

EXPOSURE DRAFT



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Corporations Amendment (Asia Region Funds Passport) Regulations 2018

(Minister/Maker)

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1 Name

This instrument is the *Corporations Amendment (Asia Region Funds Passport) Regulations 2018*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Schedules 1 and 2	The later of: (a) the day after this instrument is registered; and (b) the day on which Schedule 1 to the <i>Corporations Amendment (Asia Region Funds Passport) Act 2018</i> commences. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following:

- (a) the *ASIC Supervisory Cost Recovery Levy Act 2017*;
- (b) the *Australian Securities and Investments Commission Act 2001*;
- (c) the *Corporations Act 2001*;
- (d) the *Corporations (Fees) Act 2001*;
- (e) the *Corporations (Review Fees) Act 2003*;
- (f) the *National Consumer Credit Protection Act 2009*;
- (g) the *Tax Agent Services Act 2009*.

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4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Amendments to the Corporations Regulations 2001 **Schedule 1**

Schedule 1—Amendments to the Corporations Regulations 2001

Corporations Regulations 2001

1 Subregulation 1.0.02(1)

Insert:

APFRN: see *Australian Passport Fund Registration Number*.

Australian Passport Fund Registration Number or *APFRN* has the same meaning as in Chapter 8A of the Act.

2 Subregulation 1.0.02(1) (after paragraph (g) of the definition of *income stream financial product*)

Insert:

(ga) a foreign passport fund product;

3 Subregulation 1.0.02(1) (paragraph (b) of the definition of *investment-based financial product*)

Omit “paragraph 764A(1)(ba)”, substitute “paragraph 764A(1)(ba), (bb)”.

4 Subregulation 1.0.02(1)

Insert:

NFPFRN: see *Notified Foreign Passport Fund Registration Number*.

Notified Foreign Passport Fund Registration Number or *NFPFRN*, for a notified foreign passport fund, is the unique registration code allocated to the fund by the home regulator for the fund.

5 Subregulation 1.0.02(1) (definition of *simple managed investment scheme*)

Omit “registered management investment scheme”, substitute “registered scheme (other than a passport fund)”.

6 Subregulation 1.0.02(1) (sub-subparagraph (a)(ii)(C) of the definition of *warrant*)

Omit “Act; and”, substitute “Act; or”.

7 Subregulation 1.0.02(1) (after sub-subparagraph (a)(ii)(C) of the definition of *warrant*)

Insert:

(D) it is a legal or equitable right or interest mentioned in subparagraph 764A(1)(bb)(ii) of the Act; and

8 Regulation 1.0.03A (at the end of the table)

Add:

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Schedule 1 Amendments to the Corporations Regulations 2001

- 20 A copy of the whole or a specified part of the register of members of a notified foreign passport fund Subsection 1213P(4)

9 After subparagraph 1.0.07(f)(i)

Insert:

- (ia) in the case of a managed investment scheme that is a notified foreign passport fund—the NFPFRN for the fund and any other unique number for the fund allocated to the fund by ASIC; and

10 At the end of regulation 1.0.07

Add:

- Note: In addition to the requirements in paragraph (f), if a managed investment scheme is also an Australian passport fund, all documents relating to the fund lodged with ASIC must also include the scheme's APFRN: see section 1212B of the Act.

11 Regulation 1.0.08

Before “A document lodged under subsection 319(1) of the Act”, insert “(1)”.

12 At the end of regulation 1.0.08

Add:

- (2) A document lodged by a notified foreign passport fund under subsection 319(1AA) of the Act for a financial year must be accompanied by the approved form setting out the following information:
- (a) the NFPFRN for the fund and any other unique number for the fund allocated to the fund by ASIC;
 - (b) the dates on which the financial year to which the document relates begins and ends;
 - (c) the name of the operator of the fund and the name of the fund;
 - (d) a statement of certification in accordance with regulation 1.0.16.

13 Regulation 1.0.16

Before “A document relating to a corporation”, insert “(1)”.

14 Regulation 1.0.16

Omit “managed investment scheme”, substitute “registered scheme”.

15 At the end of regulation 1.0.16

Add:

- (2) Subregulation (1) does not apply to a document relating to a notified foreign passport fund.
- (3) A document relating to a notified foreign passport fund that is to be certified or verified must be certified or verified in the approved form and signed by:
- (a) a director or secretary of the operator of the fund; or
 - (b) the local agent for the operator of the fund; or
 - (c) if the local agent is a company—a director or secretary of that company.

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Amendments to the Corporations Regulations 2001 **Schedule 1**

16 Regulation 2N.2.01

Repeal the regulation, substitute:

2N.2.01 Particulars ASIC may require in an extract of particulars (Act s 346B)

Particulars for a company

- (1) For the purposes of section 346B of the Act, the following particulars are prescribed for a company:
 - (a) ACN;
 - (b) name;
 - (c) address of registered office;
 - (d) address of principal place of business in this jurisdiction;
 - (e) for each director and company secretary:
 - (i) the person's name; and
 - (ii) the person's usual residential address, or, if the person is entitled to have an alternative address under subsection 205D(2) of the Act, that alternative address; and
 - (iii) the person's date and place of birth;
 - (f) the date of appointment or cessation of each director, secretary or alternate director;
 - (g) for issued shares—the classes into which the shares are divided, and for each class of share issued:
 - (i) the number of shares in the class; and
 - (ii) the total amount paid up for the class; and
 - (iii) the total amount unpaid for the class;
 - (h) for a proprietary company—the names and addresses of:
 - (i) if the company has 20 or fewer members—all members; or
 - (ii) if the company has more than 20 members—the top 20 members in each class;
 - (i) for a proprietary company that has a share capital:
 - (i) the total number of shares in each class held by each of the members mentioned in paragraph (h); and
 - (ii) whether or not the shares are fully paid; and
 - (iii) whether or not the shares are beneficially owned;
 - (j) for the ultimate holding company—its name and either:
 - (i) its ACN or ARBN if registered in this jurisdiction; or
 - (ii) the place at which it was incorporated or formed if not registered in this jurisdiction.

Particulars for a registered scheme

- (2) For the purposes of section 346B of the Act, the following particulars are prescribed for a registered scheme:
 - (a) ARSN;
 - (b) name;
 - (c) name and ACN of the responsible entity;
 - (d) if the scheme is a managed investment scheme that is a unit trust:

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- (i) issued interests in the scheme; and
 - (ii) the classes into which the interests are divided; and
 - (iii) for each class of interest issued—the number of interests in the class, the total amount paid up for the class and the total amount unpaid for the class;
- (e) if the scheme is a managed investment scheme that is not a unit trust:
- (i) issued interests in the scheme; and
 - (ii) a description of the nature of the interests (for example, interest in a limited partnership, right to participate in a timesharing scheme); and
 - (iii) the number of the interests; and
 - (iv) the total amount paid for the interests; and
 - (v) the total amount unpaid for the interests.

Additional particulars for an Australian passport fund

- (3) For the purposes of section 346B of the Act, the following particulars are prescribed for a registered scheme that is an Australian passport fund, in addition to the particulars prescribed for the scheme under subregulation (2):
- (a) the APFRN for the fund;
 - (b) a statement that the fund is an Australian passport fund;
 - (c) if the fund has had a name in a participating economy (including Australia) that is different from its current name in Australia, then for each name that the fund has had in a participating economy:
 - (i) that name; and
 - (ii) the name of each participating economy in which the fund has had that name; and
 - (iii) for each such economy—the start date and (if applicable) the end date of each period during which the fund has had that name in that economy;
 - (d) the review date for the fund.

Particulars for a notified foreign passport fund

- (4) For the purposes of section 346B of the Act, the following particulars are prescribed for a notified foreign passport fund:
- (a) the NFPFRN for the fund and any other unique number for the fund allocated to the fund by ASIC;
 - (b) the name of the fund;
 - (c) a statement that the fund is a notified foreign passport fund;
 - (d) the name of the home economy for the fund;
 - (e) the name and ARBN of the operator of the fund;
 - (f) if the fund has had a name in a participating economy (including Australia) that is different from its current name in Australia, then for each name that the fund has had in a participating economy:
 - (i) that name; and
 - (ii) the name of each participating economy in which the fund has had that name; and

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- (iii) for each such economy—the start date and (if applicable) the end date of each period during which the fund has had that name in that economy;
- (g) the review date for the fund.

Definitions

- (5) In this regulation:

participating economy has the same meaning as in Chapter 8A of the Act.

17 Regulation 2N.4.01

Repeal the regulation, substitute:

2N.4.01 Particulars ASIC may require in a return of particulars (Act s 348B)

Particulars for a company

- (1) For the purposes of section 348B of the Act, the following particulars are prescribed for a company:
- (a) the personal details of a director, secretary or alternate director mentioned in subsection 205B(3) of the Act;
 - (b) the date of appointment or cessation of a director, secretary or alternate director;
 - (c) the date of change of name or change of address of a director, secretary or alternate director;
 - (d) evidence that a specified person is (or is not) a director, secretary or alternate director;
 - (e) completion of a declaration indicating that the company is a special purpose company within the meaning of regulation 3 of the *Corporations (Review Fees) Regulations 2003*;
 - (f) the name of the ultimate holding company;
 - (g) the date on which a company became, or ceased to be, the ultimate holding company;
 - (h) the previous name, or the new name, of the ultimate holding company;
 - (i) the date of issue, cancellation, or transfer of shares;
 - (j) the date of any change to amounts paid on shares;
 - (k) a statement of whether or not shares for one or more members are beneficially owned;
 - (l) the date of any change to beneficial ownership of shares;
 - (m) any of the following information from the share structure table for a class of share:
 - (i) the share class code;
 - (ii) the full title of the class of share;
 - (iii) the total number of shares in the class that have been issued;
 - (iv) the total amount paid for shares in the class;
 - (v) the total amount unpaid for shares in the class;
 - (n) the date on which a new member's name was entered in the register of members;
 - (o) a statement that the company is:

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- (i) a small proprietary company mentioned in subsection 45A(2) of the Act; or
- (ii) a large proprietary company mentioned in subsection 45A(3) of the Act; or
- (iii) a foreign controlled small proprietary company mentioned in paragraph 292(2)(b) of the Act;
- (p) a statement that the company is listed (or not listed) on a financial market, and the name of the financial market (if any);
- (q) a statement of whether the company complies with subsection 348C(2) or (3) of the Act;
- (r) information that the company is required to provide under subsection 142(2), 146(1), 205B(1) or (4), 254X(1) or 319(1) of the Act.

Particulars for a registered scheme

- (2) For the purposes of section 348B of the Act, the following particulars are prescribed for a registered scheme:
 - (a) the date on which a new member's name was entered in the register of members;
 - (b) the new name of the responsible entity of the scheme;
 - (c) information that the scheme is required to provide under subsection 319(1) of the Act;
 - (d) for each financial year for the scheme specified in the return of particulars—the name of each auditor of a financial report for the scheme for that year;
 - (e) the name of the auditor of the compliance plan for the scheme;
 - (f) if the scheme is an Australian passport fund—the name of the implementation reviewer for the fund for each review period for the fund specified in the return of particulars.

Particulars for a notified foreign passport fund

- (3) For the purposes of section 348B of the Act, the following particulars are prescribed for a notified foreign passport fund:
 - (a) the date on which a new member's name was entered in the register of members;
 - (b) the new name of the operator of the fund;
 - (c) information that the fund is required to provide under subsection 319(1AA) of the Act;
 - (d) for each financial year for the fund specified in the return of particulars—the name of each auditor of a report for the fund for that year that is prepared in accordance with the financial reporting requirements applying to the fund under the Passport Rules for the home economy for the fund;
 - (e) the name of the implementation reviewer for the fund for each review period for the fund specified in the return of particulars.

Definitions

- (4) In this regulation:

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implementation reviewer, for a passport fund, has the same meaning as in the Passport Rules for this jurisdiction.

review period, for a passport fund, has the meaning given by [subsection 15(1)] of the Passport Rules for this jurisdiction.

18 Paragraph 5C.1.01(3)(a)

After “application for registration”, insert “under section 601EA of the Act”.

19 At the end of subsection 5C.1.01(3)

Add:

- ; or (c) a foreign passport fund in relation to which a notice of intention has been lodged under section 1213 of the Act if:
 - (i) the operator of the fund has not withdrawn the notice under subsection 1213(3) of the Act; and
 - (ii) ASIC has not rejected the notice of intention under section 1213B of the Act; or
- (d) a notified foreign passport fund.

20 At the end of subsection 5C.1.02(2)

Add:

- ; or (c) a foreign passport fund in relation to which a notice of intention has been lodged under section 1213 of the Act if:
 - (i) the operator of the fund has not withdrawn the notice under subsection 1213(3) of the Act; and
 - (ii) ASIC has not rejected the notice of intention under section 1213B of the Act; or
- (d) a notified foreign passport fund.

21 Regulation 5C.11.04

After “managed investment scheme”, insert “under Part 5C.1 of the Act”.

22 Subparagraph 7.1.06(1)(a)(v)

Omit “(ba)”, substitute “(ba), (bb)”.

23 Subparagraph 7.1.06(1)(f)(iii)

Omit “(ba)”, substitute “(ba), (bb)”.

24 After paragraph 7.1.09(1)(e)

Insert:

- (ea) each obligation arising from a contract to transfer a financial product mentioned in paragraph 764A(1)(bb) of the Act;

25 Subparagraphs 7.1.29(3)(c)(ii) and (d)(ii)

Omit “(other than a superannuation fund or a managed investment scheme that is registered or required to be registered)”, substitute “(other than a superannuation fund, a managed investment scheme that is registered or required to be registered under Part 5C.1 of the Act, or a notified foreign passport fund)”.

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26 After paragraph 7.1.33A(e)

Insert:

- (ea) foreign passport fund products;

27 At the end of paragraph 7.1.33E(c)

Add:

- ; or (iv) an interest in a notified foreign passport fund.

28 Regulation 7.1.33E (note)

Omit “subparagraph 764A(1)(b)(ii)”, substitute “subparagraphs 764A(1)(b)(ii) and (bb)(ii)”.

29 At the end of subregulation 7.5.09(1)

Add:

- ; (d) an interest in a notified foreign passport fund that is quoted on the financial market of the Australian Stock Exchange Limited;
- (e) rights (whether existing or future, and whether contingent or not) to acquire, by way of issue, an interest referred to in paragraph (d) (whether or not on payment of any money or for any other consideration).

30 At the end of subregulation 7.5.09(2)

Add:

- ; (c) an interest in a notified foreign passport fund that is quoted on the financial market of the Australian Stock Exchange Limited;
- (d) rights (whether existing or future, and whether contingent or not) to acquire, by way of issue, an interest referred to in paragraph (c) (whether or not on payment of any money or for any other consideration).

31 Subregulation 7.5A.60(1) (definition of *representative capacity*)

Repeal the definition, substitute:

representative capacity: an entity is a party to a derivative transaction, or holds a position relating to a derivative transaction, in a ***representative capacity*** if the entity is such a party, or holds such a position, in a capacity as:

- (a) the responsible entity of a registered scheme; or
- (b) the operator of a notified foreign passport fund; or
- (c) the responsible holding party for a notified foreign passport fund; or
- (d) the trustee of a trust.

32 Regulation 7.5A.70 (definition of *representative capacity*)

Repeal the definition, substitute:

representative capacity: an entity is a party to an OTC derivative transaction, or holds an OTC derivative position, in a ***representative capacity*** if the entity is such a party, or holds such a position, in a capacity as:

- (a) the responsible entity of a registered scheme; or
- (b) the operator of a notified foreign passport fund; or
- (c) the responsible holding party for a notified foreign passport fund; or
- (d) the trustee of a trust.

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33 Subregulation 7.5A.73(3) (paragraph (b) of the definition of *relevant capacity*)

Omit “a particular registered scheme or trust”, substitute “a particular registered scheme, notified foreign passport fund or trust”.

34 Regulation 7.6.02AG (subparagraph 911A(2C)(c)(ii) of the *Corporations Act 2001*)

Omit “registered managed investment scheme”, substitute “registered scheme”.

35 Regulation 7.6.02AG (after paragraph 911A(2D)(a) of the *Corporations Act 2001*)

Insert:

- (aa) person 1 is not a notified foreign passport fund or the operator of a notified foreign passport fund;

36 Paragraph 7.7A.10(3)(a) (example 2)

Omit “managed investment scheme”, substitute “registered scheme”.

37 Subregulation 7.8.07(6)

Omit “securities or managed investment products” (wherever occurring), substitute “securities, managed investment products or foreign passport fund products”.

38 Paragraph 7.8.07(7)(b)

Omit “securities or managed investment products”, substitute “securities, managed investment products or foreign passport fund products”.

39 Paragraph 7.8.20(1)(a)

After “section 991E”, insert “of the Act”.

40 Paragraph 7.8.20(1)(b)

After “section 991E”, insert “of the Act”.

41 Paragraph 7.8.20(1)(b)

Omit “Chapters 5C and 7”, substitute “Chapters 5C, 7 and 8A”.

42 At the end of subregulation 7.8.20(1)

Add:

- ; and (c) section 991E of the Act does not apply to the sale or purchase of financial products mentioned in paragraph 764A(1)(bb) of the Act by the body corporate by which the financial products were made available if the financial products are made available in accordance with Chapters 7 and 8A of the Act.

Note: Paragraph 764A(1)(a) of the Act covers securities (within the meaning of Part 7.1 of the Act). Paragraph 764A(1)(b) of the Act covers managed investment products. Paragraph 764A(1)(bb) of the Act covers foreign passport fund products.

43 Paragraph 7.9.11S(3)(b)

Omit “registered managed investment scheme”, substitute “registered scheme”.

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44 Regulation 7.9.16A

Omit “unregistered managed investment schemes”, substitute “financial products covered by paragraph 764A(1)(ba) of the Act (which deals with financial products in relation to certain managed investment schemes that are not registered schemes)”.

45 At the end of regulation 7.9.16J

Add:
; and (c) foreign passport fund products.

46 Paragraph 7.9.60B(1)(a)

After “a managed investment product”, insert “, a foreign passport fund product”.

47 Subregulation 7.9.60B(6)

Omit “or a managed investment product”, substitute “, a managed investment product or a foreign passport fund product”.

48 Regulation 7.9.62 (heading)

Repeal the heading, substitute:

7.9.62 Confirmation of transactions not required

49 Subparagraph 7.9.62(4)(d)(iii)

Omit “registered managed investment scheme”, substitute “registered scheme”.

50 After paragraph 7.9.62(4)(d)

Insert:

(da) a transaction:

- (i) consisting solely of the acquisition of foreign passport fund products;
and
- (ii) in relation to which the holder has agreed to the timing and amount, or method of calculating the amount, of the acquisition; and
- (iii) in relation to which the holder of the foreign passport fund products, before agreeing to the acquisition, already held or had agreed to acquire foreign passport fund products that were interests in the same notified foreign passport fund as the foreign passport fund products that are to be acquired under the agreement;

51 After paragraph 7.9.64(1)(h)

Insert:

(ha) a foreign passport fund product in relation to which subsection 1016D(1) of the Act applies;

52 Paragraph 7.9.65(1A)(b)

After “managed investment product”, insert “or a foreign passport fund product”.

53 At the end of subregulation 7.9.65(1A)

Add:

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Note: For the purposes of the Act and these Regulations, managed investment schemes include notified foreign passport funds: see section 1213E of the Act.

54 After subparagraph 7.9.67(2)(a)(ii)

Insert:

(ia) a foreign passport fund product; or

55 After subparagraph 7.9.67(3)(a)(ii)

Insert:

(ia) a foreign passport fund product; or

56 Subregulation 7.9.67(4)

Omit “adjustment amount”, substitute “*adjustment amount*”.

57 After paragraph 7.9.69(1)(b)

Insert:

(ba) a foreign passport fund product;

58 After paragraph 7.9.70(1)(b)

Insert:

(ba) a foreign passport fund product; or

59 Paragraph 7.9.75(1)(e)

Omit “or a managed investment product”, substitute “, a managed investment product or a foreign passport fund product”.

60 After Chapter 8

Insert:

Chapter 8A—Asia Region Funds Passport

Part 8A.4—Notified foreign passport funds

Division 1—Becoming a notified foreign passport fund

8A.4.10 Rejecting a notice of intention—name of fund identical to another or unacceptable

- (1) For the purposes of subparagraphs 1213B(5)(a)(i), (ii), (iii) and (iv) of the Act, the rules for ascertaining whether a name is identical with another name are the rules set out in Part 1 of Schedule 6.
- (2) For the purposes of subparagraph 1213B(5)(a)(v) of the Act, a name is unacceptable for registration under the regulations if it is unacceptable under the rules set out in Part 2 of Schedule 6.

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Division 4—Providing key information in relation to notified foreign passport funds

8A.4.40 Register of members—purposes for which a person may obtain and use a copy

For the purposes of paragraph 1213K(2)(c) (and paragraph 1213L(3)(a)) of the Act, the following purposes are prescribed:

- (a) soliciting a donation from a member of a notified foreign passport fund;
- (b) soliciting a member of a notified foreign passport fund by a person who is authorised to assume or use the word stockbroker or sharebroker in accordance with section 923B of the Act;
- (c) gathering information about the personal wealth of a member of a notified foreign passport fund;
- (d) making an offer that satisfies paragraphs 1019D(1)(a) to (d) of the Act;
- (e) making an invitation that, were it an offer to purchase a financial product, would be an offer that satisfies paragraphs 1019D(1)(a) to (d) of the Act.

Note: Section 1019D of the Act deals with unsolicited offers to purchase financial products off-market.

8A.4.45 Destruction of records by ASIC—period before documents may be destroyed

For the purposes of paragraph 1213Q(b) of the Act, the period of possession is 7 years.

Part 8A.5—Register of passport funds

8A.5.10 Prescribed details for the Register of Passport Funds

Prescribed details of Australian passport funds

- (1) For the purposes of paragraph 1214(3)(a) of the Act, the following details are prescribed for each Australian passport fund:
 - (a) the APFRN for the fund;
 - (b) the name of the fund;
 - (c) a statement or other representation that the fund is an Australian passport fund;
 - (d) the date on which the fund was registered as an Australian passport fund;
 - (e) if the fund has had a name in a participating economy (including Australia) that is different from its current name in Australia, then for each name that the fund has had in a participating economy:
 - (i) that name; and
 - (ii) the name of each participating economy in which the fund has had that name; and
 - (iii) for each such economy—the start date and (if applicable) the end date of each period during which the fund has had that name in that economy;

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- (f) the name and ACN of the operator of the fund;
 - (g) if the fund has at any time had an operator that has had a name or ACN that is different from the name or ACN (as the case requires) mentioned in paragraph (f):
 - (i) that other name or ACN; and
 - (ii) the start date and the end date of each period during which an operator of the fund had that other name or ACN;
 - (h) the review date for the fund;
 - (i) for each financial year for the fund—the name of each auditor of a financial report for the fund for that year;
 - (j) for each person that has been an auditor of a compliance plan for the fund—the name of that person, and the start date and (if applicable) the end date of each period during which the person was an auditor of a compliance plan for the fund;
 - (k) for each review period for the fund—the name of the implementation reviewer for the fund for that period.
- (2) For the purposes of paragraph 1214(3)(b) of the Act, the following details are prescribed for each fund that been deregistered as an Australian passport fund:
- (a) the details that were prescribed for the fund under subregulation (1) before the fund was deregistered;
 - (b) the date on which the fund was deregistered;
 - (c) whether the fund was deregistered under Subdivision A (voluntary deregistration) or Subdivision B (deregistration initiated by ASIC) of Division 1 of Part 8A.7 of the Act.

Prescribed details of notified foreign passport funds

- (3) For the purposes of paragraph 1214(3)(a) of the Act, the following details are prescribed for each notified foreign passport fund:
- (a) the NFPFRN for the fund and any other unique number for the fund allocated to the fund by ASIC;
 - (b) the name of the fund;
 - (c) a statement or other representation that the fund is a notified foreign passport fund;
 - (d) the name of the home economy for the fund;
 - (e) the date on which the fund became a notified foreign passport fund;
 - (f) if the fund has had a name in a participating economy (including Australia) that is different from its current name in Australia, then for each name that the fund has had in a participating economy:
 - (i) that name; and
 - (ii) the name of each participating economy in which the fund has had that name; and
 - (iii) for each such economy—the start date and (if applicable) the end date of each period during which the fund has had that name in that economy;
 - (g) the name and ARBN of the operator of the fund;
 - (h) if the fund has at any time had an operator that has had a name or ARBN that is different from the name or ARBN (as the case requires) mentioned in paragraph (g):
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- (i) that other name or ARBN; and
 - (ii) the start date and the end date of each period during which an operator of the fund had that other name or ARBN;
 - (i) the review date for the fund;
 - (j) for each financial year for the fund—the name of each auditor of a report for the fund for that year that is prepared in accordance with the financial reporting requirements applying to the fund under the Passport Rules for the home economy of the fund;
 - (k) for each review period for the fund—the name of the implementation reviewer for the fund for that period.
- (4) For the purposes of paragraph 1214(3)(b) of the Act, the following details are prescribed for each fund that has been removed as a notified foreign passport fund:
- (a) the details that were prescribed for the fund under subregulation (3) before the fund was removed;
 - (b) the date on which the fund was removed;
 - (c) whether the fund was removed under Subdivision A (voluntary denotification) or Subdivision B (deregistration as a passport fund in the home economy for the fund) of Division 2 of Part 8A.7 of the Act.

Definitions

- (5) In this regulation:

implementation reviewer, for a passport fund, has the same meaning as in the Passport Rules for this jurisdiction.

participating economy has the same meaning as in Chapter 8A of the Act.

review period, for a passport fund, has the meaning given by [subsection 15(1)] of the Passport Rules for this jurisdiction.

61 After paragraph 9.1.01(i)

Insert:

- (ia) the Register of Passport Funds that is established and maintained in accordance with section 1214 of the Act;

62 Subparagraph 9.1.02(h)(iii)

After “the scheme”, insert “under Part 5C.1 of the Act”.

63 Subparagraph 9.1.02(h)(vii)

Repeal the subparagraph, substitute:

- (vii) any winding up of the scheme under Part 5C.9 of the Act;
- (vii) any deregistration of the scheme under Part 5C.10 of the Act;

64 After paragraph 9.1.02(h)

Insert:

- (ha) in relation to each fund entered in the Register of Passport Funds—the information about the fund that must be included on the Register of Passport Funds under paragraph 1214(3)(a) or (b) of the Act;

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65 Regulation 9.4.02 (after the heading)

Insert:

Offences prescribed by regulation 9.4.01

66 Regulation 9.4.02

Before “For an offence prescribed by regulation 9.4.01”, insert “(1)”.

67 At the end of regulation 9.4.02

Add:

Strict liability offences under Chapter 8A of the Act

(2) For a strict liability offence mentioned in paragraph (aa) of the definition of *prescribed offence* in subsection 1313(8) of the Act for which a person may be, or has been, given a notice under subsection 1313(1) of the Act, the amount of the penalty is:

- (a) if the person is an individual—12 penalty units; and
- (b) if the person is a body corporate—60 penalty units.

68 Regulation 9.4A.01 (definition of *index*)

Omit “members of a corporation”, substitute “members of a corporation, registered scheme or notified foreign passport fund”.

69 Regulation 9.4A.01 (after paragraph (c) of the definition of *register*)

Insert:

(ca) register of members of a notified foreign passport fund;

70 Regulation 9.4A.01 (at the end of the definition of *register*)

Add:

; (e) register of information about relevant interests kept under section 672DA of the Act.

71 Subregulation 9.4A.02(1)

Omit “its registers and index”, substitute “the registers and indexes”.

72 Subregulation 9.4A.02(2)

Omit “a register or index of the corporation”, substitute “a register or index”.

73 Subregulation 10.2.189(6)

Omit “registered managed investment scheme”, substitute “registered scheme”.

74 Schedule 1 (table item 1)

Repeal the item.

75 Schedule 4 (table item 1AA)

Repeal the item, substitute:

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1AA	Supply of copies for subsection 173(3)	250.00
	In addition, if information is provided about 5,000 or more members:	
	(a) for the 5,000th member and for each additional member up to and including the 19,999th member	0.05
	(b) for the 20,000th member and for each additional member	0.01

76 Schedule 4 (after table item 7)

Insert:

7A	Costs of the operator in providing a copy of the consolidated constitution of a notified foreign passport fund under section 1213J	10.00
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7B	Costs of the operator in providing a copy of the register of members of a notified foreign passport fund under section 1213K	250.00
	In addition, if information is provided about 5,000 or more members:	
	(a) for the 5,000th member and for each additional member up to and including the 19,999th member	0.05
	(b) for the 20,000th member and for each additional member	0.01

77 Schedule 6 (note to Schedule heading)

Omit “and 5B.3.02”, substitute “, 5B.3.02 and 8A.4.10”.

78 Clause 6101 of Schedule 6

After “601DC(1)(a) or (b)”, insert “or for subparagraph 1213B(5)(a)(i), (ii), (iii) or (iv)”.

79 Clause 6203 of Schedule 6

Omit “For paragraph 147(1)(c) or 601DC(1)(c)”, substitute “For paragraphs 147(1)(c) and 601DC(1)(c) and for subparagraph 1213B(5)(a)(v)”.

80 Clause 6204 of Schedule 6

After “Paragraph 6203(b) does not apply to”, insert “the following”.

81 Paragraph 6204(a) of Schedule 6

After “if a word”, insert “or phrase”.

82 Paragraph 6204(a) of Schedule 6

Omit “incorporated or registered; and”, substitute “incorporated or registered;”.

83 Paragraph 6204(b) of Schedule 6

After “if the word”, insert “in that item”.

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Amendments to the Corporations Regulations 2001 **Schedule 1**

84 At the end of clause 6204 of Schedule 6

Add:

- ; (c) item 6316AA of Part 3 if the phrase in that item is included in the name of a foreign passport fund in relation to which a notice of intention has been lodged under section 1213 of the Act (which deals with notices of intention to offer interests in a foreign passport fund).

85 Part 3 of Schedule 6 (after table item 6316)

Insert:

6316AA passport fund

86 Clause 101 of Schedule 10 (paragraph (b) of the definition of *advice fee*)

Omit “managed investment product”, substitute “collective investment product”.

87 Clause 101 of Schedule 10 (paragraph (b) of the definition of *buy-sell spread*)

Omit “managed investment product”, substitute “collective investment product”.

88 Clause 101 of Schedule 10

Insert:

collective investment product means a managed investment product or a foreign passport fund product.

89 Clause 101 of Schedule 10 (paragraph (b) of the definition of *exit fee*)

Omit “managed investment product”, substitute “collective investment product”.

90 Clause 101 of Schedule 10 (definition of *performance*)

Omit “managed investment product” (wherever occurring), substitute “collective investment product”.

91 Clause 101 of Schedule 10 (definition of *performance fee*)

Omit “managed investment product”, substitute “collective investment product”.

92 Clause 101 of Schedule 10 (definition of *special request fees*)

Omit “managed investment product”, substitute “collective investment product”.

93 Clause 101 of Schedule 10 (paragraph (b) of the definition of *switching fee*)

Omit “managed investment product” (wherever occurring), substitute “collective investment product”.

94 Subclauses 102(1) and (2) of Schedule 10

Omit “managed investment product”, substitute “collective investment product”.

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95 Division 2 of Part 2 of Schedule 10 (heading)

Omit “managed investment products”, substitute “collective investment products”.

96 Clause 202 of Schedule 10 (heading)

Omit “managed investment products”, substitute “collective investment products”.

97 Clause 202 of Schedule 10 (table heading)

Omit “managed investment product”, substitute “collective investment product”.

98 Clause 202 of Schedule 10 (table, subheading “Fees when your money moves in or out of the managed investment product”)

Omit “managed investment product”, substitute “collective investment product”.

99 Clause 202A of Schedule 10 (heading)

Omit “managed investment products”, substitute “collective investment products”.

100 Clause 202A of Schedule 10 (table heading)

Omit “managed investment product”, substitute “collective investment product”.

101 Clause 202A of Schedule 10 (table, subheading “Fees when your money moves in or out of the managed investment product”)

Omit “managed investment product”, substitute “collective investment product”.

102 Clause 203 of Schedule 10 (note)

Omit “managed investment product”, substitute “collective investment product”.

103 Subclause 204(7) of Schedule 10

Repeal the subclause, substitute:

- (7) A cost or amount paid or payable must include the following, if applicable:
- (a) in relation to managed investment products:
 - (i) GST, after being reduced by any reduced input tax credits; and
 - (ii) stamp duty;
 - (b) in relation to foreign passport fund products:
 - (i) any indirect taxes equivalent to GST that are payable in the home economy for the notified foreign passport fund, after being reduced by any applicable tax credits that are available in that economy; and
 - (ii) any duties equivalent to stamp duty that are payable in the home economy for the notified foreign passport fund.

104 Subclause 205(1)(b) of Schedule 10

Omit “managed investment products”, substitute “collective investment products”.

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Amendments to the Corporations Regulations 2001 **Schedule 1**

105 Clause 209 of Schedule 10

Omit “managed investment product” (first occurring), substitute “collective investment product”.

106 Paragraph 209(a) of Schedule 10

Omit “managed investment products”, substitute “collective investment products”.

107 Subparagraph 209(b)(i) of Schedule 10

Omit “managed investment product”, substitute “collective investment product”.

108 Clause 212 of Schedule 10 (heading)

Omit “**Managed investment products**”, substitute “**Collective investment products**”.

109 Clause 212 of Schedule 10

Omit “managed investment product”, substitute “collective investment product”.

110 Clause 212 of Schedule 10

Omit “managed investment products”, substitute “collective investment products”.

111 Subclause 217(1) of Schedule 10

Omit “managed investment product”, substitute “collective investment product”.

112 Clause 218A of Schedule 10 (heading)

Omit “**managed investment product**”, substitute “**collective investment product**”.

113 Subclause 219(1) of Schedule 10

Omit “managed investment product”, substitute “collective investment product”.

114 Subclause 301(4) of Schedule 10

Omit “managed investment product”, substitute “collective investment product”.

115 Subclause 303(2) of Schedule 10 (heading)

Repeal the heading, substitute:

Collective investment products

116 Paragraph 303(2)(c) of Schedule 10

Omit “managed investment product”, substitute “collective investment product”.

117 Item 3.1 of Schedule 10BA (subsection 1017H(4) of the *Corporations Act 2001*)

Repeal the subsection, substitute:

Short-Form PDS not to be given for certain products

(4) Subsection (1) does not apply in relation to the following:

- (a) a general insurance product;
- (b) a managed investment product in relation to an Australian passport fund;

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(c) a foreign passport fund product.

- (5) To avoid doubt, nothing in Division 5AB of Part 7.9 of the regulations or in Part 3 of Schedule 10BA to the regulations permits a regulated person to give a Short-Form PDS or a Supplementary Short-Form PDS in relation to a financial product mentioned in subsection (4).

118 Paragraph 6(3)(d) of Schedule 10E

Omit “registered managed investment schemes”, substitute “registered schemes”.

119 Subclauses 9(1), (2) and (3) of Schedule 10E

Omit “registered managed investment” (wherever occurring), substitute “registered”.

Schedule 2—Other amendments

ASIC Supervisory Cost Recovery Levy Regulations 2017

1 Section 5B

Before “For the purposes of paragraph (h)”, insert “(1)”.

2 At the end of section 5B

Add:

- (2) For the purposes of paragraph (h) of the definition of *regulated entity* in section 7 of the Act, the class of persons who are operators of notified foreign passport funds is prescribed.

3 At the end of section 35

Add:

- (7) For the purposes of subsection (3), an *unregistered managed investment scheme* is a managed investment scheme that is neither a registered scheme nor a notified foreign passport fund.

4 After section 35

Insert:

35A Operators of notified foreign passport funds

- (1) A liable entity forms part of the *operators of notified foreign passport funds* sub-sector in a financial year if, at any time in the financial year, the entity is the operator of a notified foreign passport fund.

Levy component

- (2) The amount of a liable entity’s levy component in respect of the sub-sector for the financial year is the sum of:
 - (a) the minimum levy component for the sub-sector; and
 - (b) the graduated levy component for the entity for the sub-sector.

Note: For the graduated levy component, see section 10.

Entity metric

- (3) The liable entity’s *entity metric* for the sub-sector for the financial year is the total value of Australian assets in all notified foreign passport funds operated by the entity at the end of the financial year, disregarding any assets that are an interest in another notified foreign passport fund operated by the entity.
- (4) For the purposes of subsection (3):
 - (a) the *total value of Australian assets* in a notified foreign passport fund at a particular time is an amount equal to the sum of what would be the redemption prices of all interests in the fund held by Australian members of the fund at that time, if those interests were redeemed at that time; and

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- (b) the *redemption price* of an interest in a notified foreign passport fund at a particular time is the amount that would be the redemption price for the interest at that time under [subsection 50(1)] of the Passport Rules for this jurisdiction, assuming that:
- (i) the member who holds the interest makes a request, immediately before that time, for a redemption of the interest; and
 - (ii) the amount is calculated using a valuation of the assets of the fund at that time; and
 - (iii) redemption fees and transaction costs associated with redemption are ignored.

Note: Under subsection 4(2), *Australian member* and *Passport Rules* have the meaning given by section 9 of the *Corporations Act 2001*.

- (5) However:
- (a) there is a pro-rata of the entity metric for the sub-sector for the financial year; and
 - (b) for the purposes of section 11, the number of counted days is the number of days in the financial year on which the leviable entity is an operator of a notified foreign passport fund.
- (6) The *minimum levy component* for the sub-sector is \$1,000.

5 At the end of section 37

Add:

- (8) For the purposes of subsection (5), an *unregistered managed investment scheme* is a managed investment scheme that is neither a registered scheme nor a notified foreign passport fund.

6 Schedule 1 (after table item 25)

Insert:

25A Operators of notified foreign passport funds section 35A

Australian Securities and Investments Commission Regulations 2001

7 Subregulation 8AAA(2) (after table item 16)

Insert:

16A Section 1213P of the *Corporations Act 2001* Powers relating to requiring a notified foreign passport fund to lodge a copy of the register of members

8 After paragraph 45(b)

Insert:

- (ba) each obligation arising from a contract to transfer a financial product mentioned in paragraph 764A(1)(bb) of the *Corporations Act*;

Corporations (Fees) Regulations 2001

9 Regulation 1B

Insert:

Passport Rules for this jurisdiction has the same meaning as in the Corporations Act.

10 Schedule 1 (after item 79)

Insert:

Passport funds

79A	On application, under section 1212, to have a managed investment scheme registered as an Australian passport fund	\$14,346
79B	On lodging, under section 1212, a notice withdrawing an application to have a managed investment scheme registered as an Australian passport fund	no fee
79C	On lodging, under section 1212C, a notice that the name of the fund in another participating economy is not the same as the name of the fund in this jurisdiction	\$40
79D	On lodging, under section 1213, a notice of intention to offer interests in a foreign passport fund	\$2,550
79E	On lodging, under section 1213, a notice withdrawing a notice of intention to offer interests in a foreign passport fund	no fee
79F	On lodging a notice with ASIC under: (a) [subsection 12(1)] of the Passport Rules for this jurisdiction (a limit set in [Division 6.3 or 6.4] of those rules has been exceeded for 7 days without being remedied); or (b) [subsection 12(2)] of the Passport Rules for this jurisdiction (there has been a significant breach of those rules adversely affecting the value of assets); or (c) [subsection 12(4)] of the Passport Rules for this jurisdiction (there has been a significant breach of the law of a host economy adversely affecting the value of assets)	no fee
79G	On lodging a notice with ASIC, under the table in [section 12] of the Passport Rules for this jurisdiction, that the operator of a notified foreign passport fund is changed	\$1,187
79H	On lodging a report with ASIC, under [section 15] of the Passport Rules for this jurisdiction, of an implementation review of an Australian passport fund or a notified foreign passport fund	\$40
79J	On application for ASIC to give a notice under [subsection 33(3)] of the Passport Rules for this jurisdiction (exceptional market circumstances for Australian passport funds)	\$1,540

11 Schedule 1 (table item 80, column 1, paragraph (a))

Omit “or 8”, substitute “, 8 or 8A”.

12 Schedule 1 (table item 146, column 1, paragraph (a))

After “mentioned in section 1015B”, insert “, other than a Product Disclosure Statement lodged under paragraph 1212(2)(b) with an application to register an Australian passport fund, or under paragraph 1213(2)(b) with a notice of intention to offer interests in a foreign passport fund”.

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Schedule 2 Other amendments

13 Schedule 2 (table items 3 and 4)

Repeal the item, substitute:

3	On application under subsection 345B(1), (2) or (2A) for approval of a choice of a review date, by a company, the responsible entity of a registered scheme or the operator of a notified foreign passport fund to which item 4 of this Schedule does not apply	\$40
4	On application under subsection 345B(1), (2) or (2A) for approval of a choice of a review date, by one or more companies having the same ultimate holding company, director or company secretary, the responsible entity of one or more registered schemes or the operator of one or more notified foreign passport funds:	
	(a) for an application relating to fewer than 10 companies, registered schemes or notified foreign passport funds; or	\$40 for each company, scheme or fund
	(b) for an application relating to at least 10 companies, registered schemes or notified foreign passport funds	\$397

14 Schedule 2 (table item 5)

Omit “or registered scheme”, substitute “, registered scheme or notified foreign passport fund”.

15 Schedule 2 (after table item 7)

Insert:

7A	On lodging an application for the consent of the Minister under subsection 1213B(6) to a name being available to a foreign passport fund	\$1,217
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16 Schedule 2 (after table item 12)

Insert:

12A	On application, under subsection 601PBB, to deregister an Australian passport fund as a registered scheme	no fee
12B	On application, under section 1216, for deregistration of an Australian passport fund as an Australian passport fund	\$899
12C	On application, under section 1216E, for a notified foreign passport fund to be removed as a notified foreign passport fund	no fee

17 Schedule 2 (table items 15 and 16)

Omit “or registered scheme”, substitute “, registered scheme or notified foreign passport fund”.

18 Schedule 2 (after table item 19)

Insert:

- 19A For inspecting, or an inquiry involving the inspection of, the Register of Passport Funds:
- (a) if the documents are reproduced using a computer system:
 - (i) for less than 10 pages; or \$17
 - (ii) for 10 pages or more; or \$40
 - (b) in any other case \$17

19 Schedule 2 (table item 22)

Omit “a corporation or a registered scheme, or a director or secretary of a company”, substitute “a corporation, registered scheme or a notified foreign passport fund, or a director or secretary of a company or of the operator of a notified foreign passport fund”.

20 Schedule 2 (after table item 23)

Insert:

- 23A On lodging a notice under Chapter 8A of the Corporations Act or the Passport Rules for this jurisdiction for which a fee is not provided by any other item in this Schedule or Schedule 1, unless “no fee” appears in column 2 of an item in this Schedule or Schedule 1 in relation to the notice \$40

Corporations (Review Fees) Regulations 2003

21 Subregulations 4(1) to (4)

Omit “company or registered scheme” (wherever occurring), substitute “company, registered scheme or notified foreign passport fund”.

22 Subregulation 4(4) (note)

Omit “company or scheme”, substitute “company, scheme or fund”.

23 Subregulation 4(6)

Omit “company or registered scheme”, substitute “company, registered scheme or notified foreign passport fund”.

24 Subregulation 4(6) (definition of *previous indexable amount*)

Omit “company or registered scheme”, substitute “company, registered scheme or notified foreign passport fund”.

25 Subregulation 4(7)

Omit “a company or a registered scheme”, substitute “a company, registered scheme or notified foreign passport fund”.

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Schedule 2 Other amendments

26 Paragraph 5(1)(a)

Omit “a company or responsible entity of a registered scheme”, substitute “a company, responsible entity of a registered scheme or operator of a notified foreign passport fund”.

27 Paragraphs 5(1)(a) and (b)

Omit “company or scheme”, substitute “company, scheme or fund”.

28 Part 1 of Schedule 1 (table, heading to column headed “Company, registered scheme or person”)

After “registered scheme”, insert “, notified foreign passport fund”.

29 Part 1 of Schedule 1 (table item 104)

After “A registered scheme”, insert “or notified foreign passport fund”.

30 Part 1 of Schedule 1 (after table item 105)

Insert:

105A	A notified foreign passport fund in relation to which a notice has been given under subsection 1216J(1) of the Act (notices to be given before removing a fund as a notified foreign passport fund)	no fee
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31 Part 1A of Schedule 1 (table, heading to column headed “Company, registered scheme or person”)

After “registered scheme”, insert “, notified foreign passport fund”.

32 Part 1A of Schedule 1 (table item 104)

After “A registered scheme”, insert “or notified foreign passport fund”.

National Consumer Credit Protection Regulations 2010

33 Item 3.4 of Schedule 3 (definition of *securitisation product*)

Omit “within the meaning of section 9 of the *Corporations Act 2001*”, substitute “within the meaning of the *Corporations Act 2001*”.

Tax Agent Services Regulations 2009

34 After paragraph 13(1)(f)

Insert:

- (fa) a service provided by an operator of a notified foreign passport fund or a related entity of the operator to the fund, or a member of the fund, in relation to the fund;