain restrictions on exempted dealings apply: see RG 178.59–RG 178.60.</p> <p>Class order relief will generally apply if relief is subject to the standard conditions of relief only.</p>
FCIS operator holds Australian investors' financial products on their behalf by providing a custodial or depository service	Relief from s601ED (the requirement to register a scheme) will also qualify an FCIS operator for relief from AFS licensing requirement in respect of this activity: see RG 178.50–RG 178.55.	s911A(2)(1)	<p>Standard conditions of relief apply: see RG 178.72–RG 178.79.</p> <p>Class order relief will generally apply if relief is subject to the standard conditions of relief only.</p>
(c) Product disclosure relief for an FCIS wishing to accept money from Australian retail investors			
<p>FCIS operator wishes to make offers to Australian investors on the basis of its foreign-regulated offer document, and it:</p> <p>(a) is subject to a sufficiently equivalent disclosure regulatory regime; and</p> <p>(b) meets the other criteria in RG 178.10.</p>	<p>If the home disclosure regulatory regime achieves sufficiently equivalent outcomes for Australian retail investors and the other criteria in RG 178.10 are met, there is relief from certain requirements governing preparation and giving of a product disclosure statement (PDS) or prospectus and ongoing disclosure to retail investors.</p>	<p>s1020F</p> <p>s741</p>	<p>Standard conditions of relief apply: see RG 178.72–RG 178.79.</p> <p>Specific conditions for product disclosure relief apply: see RG 178.80.</p> <p>Class order relief will generally apply if relief is subject to these conditions of relief only.</p>

Table 2: An Australian scheme investing in an FCIS

Situation/activity	Summary of the law/ our policy	Relevant relief power	Conditions of relief ²
Particular kinds of schemes currently specified in Class Order [CO 98/55]—that is, certain schemes from regulatory regimes in the USA, the UK, Hong Kong, New Zealand, Guernsey, the Isle of Man or Jersey.	Relief from s601FC(4) to permit responsible entities of registered schemes to invest in the FCIS if it is authorised as specified in Class Order [CO 98/55]: see RG 178.82–RG 178.84.	s601QA	Class order relief will continue indefinitely (see Class Order [CO 98/55], which has been amended by [CO 04/527]), provided there are no substantial changes to the regulatory regime.
An FCIS's regulatory regime is approved under this policy (i.e. the FCIS's regulatory regime is considered by ASIC to be sufficiently equivalent and other criteria in RG 178.10 are satisfied).	Relief from s601FC(4) to permit responsible entities of registered schemes to invest in the FCIS: see RG 178.82–RG 178.84.	s601QA	Relief to permit investments by including reference to an FCIS's regulatory regime in Class Order [CO 98/55].
Other situations	Relief will be given if ASIC determines that the relevant scheme's regulatory regime meets the criteria in RG 178.11.	s601QA	Relief to permit investments by including reference to the FCIS's regulatory regime in Class Order [CO 98/55].

² In addition to the standard and specific conditions listed, we may set tailored conditions for a particular FCIS operator or FCIS, if the circumstances warrant it.

B Our general approach to relief

Our policy

An FCIS operating in Australia

RG 178.10 If an FCIS wishes to operate a managed investment scheme in Australia or offer its securities, we will provide conditional relief from registration and licensing, and certain product disclosure requirements to the FCIS operator where:

- (a) its home regulatory regime is, and continues to be, sufficiently equivalent to the Australian regulatory regime for registered managed investment schemes or, for disclosure relief, its disclosure regulatory regime is sufficiently equivalent to the Australian disclosure regulatory regime: see RG 178.15–RG 178.26;
- (b) we have effective cooperation arrangements with the FCIS operator’s home regulator: see RG 178.27–RG 178.34; and
- (c) adequate rights and remedies are practically available to investors resident in Australia if the FCIS operator breaches the relevant provisions of its home regulatory regime or, for disclosure relief, its disclosure regulatory regime: see RG 178.35–RG 178.37.

Note 1: For details on how to obtain relief, see Section D. Class order relief may be available and, if so, no application for relief is required.

Note 2: For details of conditions of relief, see Section C.

An Australian scheme investing in an FCIS

RG 178.11 In certain cases, we will exempt a responsible entity from s601FC(4) to remove the restriction on it investing in an FCIS that is not a registered scheme. This will apply where the FCIS is regulated in a foreign jurisdiction, and:

- (a) our cooperation arrangements with the regulator in that foreign jurisdiction are adequate;
- (b) it has been demonstrated to us that regulation in that foreign jurisdiction substantially meets the *IOSCO Principles for the regulation of collective investment schemes* (IOSCO CIS Principles); and
- (c) except for schemes that are subject to a regulatory regime that ASIC has accepted under RG 178.10, the responsible entity

prepares and keeps for seven years, for each investment, a document signed by an officer of the responsible entity or agent explaining why the investment would comply with the responsible entity's duties, considering the regulation that applies to the FCIS and any other relevant matter.

Underlying principles

An FCIS operating in Australia

RG 178.12 Our approach in this policy to granting relief to an FCIS operator from the Corporations Act provisions is guided by Regulatory Guide 54 *Principles for cross border financial services regulation* (RG 54) and the *IOSCO Objectives and Principles of Securities Regulation* (IOSCO Objectives and Principles).

RG 178.13 We have derived our outcomes-based test for being 'sufficiently equivalent' from Principle 1 of RG 54. In doing so, we consider equivalence largely from the point of view of:

- (a) the protection of investors resident in Australia;
- (b) the integrity of Australian markets; and
- (c) the reduction of systemic risk in the Australian financial system.

An Australian scheme investing in an FCIS

RG 178.14 Our approach in this policy to granting relief to a responsible entity investing in an FCIS is guided by both the IOSCO Objectives and Principles, and the IOSCO CIS Principles.

Explanations

An FCIS operating in Australia

Home regulatory regime is sufficiently equivalent

RG 178.15 Relief under this policy may mean that the integrity of Australian markets and the protection of investors resident in Australia depends on an overseas regulatory regime. To ensure that there are no regulatory or enforcement gaps, it is important that the relevant overseas regulatory regime delivers regulatory outcomes sufficiently equivalent to our own regulatory regime.

RG 178.16 The following criteria will be used to assess equivalence. Regulation by an overseas regulatory regime responsible for an FCIS is sufficiently equivalent to regulation by ASIC if that overseas regulatory regime:

- (a) is clear, transparent and certain (see RG 178.17–RG 178.18);
- (b) is consistent with the IOSCO Objectives and Principles and the IOSCO CIS Principles (see RG 178.19–RG 178.20);
- (c) is adequately enforced in the home jurisdiction (see RG 178.21–RG 178.23); and
- (d) achieves the investor protection and market integrity outcomes that the Australian regulatory regime seeks to achieve for registered managed investment schemes: (see RG 178.24–RG 178.26).

Clear, transparent and certain

RG 178.17 The equivalence test means that we will assess the outcomes of the overseas regulatory regime against those of our regime. This includes testing whether the overseas regime is:

- (a) a ‘clear’ regulatory regime—that is, one that is easily understood;
- (b) a ‘transparent’ regulatory regime—where the rules, policies and practices are readily available to and known by all relevant people; and
- (c) a ‘certain’ regulatory regime—that is, one that is consistently applied and is not subject to indiscriminate application or changes.

Note: See Principle 7 of RG 54.

RG 178.18 To facilitate our assessment of an overseas regulatory regime we may require either:

- (a) an English translation of any relevant parts of the regulatory regime; and/or
- (b) independent verification of the relevant details of the regulatory regime.

Note: The applicant will be required to meet the cost of such verifications.

Consistent with the IOSCO CIS Principles and the IOSCO Objectives and Principles

RG 178.19 The Australian regulatory regime is substantially compliant with the IOSCO CIS Principles and the IOSCO Objectives

and Principles. Adherence with these two sets of IOSCO Principles would, at least at a high level, indicate equivalence.

Note: See Principle 8 of RG 54.

RG 178.20 To be considered sufficiently equivalent, an overseas regulatory regime must be consistent with the IOSCO CIS Principles and the IOSCO Objectives and Principles, and the home regulator must:

- (a) assess its regulatory regime against those objectives and principles; and
- (b) reasonably determine that its regulatory regime is broadly compliant with those objectives and principles.

Adequately enforced

RG 178.21 A regulatory regime is adequately enforced if the regulator:

- (a) has sufficient powers of investigation and enforcement;
- (b) has sufficient resources to use those powers;
- (c) uses those powers and resources consistently to promote compliance with its regulatory regime; and
- (d) operates within a legal system that is independent and has a well-founded reputation for integrity.

RG 178.22 We will assess the adequacy of an overseas regulatory regime's enforcement capability with reference to:

- (a) the international reputation of the regulatory regime;
- (b) any IOSCO assessments of the regulatory regime, including any self-assessments or assessments by other IOSCO members; and
- (c) any generally available assessments of the regulatory regime by international financial institutions or other international organisations, such as the International Monetary Fund and World Bank *Financial Sector Assessment Program* reports.

RG 178.23 It is unlikely that an overseas regulatory regime that is infrequently or inconsistently enforced will provide sufficiently equivalent regulatory outcomes to the Australian regulatory regime. An inadequately enforced regulatory regime will not reliably maintain market integrity or protect investors.

Note: See Principle 9 of RG 54.

Achieving investor protection and market integrity outcomes

RG 178.24 Whatever its regulatory mechanisms, a sufficiently equivalent regulatory regime must achieve regulatory *outcomes* that are assessed as sufficiently equivalent to our regulatory regime. We will assess whether these outcomes are sufficiently equivalent from the perspective of Australian investors, Australian markets and the Australian financial system.

RG 178.25 In assessing equivalence, we will consider the particular regulatory outcomes achieved by the Australian regime concerning:

- (a) the registration of managed investment schemes and licensing of responsible entities when registration and licensing relief are sought; and
- (b) the fundraising or financial product disclosure provisions when disclosure relief is sought.

RG 178.26 The outcomes achieved by the Australian regime through scheme registration and licensing are set out at RG 178.48–RG 178.49. The outcomes achieved through our regulation of product disclosure are set out at RG 178.71.

Effective cooperation arrangements

RG 178.27 We will only grant an exemption to an FCIS operator under this policy if we are satisfied that there are effective cooperation arrangements between the home regulator and ASIC.

RG 178.28 Effective cooperation arrangements will usually be in the form of a memorandum of understanding (MOU) or some other documented understanding, although these arrangements may also be established more informally.

RG 178.29 Effective cooperation arrangements will provide for:

- (a) prompt sharing of information by the home regulator; and
- (b) effective cooperation on:
 - (i) supervision and investigation; and
 - (ii) enforcement.

RG 178.30 We will also rely on effective cooperation arrangements with the home regulator to help us monitor:

- (a) significant changes to the overseas regulatory regime; and
- (b) enforcement or other disciplinary activity against an FCIS operating in Australia with the benefit of an exemption under this policy.

Note: Under this policy we will also impose conditions on the FCIS operator to ensure that they notify us of significant changes to their home regulatory regime and of any enforcement or disciplinary action against them: see para (b) of RG 178.74.

RG 178.31 Effective cooperation arrangements help us to be confident that the home regulator will, if we ask, take appropriate action to protect investors resident in Australia, maintain the integrity of Australian markets for financial services and financial products, and reduce systemic risk in the Australian financial system.

RG 178.32 We consider that, particularly in the supervision of FCIS operators, effective cooperation arrangements with the home regulator will mean that we have direct and continuing access to the relevant officers of that authority, to enable prompt exchange of information and effective cooperation.

RG 178.33 Generally, effective cooperation arrangements will not be possible unless the home regulator has power under its regulatory regime to cooperate with us in these ways.

RG 178.34 We also consider that if an overseas regulatory authority is a signatory to the *IOSCO Multilateral MOU Concerning Consultation and Cooperation and the Exchange of Information*, this is an indication that effective cooperation arrangements are in place.

Investor access to rights and remedies

RG 178.35 We consider that investors acquiring interests in an FCIS in Australia should have practical access to rights and remedies that are equivalent to the rights and remedies available to investors in comparable Australian managed investment schemes or bodies corporate. In assessing this, we will consider whether the investor is retail or wholesale.

Note: See Principle 5 of RG 54.

RG 178.36 Under the Corporations Act, retail investors in registered schemes have access to non-judicial remedies. Under s912A(2), retail investors have access to internal and external dispute resolution processes.

RG 178.37 In some instances, an FCIS operator's home regulatory regime will not give investors in Australia practical access to rights and remedies equivalent to those available in comparable Australian managed investment schemes or bodies corporate. In these circumstances, we will require the FCIS operator to comply with a modified version of those parts of the Australian regime that relate to

remedies. For example, in these circumstances, we may require FCIS operators to join an Australian approved external dispute resolution scheme: see RG 178.70.

An Australian scheme investing in an FCIS

RG 178.38 Under s601FC(4), a responsible entity of a managed investment scheme is not permitted to invest in another managed investment scheme unless it is a registered scheme. In certain cases we will exempt a responsible entity from s601FC(4) if:

- (a) the regulator of the FCIS in the foreign jurisdiction satisfies our test on cooperation arrangements;
- (b) the regulation in the foreign jurisdiction substantially meets the IOSCO CIS Principles; and
- (c) the responsible entity keeps adequate investment records.

RG 178.39 We are prepared to permit registered schemes to invest in an FCIS without applying a rigorous equivalency test in certain circumstances. We will take into account that:

- (a) retail investors in registered schemes are directly protected by the compliance by the registered scheme with the Corporations Act and by our regulatory role for registered schemes; and
- (b) the responsible entity, as a wholesale client, is more easily able than a retail client to assess whether it is appropriate to invest in the FCIS and to assert its rights.

C What relief is available?

Our policy

An FCIS operating in Australia

RG 178.40 For an FCIS wishing to operate in Australia, we may give three types of relief (see Table 3):

- (a) registration relief (see RG 178.44–RG 178.49);
- (b) licensing relief (see RG 178.50–RG 178.64); and
- (c) product disclosure relief (see RG 178.65–RG 178.67).

Table 3: Types of relief available to an FCIS operating in Australia

Type of relief	Nature of relief	Conditions of relief
Registration relief	Relief from the requirement under s601ED for an FCIS to be registered in Australia	Standard conditions of relief for all FCIS operators: see RG 178.72–RG 178.79. Tailored conditions may be imposed, as appropriate, for particular FCIS operators: see RG 178.81.
Licensing relief	Relief from the requirement under s911A(1) for an FCIS operator to hold an AFS licence in respect of certain activities	Standard conditions of relief for all FCIS operators: see RG 178.72–RG 178.79. Tailored conditions may be imposed, as appropriate, for particular FCIS operators: see RG 178.81.
Product disclosure relief	Relief from the requirement for disclosure under Pt 7.9 or Ch 6D of the Corporations Act	Standard conditions of relief for all FCIS operators: see RG 178.72–RG 178.79. Specific conditions for product disclosure relief: see RG 178.80. Tailored conditions may be imposed, as appropriate, for particular FCIS operators: see RG 178.81.

An Australian scheme investing in an FCIS

RG 178.41 Table 4 describes the way in which relief for responsible entities from s601FC(4) may apply in various situations.

Table 4: Types of relief available to an Australian scheme investing in an FCIS

Situation	Relief available
Investment in an FCIS currently covered by Class Order [CO 98/55] (i.e. certain types of schemes regulated by regulatory authorities in the USA, UK, Hong Kong, New Zealand, Guernsey, Isle of Man and Jersey, which are approved jurisdictions in [SPS 65]).	We will continue to provide relief from s601FC(4) under Class Order [CO 98/55]. Relief will continue after the commencement of this policy as long as we consider that there are no changes that mean the criteria in RG 178.11 are no longer satisfied.
Investment in an FCIS whose operator is from a jurisdiction that has been assessed under this policy, and which meets the criteria in RG 178.10.	We will amend Class Order [CO 98/55] as appropriate to grant relief from s601FC(4).
Others	Registered schemes or operators of an FCIS or their industry associations may approach us for relief, which will be considered on a jurisdiction-by-jurisdiction basis. The applicant will need to demonstrate that the home regulatory regime substantially complies with the IOSCO CIS Principles and the IOSCO Objectives and Principles. ASIC will also need to be satisfied, from its own inquiries, that there are effective cooperation arrangements. If we are satisfied that the conditions in RG 178.11 are met, we may amend Class Order [CO 98/55] to grant relief from s601FC(4).

Underlying principles

An FCIS operating in Australia

RG 178.42 We will assess whether an FCIS's regulatory regime is sufficiently equivalent to Australia's regulatory regime for managed investments. We will assess separately whether an overseas disclosure regulatory regime is sufficiently equivalent to Australia's disclosure regulatory regime.

An Australian scheme investing in a foreign FCIS

RG 178.43 Our approach to relief is guided by the fact that retail investors in registered schemes are protected under the Corporations Act and by our regulation of registered schemes.

Explanations

An FCIS operating in Australia

Registration relief

RG 178.44 Under s601QA, we have the power to exempt a person from the provisions of Ch 5C of the Corporations Act. We can therefore exempt an FCIS operator from the statutory requirement for registration of a managed investment scheme under s601ED.

RG 178.45 Relief from s601ED will give an FCIS operator an exemption from the obligations to comply with Ch 5C of the Corporations Act and the associated requirements for registered schemes operating in Australia. For example:

- (a) the provisions relating to the register of members in Ch 2C; and
- (b) the financial reporting requirements in Ch 2M.

RG 178.46 Where a managed investment scheme is not registered because of registration relief, the provisions for periodic reports (s1017D) and cooling off (Div 5 of Pt 7.9) will not apply. This is appropriate where product disclosure relief is also provided under this policy. Where it is not, we will require compliance with s1017D and Div 5 of Pt 7.9 as if the FCIS were a registered scheme.

When will we give registration relief?

RG 178.47 We will provide relief from s601ED when the criteria in RG 178.10 are met. In particular, we will grant relief from s601ED if the home regulatory regime of the FCIS delivers regulatory outcomes sufficiently equivalent to the Australian regulatory regime for registered schemes, including the licensing of responsible entities: see Section B, 'Our general approach to relief'. If we no longer consider that an FCIS operator's home regulatory regime is sufficiently equivalent to the Australian regime we will generally revoke the FCIS operator's relief. We will endeavour to notify an FCIS operator before removing the benefit of relief on this basis.

Regulatory outcomes for registration relief

RG 178.48 When assessing the FCIS operator's home regulatory regime for the purposes of giving relief from s601ED, we will measure equivalence against the following regulatory outcomes. The home regulatory regime must promote the following outcomes:

- (a) scheme operators and promoters, and their representatives, act efficiently, honestly and fairly;
- (b) scheme operators and promoters, and their representatives, act with due care and skill, and in the best interests of investors;
- (c) scheme operators and their representatives are competent;
- (d) scheme operators have sufficient financial and other resources to operate the scheme;
- (e) investors can understand the nature of their interests in the scheme and their legal rights; and
- (f) client assets are protected from the risk of loss and insolvency of the operator of the scheme.

RG 178.49 These outcomes reflect the underlying aims of the managed investments regime and responsible entity licensing regime in the Corporations Act (including the dealing and custodial aspects of Pt 7.6) other than for product disclosure: see the Explanatory Memorandum to the Managed Investments Bill 1997.

Licensing relief

RG 178.50 Under Australian law, if a managed investment scheme is registered, its operator must be licensed to operate a registered scheme under Pt 7.6 of the Corporations Act. If the scheme is not registered, the operator may still require an Australian financial services (AFS) licence to operate a custodial or depository service. In the course of operating a managed investment scheme, whether or not it is registered, the operator may also require an AFS licence to:

- (a) deal in the interests in the scheme;
- (b) deal in any financial products that they deal in on behalf of members of the scheme (i.e. the scheme assets); or
- (c) provide financial product advice about interests in the scheme.

RG 178.51 A foreign investment company may require an AFS licence to issue its securities or to provide financial product advice about its securities.

RG 178.52 An FCIS operator may be eligible for exemptions under the Corporations Act and regulations for the following activities:

- (a) marketing interests in the FCIS to investors through a licensed Australian intermediary (see s911A(2)(b));
- (b) giving general advice to retail investors by means of a PDS (see s766B(1A) and 766B(9));
- (c) giving advice to investors by means of certain advertisements (see s911A(2)(k) and reg 7.6.01(1)(o)); and
- (d) providing financial services to wholesale clients where the FCIS operator is regulated by an ASIC-approved overseas regulator for that service: see Regulatory Guide 176 *Licensing: Discretionary powers—wholesale foreign financial services providers* (RG 176) and ‘Related information’.

When will we give licensing relief?

RG 178.53 If the FCIS operator has relief from the s601ED registration requirement, we will use our exemption power in s911A(2)(l) to grant relief to an FCIS operator from the requirement to hold an AFS licence for the following activities:

- (a) dealing in financial products that are scheme assets on behalf of its investors other than by issuing financial products;
- (b) dealing in derivatives or foreign exchange contracts for the purpose of managing a financial risk to the FCIS that arises in the course of its operation if dealings in derivatives or foreign exchange contracts with clients in Australia is not a significant part of the FCIS operator’s business; and
- (c) holding scheme assets that are financial products or beneficial interests in financial products (i.e. providing a custodial or depository service).

RG 178.54 We will use our exemption power in s911A(2)(l) to give relief to an FCIS operator from the requirement to hold an AFS licence in order to provide general advice about interests in the FCIS in an offer document that must be supplied, in place of a PDS or a prospectus, under our relief for product disclosure: see RG 178.65–RG 178.71. We will treat the offer document as if it were an exempt document (e.g. a PDS).

RG 178.55 For other activities, an FCIS operator must be licensed under the AFS licensing regime, unless a legislative exemption applies: see RG 178.52.

Dealing, and custodial and depository services

RG 178.56 In managing scheme assets that are financial products on behalf of investors in Australia, FCIS operators may become subject to the requirement to hold an AFS licence authorising them to deal in a financial product, or provide a custodial or depository service, even if those assets are not located in Australia: see s911D, 766A(1) and 766C.

RG 178.57 Before we register a managed investment scheme we license the responsible entity to operate the scheme. The licensing regime aims to promote appropriate dealings in and custody of scheme assets, including assets that are financial products. When assessing whether the FCIS operator's home regulatory regime is sufficiently equivalent for the purposes of registration relief, we will take into account whether the FCIS's home regulatory regime for dealing and custody achieves the outcomes we identify in RG 178.48. This is because dealing in and custody of scheme assets are integral to the operation of a managed investment scheme.

RG 178.58 If the FCIS operator's home regulatory regime is sufficiently equivalent for the purposes of registration relief, then generally we will also give the FCIS operator licensing relief from the requirement to hold an AFS licence to:

- (a) provide a financial service to the investors by dealing in financial products; or
- (b) hold financial products or beneficial interests in financial products on trust for or on behalf of investors.

Note: We will not give the FCIS operator relief from the obligation to hold an AFS licence to issue interests in the FCIS: see para (b) of RG 178.62.

Issuing derivatives and foreign exchange contracts

RG 178.59 Regulation 7.6.01(1)(m) provides that a person does not need an AFS licence for dealings in derivatives or foreign exchange contracts for the purpose of managing risks arising from the ordinary course of a business, where the person does not deal in derivatives or foreign exchange contracts as a significant part of their business. However, this exemption only applies to people who act on their own behalf. In general, if a person is acting on behalf of another, a licence may be needed to protect the interests of those for whom the person acts.

RG 178.60 We will give the same exemption from the need for an AFS licence as applies under reg 7.6.01(1)(m) to the operators of an FCIS who have been given registration relief. However, unlike in

reg 7.6.01(1)(m) we will allow the dealing to be entered into on behalf of others. This is because we only give an FCIS operator registration and AFS licensing relief if we are satisfied that the home regulatory regime sufficiently protects the FCIS's investors in any event.

General advice in foreign offer documents

RG 178.61 An exemption under this policy may allow an FCIS operator to use a substitute offer document regulated under its home regulatory regime, rather than a PDS or, for foreign investment companies, a prospectus: see RG 178.65–RG 178.67. If a substitute offer document is given because of an exemption under this policy, we will treat that document as if it were an exempt document under s766B. As a result, no AFS license is needed for the giving of the document if it only contains general advice.

Other financial services will require an AFS licence

RG 178.62 If the FCIS operator wishes to provide any financial services not covered by a legislative exemption or by the limited specific relief described above, the FCIS operator must have an AFS licence to offer its financial services in Australia. Examples of activities that will require a licence are:

- (a) the provision of financial product advice (other than general advice in an offer document provided in accordance with our relief relating to interests in the FCIS); and
- (b) the issue of interests in the FCIS by the FCIS operator to investors other than under an intermediary authorisation under s911A(2)(b).

RG 178.63 Although we recognise that FCIS operators will often be subject to another regulatory regime for such financial services, we consider that an AFS licence is required for such financial services in Australia.

RG 178.64 For financial services to wholesale clients that are regulated overseas by an ASIC-approved regulatory authority, see RG 176.

Product disclosure relief

RG 178.65 We can give exemptions from, or modify, the operation of Pt 7.9 of the Corporations Act, which governs product disclosure to retail investors, and Ch 6D of the Corporations Act, which governs disclosure about corporate fundraising: see s1020F and 741. We offer broad relief from Pt 7.9 and Ch 6D if the FCIS operator prepares its

offer document for retail investors under a sufficiently equivalent regulatory regime.

When will we give relief?

RG 178.66 We will give product disclosure relief if we are satisfied that the criteria in RG 178.10 are met. In particular, we will grant product disclosure relief if the regulatory regime governing the FCIS offer document achieves sufficiently equivalent outcomes for Australian retail investors as under Pt 7.9 or Ch 6D of the Corporations Act: see RG 178.71. If we consider that the disclosure regulatory regime in an FCIS operator's home jurisdiction is no longer sufficiently equivalent, we will generally revoke the FCIS operator's relief. We will endeavour to notify an FCIS operator before removing the benefit of relief on this basis.

What relief will we give?

RG 178.67 The disclosure relief under this policy is from Pt 7.9 or Ch 6D and generally includes the product disclosure statement and prospectus requirements, and the requirement for ongoing product disclosure. However, to ensure investors have practical access to the same legal rights and remedies as for an Australian managed investment scheme, we will not give relief from certain legislative provisions in Pt 7.9, and will apply them as if the relevant offer document were a PDS. These provisions are:

- (a) s1018A (advertising); and
- (b) s1020E (ASIC's power to issue a stop order).

Where we give relief from Ch 6D for a foreign investment company, we will include conditions to this effect.

Advertising

RG 178.68 We consider that the restrictions on advertising in s1018A will not affect advertising of FCIS products outside Australia, if the advertising does not target persons in Australia. Consistently with Regulatory Guide 141 *Offers of securities on the internet* (RG 141) (which applies to financial products generally: see 'Related information'), we consider that an offer document or advertisement is targeting persons in Australia if it:

- (a) is published, distributed or made available in ways or locations that are calculated to draw it to the attention of people in Australia;

- (b) contains material that is specifically relevant to people in Australia; or
- (c) relates to an offer made in Australia by any other means, unless it relates to an advertisement in a foreign publication that has incidental circulation in Australia.

Stop orders

RG 178.69 The provisions of our stop order power are preserved so that we can enforce Australian laws. However, the provisions in Pt 6D.3 and Div 7 of Pt 7.9 of the Corporations Act, dealing with matters such as civil remedies and criminal penalties, will not apply. This is because, if we give relief, it implies that the FCIS operator's home regulatory regime should provide an equivalent means of enforcement.

Internal and external dispute resolution

RG 178.70 In order to protect Australian retail investors, we require FCIS operators to have adequate internal and external dispute resolution systems to serve the needs of Australian retail investors. FCIS operators can satisfy the external dispute resolution requirement in either of the following two ways. They can either:

- (a) join an ASIC-approved Australian external dispute resolution scheme (EDRS); or
- (b) be a member of a foreign EDRS that, from the point of view of Australian investors, offers equivalent access and redress to an ASIC-approved Australian EDRS ("an equivalent foreign EDRS"). In particular, we consider that an equivalent foreign EDRS must:
 - (i) be easily accessible to investors from Australia (e.g. offers internet access or call centre availability during Australian business hours);
 - (ii) be able to communicate with investors in English;
 - (iii) be no more costly to access than an ASIC-approved Australian EDRS ; and
 - (iv) have jurisdiction (e.g. in terms of eligible complaints and monetary claims limits) and powers that are comparable to the appropriate ASIC-approved Australian EDRS: see RG 165: Licensing: internal and external dispute resolution.

If the FCIS operator joins an Australian EDRS, we will not give relief from s1017G (internal and external dispute resolution), and will apply

that section as if the relevant offer document were a PDS. If the FCIS operator is a member of an acceptable foreign EDRS, we will give relief from s1017G.

Regulatory outcomes for product disclosure relief

RG 178.71 In assessing the FCIS operator's home regulatory regime for the purpose of giving relief from Pt 7.9 or Ch 6D of the Corporations Act, we consider that the home regulatory regime must:

- (a) promote confident and informed decision making by investors about the suitability of a financial product for them; and
- (b) ensure that investors are given all the information they reasonably require to make a decision about whether to buy, sell or hold the relevant financial product.

Note: See para 4.16 of RG 54.

Standard conditions of relief for registration, licensing and product disclosure

RG 178.72 The standard conditions will be imposed on all FCIS operators that have relief under this policy. These standard conditions are intended to:

- (a) provide enough information for us to assess whether the FCIS operator is complying with the conditions of its authorisation and other aspects of the home regulatory regime and to take appropriate action to remove relief from an FCIS operator when there is material non-compliance with the home regulatory regime;
- (b) help investors resident in Australia to enforce their legal rights; and
- (c) help us enforce the law and our conditions of relief, both under our own powers and in cooperation with the FCIS operator's home regulator.

RG 178.73 These standard conditions fall into two categories:

- (a) standard regulatory conditions; and
- (b) standard investor protection conditions.

Standard regulatory conditions

RG 178.74 We will apply the following regulatory conditions to any relief granted under this policy.

- (a) Relief will continue only while the relevant conduct of the FCIS operator is authorised under its home regulatory regime.

Note: For our interpretation of 'authorised': see RG 178.77.

- (b) The FCIS operator must tell us about any:
- (i) significant changes to the authorisation granted by the home regulator relevant to the operation of the FCIS, including any exemptions granted to the FCIS operator under its home regulatory regime;
 - (ii) significant changes to the home regulatory regime relevant to the operation of the FCIS under any ASIC exemption; and
 - (iii) disciplinary or enforcement action against the FCIS operator in a foreign jurisdiction.

Note: For our interpretation of 'significant change': see RG 178.76.

- (c) The FCIS operator must register as a foreign company under Part 5B.2 of the Corporations Act (and appoint a local agent under s601CF).

Note: If the FCIS operator is not registrable as a foreign company under Pt 5B.2 of the Corporations Act, we will need to impose tailored conditions to ensure Australian investors are adequately protected.

- (d) The FCIS operator must submit to the non-exclusive jurisdiction of the Australian courts in regard to any matter concerning the FCIS.
- (e) The FCIS operator must comply with any direction of an Australian court.
- (f) The FCIS operator must give written consent and take all other practicable steps to enable its home regulator to disclose to ASIC, and ASIC to disclose to its home regulator, any information or document that they have that relates to the FCIS operator.
- (g) The FCIS operator must promptly give ASIC each annual financial statement of each FCIS operated under the exemption when the financial statement is published, together with any associated audit and other reports.

What do we mean by 'authorised'?

RG 178.75 We consider an FCIS operator to be authorised to operate an FCIS if it:

- (a) may lawfully operate the FCIS in its home jurisdiction because of any licence, approval, authorisation or registration by its home regulator;
- (b) is subject to continuing regulatory oversight of how it operates the FCIS by its home regulator; and
- (c) is positively authorised to operate an FCIS and is not merely permitted to operate an FCIS because it is exempt under its home regulatory regime from requiring a licence or other regulatory permission to operate the FCIS.

RG 178.76 If an FCIS loses authorisation to operate as a collective investment scheme in the home jurisdiction, relief under this policy will no longer apply.

What do we mean by 'significant change'?

RG 178.77 A condition of our relief is that we require notification of significant changes relevant to the services the FCIS operator provides in Australia that may affect whether the FCIS continues to be regulated primarily by a sufficiently equivalent regulatory regime. A change is significant if it could affect our previous assessment that the home regulatory regime is sufficiently equivalent to the Australian regime. If we consider a regime to be no longer sufficiently equivalent, we may remove the relief.

Standard investor protection conditions

RG 178.78 We will impose the following investor protection conditions:

- (a) The FCIS operator must maintain in Australia, at a place disclosed to investors resident in Australia, a register of investors resident in Australia and their contact details.
- (b) The FCIS operator must not:
 - (i) principally target investors resident in Australia in offering interests in its managed investment scheme, or, for a foreign investment company, its securities; or
 - (ii) source more than 30% of the value of investments in the scheme or company from investors resident in Australia.

Note: See RG 178.79.

- (c) The FCIS operator must have adequate internal complaints resolution procedures and be a member of either an Australian EDRS or an acceptable foreign EDRS.

Note: An acceptable foreign EDRS is an EDRS that meets the criteria in RG 178.70. If the FCIS operator is a member of an acceptable foreign EDRS, we will give relief from s1017G.

- (d) The FCIS operator must show prominently in any disclosure document or Product Disclosure Statement (PDS) given to any Australian **retail** investors:
- (i) that the FCIS and its operator are regulated by the laws of a foreign jurisdiction, and that those laws differ from Australian laws;
 - (ii) that the rights and remedies available to Australian investors who acquire interests in the FCIS may differ from those of Australian investors acquiring interests in Australian managed investment schemes;
 - (iii) a brief description of the rights and remedies available to Australian investors under the foreign regulatory scheme and how these rights and remedies can be accessed;
 - (iv) the nature of any special risks associated with cross-border investing, such as risks arising from foreign taxation requirements, foreign currency or time differences; and
 - (v) the nature and consequences of significant differences in the regulatory regime.

Note: If an FCIS operator obtains specific relief from the product disclosure requirements, additional disclosures are required under the specific conditions for that relief (see subparagraph (d) of RG 178.80).

- (e) The FCIS operator must provide written disclosure containing prominent statements to the effect of paragraph (d)(i) to all **wholesale** members of the scheme resident in Australia before they become a member.
- (f) The FCIS operator must make available on request, to investors resident in Australia, any publicly available information about the FCIS that has been produced by, or on behalf of, the FCIS operator that relates to the FCIS, which is not otherwise available in Australia. The information must be provided in English and at no greater charge than applies in the home jurisdiction.

Targeting Australian investors

RG 178.79 We restrict the relief to FCISs that are not principally targeted at investors resident in Australia because it would be unreasonably burdensome for these schemes to operate in accordance with the Australian regulatory regime. We recognise that an operator

may occasionally create a class of interests in a scheme to be marketed to investors in Australia. This will not necessarily mean that the FCIS operator's schemes are principally targeting Australian investors.

Further conditions for product disclosure relief

RG 178.80 Relief from Pt 7.9 (*Financial product disclosure and other provisions relating to issue, sale and purchase of financial products*) and Ch 6D (*Fundraising*) of the Corporations Act will be subject to the standard conditions in RG 178.72–RG 178.79, and to the following further conditions:

- (a) The FCIS operator must give an offer document in circumstances where it would have an obligation to give a PDS under s1012B and 1012C or a disclosure document under s706, 707, and 708 of the Corporations Act.
- (b) The FCIS operator must:
 - (i) notify ASIC that the offer document is in use within five business days after a copy of the offer document is first given under paragraph (a);
 - (ii) keep a copy of the offer document for seven years after it is first given under paragraph (a); and
 - (iii) make a copy of the offer document available to ASIC if we ask for it within that seven-year period.
- (c) The FCIS operator must ensure that the offer document complies with the requirements of the FCIS operator's product disclosure regulatory regime.
- (d) The FCIS operator must ensure that the offer document prominently discloses:
 - (i) information about the FCIS operator's internal dispute resolution system, covering complaints by investors and how that system may be accessed;
 - (ii) information about the EDRS that the FCIS operator has joined, and how that scheme may be accessed;
 - (iii) general information about any significant Australian taxation implications of interests of the kind offered; and
 - (iv) information about whether a cooling-off regime applies for acquisitions of interests in the FCIS scheme (and whether the regime is provided for by law or otherwise).

Note: In addition to these disclosures, the offer document must also prominently display the disclosures required under our standard conditions on relief: see subparagraph (d) of RG 178.78.

Tailored conditions

RG 178.81 We may tailor the conditions of relief in particular circumstances. For example:

- (a) we may impose tailored conditions that are appropriate to a type of scheme; or
- (b) if a foreign regulatory regime falls marginally short of certain Australian requirements, we may still grant relief but impose tailored conditions on the FCIS operator.

However, we will not attempt to impose, by a broad set of conditions, a regime of regulation to supplement any significant limitations in a foreign regulatory regime.

An Australian scheme investing in an FCIS

RG 178.82 Under s601FC(4) a responsible entity must not invest, or keep scheme property invested in, a managed investment scheme that is not a registered scheme. This applies whether the managed investment scheme in which the investment is made is required to be registered or not. We have given relief from s601FC(4) to permit investments in a number of circumstances: see Class Order [CO 98/55]. For example, investments of up to 10% of the net value of scheme assets may be invested in addition to any other exemption.

RG 178.83 We will continue to provide relief to permit investment in schemes regulated under the overseas regulatory regimes approved under our former policy [SPS 65]. Under this policy we will also consider applications to allow investments in FCISs from additional overseas regulatory regimes. We will assess whether the FCIS operator's home regulatory regime substantially complies with the IOSCO CIS Principles: see RG 178.11.

RG 178.84 As an AFS licensee, the responsible entity of the Australian registered scheme has a duty to act in the best interests of members and to give priority to the interests of members. This will be relevant where any conflicts of interest arise in considering an investment in an FCIS, where the responsible entity is, or is an associate of, the FCIS operator.

D How to obtain relief

Our policy

An FCIS operating in Australia

RG 178.85 The relief process varies depending on the type of FCIS operator seeking relief. The different processes are set out in Table 5.

Table 5: How to obtain relief

Category	How to obtain relief
<p>Certain FCIS operators from jurisdictions that were previously given relief under [SPS 65] and from which an FCIS is operating in Australia.</p> <p>Note : At the time of this guide, only FCIS operators from the USA and New Zealand are operating under [SPS 65].</p>	<p>The home regulatory regime is considered equivalent for:</p> <ul style="list-style-type: none"> (a) FCIS operators currently operating in Australia under [SPS 65] (automatic relief granted under new policy); and (b) new FCIS operators from these jurisdictions applying under this policy that have the authorisations set out in Class Order [CO 04/526]. <p>Accordingly, FCIS operators from these jurisdictions have automatic relief for registration and licensing under Class Order [CO 04/526]. They must still provide the documents required by the class order: see RG 178.86.</p> <p>If FCIS operators seek product disclosure relief, they must demonstrate that their home regulatory regime is sufficiently equivalent to Australia's disclosure regulatory regime.</p>
<p>FCIS operators from jurisdictions that were previously given relief under [SPS 65] but from which no FCIS is currently operating in Australia.</p> <p>Note: At the time of this guide, the jurisdictions listed in [SPS 65.47] that do not have an FCIS operating in Australia are Hong Kong, United Kingdom, Guernsey, Isle of Man and Jersey.</p>	<p>At the time of this policy, the home regulatory regime is considered equivalent for the purposes of this policy, based on the previous assessment.</p> <p>If an FCIS operator from one of the [SPS 65]-approved regulatory regimes asks for registration and licensing relief under this policy, it must:</p> <ul style="list-style-type: none"> (a) provide us with information only about significant changes to the home regulatory regime since the issue of this policy; and (b) provide us with the documents required if class order relief is given: see RG 178.86. <p>If FCIS operators seek product disclosure relief, they must demonstrate that their home regulatory regime is sufficiently equivalent to Australia's disclosure regulatory regime.</p>

Category	How to obtain relief
FCIS operators from jurisdictions previously assessed under RG 178 in relation to the type of relief sought—FCIS operating in Australia.	<p>When a regulatory regime has been assessed as meeting the criteria in RG 178.10, the regulatory regime will be identified in the class order [CO 04/0526].</p> <p>We will review the class order if there have been significant changes since our assessment that render a regime no longer sufficiently equivalent.</p>
Jurisdictions previously assessed under this policy—FCIS no longer operating in Australia.	<p>The regulatory regime will not be assumed to satisfy the criteria in RG 178.10.</p> <p>The applicant will have to make an application that complies with RG 178.88–RG 178.89. However, when assessing that application we will take into account any previous assessment of equivalence we made of the relevant jurisdiction under this policy.</p>
Others	The applicant will have to make an application that complies with RG 178.88–RG 178.89.

Where a class order applies

RG 178.86 To rely on a class order that provides relief from registration, licensing or product disclosure, an FCIS operator must give ASIC certain documents, including:

- (a) evidence of the FCIS operator’s authorisation (e.g. written confirmation from the home regulator that the scheme is authorised to operate in that jurisdiction);

Note: We may be willing to rely on a publicly available register maintained by the home regulator in lieu of written confirmation.

- (b) a deed of the FCIS operator, for the benefit of and enforceable by ASIC, the other persons referred to in s659B(1) of the Act, and any investor in the FCIS resident in Australia, that provides that:
- (i) the deed is irrevocable, except with the prior written consent of ASIC;
- (ii) the FCIS operator submits to the non-exclusive jurisdiction of the Australian courts in legal proceedings conducted by ASIC (including under s50 of the *Australian Securities and Investments Commission Act 2001*) or any investor in the FCIS resident in Australia and, in relation to proceedings relating to a financial services law, by any person referred to in s659B(1) of the Corporations Act;

- (iii) the FCIS operator agrees to comply with any order of an Australian court on any matter concerning the provision of the financial services; and
 - (iv) the FCIS operator agrees that, on written request of either its home regulator or ASIC, it will give written consent and take all other practicable steps to enable its home regulator to disclose to ASIC, and ASIC to disclose to its home regulator, any information or document that they have concerning the FCIS operator;
- (c) written consents to the disclosure by the FCIS operator's home regulator to ASIC, and ASIC to the home regulator, of any information or document they have concerning the FCIS operator (the consents must be in such form (if any) as ASIC specifies in writing);
- (d) the most recent financial statements of any FCIS proposed to be operated in Australia, any audit report, and any subsequent public disclosures by that FCIS about its financial position or compliance with the home regulatory regime or product disclosure regulatory regime;
- (e) a copy of the most recent offer document relating to the FCIS;
- (f) a copy of the constitution or other governing rules of the FCIS;
- (g) a description of how the FCIS operator will plan for, monitor and assess its compliance with the conditions of any relief and any Australian laws to which it will be subject;
- (h) a description of its intended financial services activities in Australia; and
- (i) information about the interests in the FCIS that it intends to issue in Australia and how it plans to seek members in Australia.

RG 178.87 We may exclude the relief from applying to an FCIS operator if we consider that the objectives of this policy are not satisfied at any time, whether on the basis of the information provided under RG 178.86, because information that we request is not provided, or otherwise. The relief will automatically lapse if there is a material non-compliance with any condition and the operator is or should be aware of the non-compliance, unless we notify the operator that the relief continues (on conditions or otherwise).

Where no class order applies

RG 178.88 To apply for registration and licensing relief or product disclosure relief where there is no class order, a person seeking relief

should check whether there are any effective cooperation arrangements between ASIC and its home regulatory authority. In general, if such an arrangement exists, the applicant should provide documentation demonstrating that because of regulation in their home jurisdiction, they are entitled to the relief under this policy: see Table S2A of Schedule 2. Where product disclosure relief is sought, applicants should also address the matters in Table S2B of Schedule 2.

However, applicants for relief from jurisdictions given relief under [SPS 65] will be given special standing and may not have to address all matters in Schedule 2: see RG 178.98–RG 178.100. Applicants from these jurisdictions are asked to contact Applications, Legal and Technical Operations, Financial Services Regulation before lodging their application.

RG 178.89 At the time of application, the applicant should also provide ASIC with all the information that would be required if a class order had been made relating to the FCIS operator's home regulatory regime: see RG 178.86.

Notifying your overseas regulatory authority

RG 178.90 We will ask the applicant for consent to allow us to notify its home regulator of any information we have, including the fact of their application or reliance on a class order. In notifying the FCIS operator's relevant overseas regulatory authority, we may for example:

- (a) inform them about the content of the application; and
- (b) ask them questions about the applicant.

An Australian scheme investing in an FCIS

Where no class order exists

RG 178.91 If an applicant wants to apply for relief under s601FC(4), they will have to provide us with sufficient information to demonstrate they meet the criteria in RG 178.11.

How to apply for relief

RG 178.92 All information and documents provided in an application or under a class order must be in English. If they are not in English, a certified translation must be provided if required by ASIC. We may ask for an independent expert's verification of information

provided about the home regulatory regime, to be provided at the applicant's cost.

How to apply for relief

- Contact ASIC's **Office of International Relations** to see if we have effective cooperation arrangements with your home regulator.
- Lodge your application in writing addressed to **The Manager—Applications, Legal & Technical Operations, Financial Services Regulation**.
- Make sure your application includes *all* the information in RG 178.88–RG 178.91.
- Make sure your application complies with Regulatory Guide 51 *Applications for relief* (RG 51).
- Include the prescribed fee with your application.

You can also contact the ASIC Infoline on 1300 300 630 for information and assistance.

Verification

RG 178.93 We will require an officer of the applicant, with the capacity to bind it, to:

- (a) declare that they have taken reasonable steps to ensure that, to the best of their knowledge, the information supplied in and with the application is complete and accurate; and
- (b) acknowledge that we may take action to verify that the statements and certifications made in the application are not false or misleading.

Timing

RG 178.94 The time it will take us to decide whether to grant relief will depend on the complexity of the application and the difficulty of assessing the equivalence of the overseas regulatory regime to the Australian regime.

RG 178.95 For an application for relief by an FCIS operator, an industry association or an Australian-registered scheme investing in an unregistered FCIS (i.e. where a class order does not apply), we will aim to process applications within 16 weeks of receiving all the information and documents required.

RG 178.96 It may take us longer to deal with an application if:

- (a) the application is particularly complex;
- (b) we negotiate cooperation arrangements with the home regulator;
- (c) we experience delays in obtaining the information we require from the applicant, the overseas regulator or the independent overseas expert; or
- (d) we are waiting for a response to a request for clarification.

Underlying principles

RG 178.97 Our intention is that the application process will enable us to:

- (a) promptly assess whether the applicant qualifies for the relief sought, as set out under this policy; and
- (b) facilitate the entry of foreign products and services to Australia.

Explanation

An FCIS operating in Australia

FCIS operators assessed under [SPS 65]

Registration and licensing relief

RG 178.98 To facilitate transition between [SPS 65] and this policy, we will give special standing to the regulatory regimes listed in [SPS 65.47]. We believe that at this time, the regulatory regimes that apply to the FCISs specified in [SPS 65.47] meet our criteria in RG 178.10 for registration and licensing relief. We will continue to recognise a regulatory regime that we have previously assessed to be sufficiently equivalent under [SPS 65.47] unless:

- (a) significant changes have occurred since we assessed the regulatory regime that render it no longer sufficiently equivalent; or
- (b) we do not have current information about the regulatory regime (e.g. because no FCIS from that jurisdiction is currently operating in Australia).

Applicants from these jurisdictions may not have to address all matters in Table S2A of Schedule 2. They will have to provide us with

information only on significant changes to the home regulatory regime since the issue of this policy.

RG 178.99 For jurisdictions listed in [SPS 65.47] with FCISs currently operating in Australia (i.e. New Zealand and the USA), we will allow FCIS operators to transfer to a new class order giving registration and licensing relief without having to establish that the jurisdiction is sufficiently equivalent under this policy: see Class Order [CO 04/0526].

Product disclosure relief

RG 178.100 When reviewing jurisdictions under [SPS 65] we did not focus on the disclosure regulatory regime because [SPS 65] offered only procedural relief from the Australian disclosure regulatory regime. However, when assessing applications for product disclosure relief from jurisdictions listed in [SPS 65.47] we will take into account our previous experience and knowledge of the regulatory regimes in these jurisdictions. Therefore, applicants from these jurisdictions may not have to address all matters in Table S2B of Schedule 2 and are asked to contact Applications, Legal & Technical Operations, Financial Services Regulation before lodging their application.

Schedule 1: What is an FCIS?

RG 178.101 The table in this Schedule sets out ASIC's interpretation of the Corporations Act as it applies to an FCIS, in particular:

- (a) What is an FCIS?
- (b) What is a managed investment scheme?
- (c) When must a managed investment scheme be registered?
- (d) What is the position of a 'corporate-based' FCIS?

An explanation follows the table.

Table S1: Our interpretation of the Corporations Act as it applies to an FCIS

Question	Our interpretation
What is an FCIS?	<p>We will consider a scheme to be a foreign collective investment scheme (FCIS) for the purpose of this policy if:</p> <ul style="list-style-type: none"> (a) it meets the definition of a managed investment scheme in s9 of the Corporations Act or is a foreign investment company; and (b) the operator is incorporated or is a foreign company that is formed in a foreign jurisdiction and is regulated in that jurisdiction for the operation of the scheme or company. <p>Note: The reference to a scheme covers all forms of collective investment schemes, regardless of how they are structured. For instance, a non-corporate-based mutual fund or undertaking for collective investments in transferable securities (UCITS) may be an FCIS.</p>
What is a managed investment scheme?	<p>A managed investment scheme is defined in the Corporations Act as having certain specific features:</p> <ul style="list-style-type: none"> (a) people contribute monetary consideration to acquire interests in the scheme (such interests can be prospective or contingent and may be enforceable or not); (b) any of the contributions are pooled or used in a common enterprise, for the benefit of members holding interests in the scheme; and (c) the members do not have day-to-day control over the scheme's operation. <p>Time-sharing schemes are also managed investment schemes under the Corporations Act. There are a number of exceptions to this definition: see s9.</p>

Question	Our interpretation
When must a managed investment scheme be registered?	<p>Generally, a managed investment scheme that has members as a result of offers in Australia must be registered under Ch 5C of the Corporations Act if it:</p> <ul style="list-style-type: none"> (a) has more than 20 members; (b) has been promoted by a person (or associate) in the business of promoting managed investment schemes; or (c) is related to any other schemes and the total number of members of the combined schemes exceeds 20. <p>Members in foreign jurisdictions count towards the total of 20 members. However, a scheme is not required to be registered if no issues have required a PDS under s601ED(2). An issue to a person outside Australia does not require a PDS.</p>
What is the position of a 'corporate-based' FCIS?	<p>The definition of managed investment scheme in s9 excludes bodies corporate (other than a body corporate that operates as a time-sharing scheme). Therefore, an FCIS based on a company structure (e.g. a foreign investment company) will not need to apply for relief from registration under Ch 5C of the Corporations Act. However, such an investment company will generally need an AFS licence to issue its securities (see s766C) and will require a prospectus under Ch 6D to offer its securities to investors in Australia. This policy provides for relief from Ch 6D in some circumstances.</p>

Explanation

1 We regulate managed investment schemes (as collective investment schemes are known in Australia) under the Corporations Act.

2 Our role in regulating managed investment schemes includes:

- (a) licensing scheme operators (known as 'responsible entities');
- (b) registering schemes;
- (c) conducting surveillance activities;
- (d) taking enforcement action;
- (e) granting relief from the law;
- (f) issuing policy guidance for industry;
- (g) providing information to investors and assessing their complaints; and
- (h) providing a register for scheme documentation.

3 We have issued a series of guides that set out how we administer the Corporations Act provisions governing the operation of managed investment schemes in Australia.

Note: These guides are collected in the *ASIC Managed Investments Handbook*. For details of how to subscribe to this handbook, go to 'Publications' on our website (www.asic.gov.au).

4 The Corporations Act provisions governing licensing as an Australian financial services provider are also relevant to financial services provided by managed investment schemes operating in Australia; so are a number of guides issued in association with the Financial Services Reform (FSR) regime, which commenced on 11 March 2002.

5 Our powers in these matters include broad powers to make exemption and modification orders: see, for example, s601QA, 911A(2)(h), 911A(2)(l), 992B and 1020F.

Schedule 2: Questions about an FCIS operator's home regulatory regime

RG 178.102 This Schedule sets out examples of questions about an applicant's home regulatory regime that an application for registration, licensing and product disclosure relief should generally address. Table S2A lists questions about an FCIS operator's home regulatory regime, while Table S2B focuses on questions about the product disclosure regulatory regime. The questions cover:

- (a) licensing and registration requirements;
- (b) conduct and disclosure requirements;
- (c) extraterritorial operation of the home regulatory regime;
- (d) rights and remedies available to foreign investors under local laws; and
- (e) how the home regulatory regime is enforced.

Generally, we anticipate that answers will be no longer than one to two paragraphs for each question. However, some questions will require more detailed answers than others. The answers must be supported by relevant extracts from the laws of the home jurisdiction.

Note 1: To facilitate our assessment of an overseas regulatory regime we may require either an English translation of any relevant parts of the regulatory regime, or independent verification of the relevant details of the regulatory regime.

Note 2: Extracts may be provided by hyperlink.

Table S2A: Questions about an FCIS operator's home regulatory regime

Subject area	Questions to address
Constitution and structure	<p>1 What are the requirements (if any) in your home regulatory regime as to the legal form and structure of an FCIS?</p> <p>2 Are there any requirements about the number of members of:</p> <ul style="list-style-type: none"> (a) the operator's board, (b) the governing body, or (c) any person or group of persons responsible for monitoring compliance by the operator of the FCIS <p>that need to be independent of the management of the operator? Are there any requirements about the independence of any person with a professional or business relationship with the operator, including its advisers, underwriter or custodian? If yes, what are the requirements and what are the special</p>

Subject area	Questions to address
	<p>rights or duties (if any) of these independent members?</p> <p>3 Is the operator of an FCIS required to report to the home regulator about material changes to its management, constitution or structure?</p>
Registration or licensing	<p>1 What form of licence or registration (if any) does an FCIS require to operate in your jurisdiction?</p> <p>2 What are the eligibility standards/criteria against which proposed operators of collective investment schemes in your jurisdiction are assessed?</p> <p>3 Where are the relevant requirements or criteria set out? Which regulator(s) are responsible for ensuring compliance with the licensing or registration requirements?</p> <p>4 To what extent are each of the following relevant to determining whether an operator is eligible to operate an FCIS in your jurisdiction:</p> <ul style="list-style-type: none"> (a) honesty and integrity of the persons involved in management of the operator; (b) ability to carry out the functions and duties of a scheme operator (e.g. appropriate staff and resources); (c) financial capacity and insurance arrangements; (d) internal management procedures; and (e) capacity to carry out specific powers and duties of an operator? <p>5 Describe any other criteria that are considered by the home regulator in assessing whether an operator is eligible to operate an FCIS in your jurisdiction.</p> <p>6 In assessing the eligibility of an operator to operate an FCIS, to what extent are each of the following matters considered in the appointment of key officers or employees of the operator:</p> <ul style="list-style-type: none"> (a) previous education and experience; (b) continuing education; and (c) fitness?
Supervision by home regulator	<p>1 What monitoring do the home regulator or other persons undertake concerning the conduct of an FCIS operator during the life of a scheme, including compliance with licensing and registration requirements (e.g. inspections or external audits, monitoring by independent trustees, compliance committees or independent boards of directors)?</p> <p>2 What are the powers of the home regulator to investigate suspected breaches by FCIS operators?</p> <p>3 What are the powers (statutory or otherwise) of the home regulator to take</p>

Subject area	Questions to address
	<p>action in the event of a breach or default by an FCIS operator or FCIS?</p> <p>4 What sanctions may be imposed on FCIS operators, FCISs, or people responsible for monitoring the FCIS (e.g. auditors or trustees), for any non-compliance with the home regulatory regime?</p>
Agents and representatives	<p>1 To what extent are the agents or representatives of an FCIS operator required to comply with regulatory requirements applying to the operator? What exceptions are allowed?</p> <p>2 Are the agents or representatives jointly liable with the operator for anything they are authorised to do on behalf of the FCIS operator? If not, how does the home regulator ensure agents and representatives are conducting themselves in a proper manner and in accordance with the regulatory requirements?</p>
Members' rights	<p>1 What safeguards (if any) apply to address the risk that sufficient liquidity may not be available to meet withdrawal commitments?</p> <p>2 What requirements (if any) govern entry and exit fees (i.e. fees when purchasing or disposing of interests in the FCIS)? Must they be disclosed in the offer document?</p> <p>3 If and when changes to investors' rights are to occur without their prior approval, what are the requirements (if any) before they take effect?</p>
Valuation and pricing	<p>1 What requirements (if any) apply to the valuation of FCIS assets and the pricing (for entry and exit) of interests in an FCIS?</p> <p>2 Who is responsible for valuation and pricing, and how often must this be done? To what extent do auditors check these matters?</p> <p>3 What are the requirements (if any) for pricing controls (e.g. reconciliations and audits) to identify any errors, omissions or misplacement of assets?</p>
Internal management	<p>1 What measures (if any) exist to restrict conduct that involves a conflict of interest between the FCIS and its operator (and its associates), for:</p> <ul style="list-style-type: none"> (a) principal transactions between the FCIS and the operator or their associates; (b) transactions in which the FCIS and operator or its associates jointly participate; (c) receipt of monetary and non-monetary benefits by the operator or its associates; (d) lending and borrowing to or from the operator or its associates; (e) purchase of securities or other investment products from the operator or its associates;

Subject area	Questions to address
	<p>(f) use of the operator or its associates as brokers;</p> <p>(g) employees of the operator or its associates transacting on their own accounts; and</p> <p>(h) other related party transactions?</p> <p>2 What are the requirements (if any) to disclose FCIS transactions with the operator or its associates (e.g. to the home regulator)?</p> <p>3 What are the requirements (if any) for the separation of FCIS assets from the assets of the operator or its associates (if the operator is not the FCIS) and other schemes? Who is responsible for ensuring compliance with these requirements?</p> <p>4 What are the requirements (if any) for safekeeping or custody of FCIS assets (e.g. appointment of an independent custodian)? What measures (if any) are taken to protect FCIS assets from loss?</p> <p>5 What are the eligibility requirements (if any) for the entity holding FCIS assets (e.g. competence, service agreements and financial capacity)?</p>
Books and records	<p>1 What are the requirements (if any) for keeping books and records on transactions involving FCIS assets and transactions involving interests (units or shares) in the FCIS itself?</p> <p>2 What are the requirements (if any) for maintaining a register of holders of interests (units or shares) in the FCIS?</p> <p>3 What are the (internal or external) audit requirements (if any) for the financial position and financial performance of the FCIS?</p> <p>4 What are the requirements (if any) for auditors to report to the home regulator if they have reasonable grounds to suspect a contravention has occurred?</p> <p>5 What are the requirements (if any) to ensure the competence and independence of auditors of the FCIS?</p> <p>6 What are the requirements (if any) for the accounts of an FCIS that are provided to the home regulator or investors to be prepared in accordance with relevant accounting standards? Which accounting standards apply?</p>
Reporting requirements	<p>1 What are the requirements (if any) for a report to be published on the FCIS's activities on a periodic basis? Who does the report have to be given to (e.g. the home regulator or investors)?</p> <p>2 What are the requirements (if any) for the timing of reports referred to in question 1 (e.g. within a set period after the end of an accounting period)?</p>
Extraterritorial operation	<p>1 To what extent do the home regulatory requirements governing the operator of an FCIS apply to their conduct overseas (e.g. in Australia)?</p>

Subject area	Questions to address
	<ol style="list-style-type: none"> 2 To what extent is the home regulator able to investigate and (if necessary) take action for a breach of the regulatory requirements where the relevant incident occurs overseas (e.g. in Australia)?
Rights and remedies available to Australian investors	<ol style="list-style-type: none"> 1 What internal and/or external dispute resolution arrangements will Australian investors in the FCIS have access to? 2 How will this access be provided (e.g. direct contact with FCIS operator, through a local agent, through an EDRS)? 3 Are the rights and remedies available to Australian investors different from those available to investors from the FCIS's home jurisdiction, and, if so, how?

Table S2B: Questions about an FCIS operator's product disclosure regulatory regime

Subject area	Questions to address
Constitution and structure	<ol style="list-style-type: none"> 1 What are the requirements (if any) to disclose the legal form and structure of the FCIS to investors?
Supervision by home regulator	<ol style="list-style-type: none"> 1 What monitoring do the home regulator or other persons undertake in relation to disclosure by an FCIS operator? 2 What are the powers of the home regulator to investigate suspected breaches by FCIS operators? 3 What are the powers of the home regulator to take action (statutory or otherwise) in the event of a breach or default by an FCIS operator? 4 Does the home regulator have the power to stop or suspend the offering of interests in an FCIS if the disclosure document is non-compliant? 5 What sanctions may be imposed on FCIS operators, FCISs, or people responsible for ongoing monitoring of the FCIS (e.g. auditors or trustees), for any non-compliance with the product disclosure regulatory regime?
Members' rights	<ol style="list-style-type: none"> 1 What are the requirements (if any) that the rights of the investors in an FCIS must be clearly disclosed? 2 Are there any cooling off rights in any circumstance?

Subject area	Questions to address
Offer documents	<ol style="list-style-type: none"> 1 When an offer of interests in an FCIS is made, is there a requirement that an offer document (e.g. prospectus) be given to a prospective investor? For which clients or in what circumstances does it apply? 2 What are the requirements (if any) for the FCIS offer document to include all material information that investors would reasonably require and expect for them to make an informed investment decision? 3 What are the requirements (if any) for the format and clarity of the FCIS offer document? 4 If any other documents (e.g. brochures or advertising material) are permitted in marketing the FCIS, what requirements apply to these other documents? 5 What are the requirements (if any) that the FCIS offer document be kept up to date? 6 What powers and sanctions are available (if any) where an offer document is inaccurate, misleading or false, or does not satisfy the disclosure requirements?
Reporting requirements	<ol style="list-style-type: none"> 1 What are the requirements (if any) for confirmations of investments or a periodic report on the member's holdings in the FCIS to be published? Who does the confirmation or report have to be given to (e.g. the home regulator or investors)? 2 What are the requirements (if any) for the timing of confirmations or reports referred to in question 1 (e.g. within a set period after the end of an accounting period)? 3 What are the requirements (if any) for continuous disclosure to investors of significant events (e.g. restructuring, suspension of dealings, termination of the FCIS, changes of fees)?
Extraterritorial operation	<ol style="list-style-type: none"> 1 To what extent does the disclosure regulatory regime governing the operator of an FCIS apply to their conduct overseas (e.g. in Australia)? 2 To what extent is the home regulator able to investigate and (if necessary) take action for a breach of the disclosure regulatory regime where the relevant incident occurred overseas (e.g. in Australia)?

Key terms

RG 178.103 In this guide, terms have the following meaning.

AFS licence An Australian financial services licence under s913B that authorises a person who carries on a financial services business to provide financial services.

ASIC The Australian Securities and Investments Commission.

ASIC Act The *Australian Securities and Investments Commission Act 2001*.

associate Has the meaning given in s10–17 of the Corporations Act.

CIS A collective investment scheme.

[CO 98/55] (for example) An ASIC class order (in this example numbered 98/55).

Corporations Act The *Corporations Act 2001*, including regulations made for the purposes of that Act.

disclosure regulatory regime The rules that apply to pre-issue and ongoing disclosure, and cooling-off periods for interests in a managed investment scheme or securities, including any applicable legislation, instruments made under that legislation and any relevant policies or other documents (however described) issued by the home regulator applying to disclosure relating to the scheme.

EDRS An external dispute resolution scheme.

equivalence test The criteria set out in RG 178.15 by which we will assess the equivalence of an FCIS operator's home regulatory regime to the Australian regulatory regime.

FCIS or foreign collective investment scheme A foreign collective investment scheme as described in Schedule 1 of this guide.

FCIS operator The person who operates the FCIS or, for an FCIS that is a corporation, the corporation.

financial services law Has the meaning given in section 761A of the Corporations Act.

foreign investment company A body corporate incorporated outside Australia that carries on a financial services business in Australia by issuing its securities.

home jurisdiction The jurisdiction from which the FCIS operator originates and in which it is regulated.

home regulator The relevant regulator of the FCIS operator in the home jurisdiction.

home regulatory regime The regulatory regime in the scheme's home jurisdiction.

IOSCO The International Organization of Securities Commissions.

IOSCO Objectives and Principles The *Objectives and Principles of Securities Regulation*, originally adopted by IOSCO in September 1998.

IOSCO CIS Principles The IOSCO Report on Investment Management, *Principles for the Regulation of Collective Investment Schemes and Explanatory Memoranda*, originally adopted by IOSCO in October 1994, and as amended from time to time.

Multilateral MOU IOSCO Multilateral MOU Concerning Consultation and Cooperation and the Exchange of Information dated May 2002.

PDS or product disclosure statement A document that must be given to a retail investor with the offer or issue of a financial product in accordance with the PDS requirements.

PDS requirements The requirements set out in Div 2 of Pt 7.9 of the Corporations Act and related regulations.

Principles for cross border financial services regulation The principles set out in RG 54.

reg 7.6.01 (for example) A regulation of the *Corporations Regulations 2001* (in this example numbered 7.6.01).

registered scheme A registered managed investment scheme as defined in s9 of the Corporations Act.

regulatory regime A scheme's regulatory regime or a disclosure regulatory regime.

responsible entity The company named in ASIC's record of the scheme's registration as the responsible entity or temporary responsible entity of a registered scheme.

Note: This definition is contained in s9.

retail investor A retail client as defined in s761G of the Corporations Act.

RG 65 (for example) An ASIC regulatory guide (in this example numbered 65)

s601ED (for example) A section of the Corporations Act (in this example numbered 601ED).

scheme's regulatory regime The rules that apply to the operation of a scheme including any applicable legislation, instruments made under that legislation and any relevant policies or other documents (however described) issued by the home regulator applying to the operation of the scheme.

wholesale investor A wholesale client as defined in s761G of the Corporations Act.

Related information

RG 178.104

Headnotes

foreign collective investment schemes, collective investment schemes, managed investment schemes, unregistered schemes

Class orders

[CO 04/0526] *Foreign collective investment schemes operating in Australia*

[CO 98/55] *Investments in unregistered schemes*

[CO 04/0527] *Investments in unregistered schemes, which amends Class Order [CO 98/55]*

Policy statements

Superseded Policy Statement 65 *Foreign collective investment schemes* [SPS 65]

Regulatory guides

RG 36 *Licensing: Financial product advice and dealing*

RG 38 *The hawking prohibitions*

RG 54 *Principles for cross border financial services regulation*

RG 130 *Managed investments: Licensing*

RG 131 *Managed investments: Financial requirements*

RG 132 *Managed investments: Compliance plans*

RG 133 *Managed investments: Scheme property arrangements*

RG 134 *Managed investments: Constitutions*

RG 136 *Managed investments: Discretionary powers and closely related schemes*

RG 141 *Offers of securities on the internet*

RG 146 *Licensing: Training of financial product advisers*

RG 164 *Licensing: Organisational capacities*

RG 165 *Licensing: Internal and external dispute resolution*

RG 166 *Licensing: Financial requirements*

RG 167 Licensing: Discretionary powers and transition

RG 168 Disclosure: Product Disclosure Statements (and other disclosure obligations)

RG 169 Disclosure: Discretionary powers and transition

RG 175 Licensing: Financial product advisers—conduct and disclosure

RG 176 Licensing: Discretionary powers—wholesale foreign financial services providers

Legislation

Corporations Act Ch 5C, s601ED, 601FC, 601QA, 766A, 766B, 766C, 766E.

Consultation papers and reports

CP 26 Licensing and disclosure: Making the transition to the FSR regime

CP 37 Foreign collective investment schemes

Information releases

[IR 03/40] Foreign collective investment schemes—interim relief extended