



Australian Government

The Treasury

# Introducing the framework for Asia Region Funds Passport



# Summary

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- What is the Passport?
- Objectives
- Who regulates what?
- Other host economy laws and regulations
- Passport rules and application process

# Context

- The Johnson Report (2009) recommended a package of funds management reforms:
  - Investment Manager Regime
  - Collective Investment Vehicles
  - Asia Region Funds Passport
- Regulators worked co-operatively to develop the Passport framework through 11 policy and technical workshops held between 2011 and 2014, and two joint consultations conducted in 2014 and 2015.
- Signatories to the Passport Memorandum of Cooperation (MoC) are working to implementation by the end of 2017: Japan, Australia, New Zealand, Korea and Thailand.

# Comparison with other regional initiatives

## **ASEAN Collective Investment Schemes**

### **Eligibility**

- Qualifying CIS operators in Singapore, Malaysia and Thailand
- Retail investors

### **Application**

- Home regulator assesses suitability for cross-border distribution
- Streamlined authorisation process

### **Fund requirements**

- Qualifications of trustee/fund supervisor
- 5 years experience
- USD 500M of assets under management, shareholder equity of USD1M

### **Investment restrictions**

- Transferable securities, money market instruments, deposits, units of other CISs and financial derivatives
- Additional rules apply for money market funds, master feeder funds, funds of funds and exchange-traded funds

### **Ongoing requirements**

- Home regulator rules generally apply
- Ongoing reporting in host jurisdiction
- Breach reporting requirement

## **Hong Kong – China MRF**

### **Eligibility**

- Hong Kong and mainland Chinese operators of compliant local funds
- Retail investors

### **Application**

- Domiciled on the host country, fund registered with home regulator
- Streamlined authorisation process

### **Fund requirements**

- Authorised for over 1 year
- Fund size not less than RMB200 million
- Less than 20% of assets in host country
- Investment management function remains on home country
- Must appoint a host country representative
- Distribution to host country investors doesn't exceed 50% of total assets

### **Investment restrictions**

- Only general equity funds, balanced funds, bond funds and unlisted index funds – no money market funds

### **Ongoing requirements**

- Home jurisdiction rules generally apply unless it relates to sale and distribution
- Breach reporting requirement

## **Asia Region Funds Passport**

### **Eligibility**

- Qualifying fund operators from Australia, Japan, South Korea, New Zealand, Thailand
- Retail investors

### **Application**

- Fund must be registered in home country as a Passport fund
- Streamlined authorisation/notification process

### **Fund requirements**

- 5 years experience, US\$500m FUM for fund manager, qualifications test
- Min US\$1M + 0.1% (capped at US\$20m)
- Mandatory custodian
- Independent oversight

### **Investment restrictions**

- Only liquid assets, mandatory diversification, no leverage, restrictions on using derivatives

### **Ongoing requirements**

- Assets are managed in accordance with home economy laws, unless it relates to disclosure and distribution
- Ongoing reporting to both economies
- Breach reporting requirement

# What is the Passport?

- The Passport is a common framework of coordinated regulatory oversight to facilitate cross border issuing of managed investment funds
- Enables a fund registered in its home economy to be “passport” into other participating economies
- Passport funds comply with home economy financial services laws and uniform Passport rules
  - The fund structure only needs to comply with home laws
  - Exempt from most of host economy financial services laws
  - Tax and disclosure regulated by host economy

# Objectives

- **For investors** – more choice, lower fees
- **For industry** – economies of scale and an internationally recognised model (improving ability to attract international funds/investors and easier entry to overseas markets)
- **For markets** – financial market depth and efficiency
- **For regulators** – more efficient oversight of cross-border funds
- **For our region** – encourages investors to keep savings here, deepening capital markets and supporting growth in financial services provision
- **Managing risks** – coordinated oversight supports consumer protection and financial stability

# Who regulates what?

Element	Home	Home + passport rules	Only passport rules	Host*
<b>Operation of the passport fund</b>				
Custody arrangements		✓		
Independent oversight		✓		
Risk management		✓		
Investment restrictions			✓	
Delegation		✓		
Valuation basis for pricing		✓		
Redemption		✓		
Financial reporting and auditing		✓		
Related party transactions	✓			
Duties of operators	✓			
Record keeping		✓		
<b>Dealing with investors</b>				
Disclosure (including annual and periodic reports)				✓
Distribution and licensing of distributors				✓
Member Complaints				✓
Anti-money laundering and counter-terrorism financing				✓

\* Can apply other host laws if they don't discriminate between foreign/domestic funds

# Other host economy laws and regulations

- The table above sets out the main areas in which host economy laws and regulations may apply.
- Host economies may only impose obligations additional to those on domestic funds if:
  - they are not unduly burdensome for the Passport fund in comparison to a domestic fund; and
  - they are reasonable to promote confidence in retail investment in Passport funds.
- The Passport Joint Committee is consulting on a guidance note setting out how the host economy laws and regulations are intended to apply. Consultation closes 19 September.
- Australia can stop Passport funds from another economy entering or selling in Australia if:
  - there is a difference in the interpretation, application or implementation of the MoC (e.g. imposing an unduly burdensome obligation on Passport funds or not processing applications in time); and
  - the difference cannot be resolved reasonably and in good faith.



# Passport rules

- There is a single set of Passport Rules across all Passport economies set out in Annex 3, MoC.
  - Each economy must incorporate into their domestic law. Australia will implement the Passport Rules through a regulation to enable flexibility if the Rules change over time.
- Sets out minimum standards:
  - 5 years experience, US\$500M FUM for fund manager, qualifications test for officers
  - capital requirements: US\$1M + 0.1% FUM capped at US\$20m
  - mandatory custodian
  - independent oversight (e.g. compliance committee, depositary)
  - Investment restrictions (only liquid assets, mandatory diversification, no leverage, restrictions on using derivatives).

# The Passport application process

