



FUNDS MANAGEMENT

REGISTERED AND UNREGISTERED FUNDS

This Fact Sheet summarises some of the key features of, and differences between, managed funds that are registered with ASIC and those that are unregistered.

A registered fund can be promoted to retail clients under a product disclosure statement (PDS), either directly or via Investor Directed Portfolio Services (IDPS).

An unregistered fund can be used where it will be principally promoted to wholesale clients¹ under an information memorandum.

ISSUE	REGISTERED FUND	UNREGISTERED FUND
<i>Who can invest?</i>	Retail clients and wholesale clients can invest. Retail clients can also invest indirectly via IDPSs.	Wholesale clients can invest. Retail clients can invest under a "small scale offering", where up to \$2 million is raised in a 12 month period from up to 20 retail clients pursuant to personal offers. Retail clients cannot invest indirectly in the fund via IDPSs.
<i>Who can act as fund manager?</i>	The fund manager must be a responsible entity licensed with ASIC. The responsible entity must be a public company with at least 3 directors.	The fund manager can be a public company or a proprietary limited company.
<i>What are the constituent documents of the fund?</i>	A constitution and a compliance plan, which must be lodged with ASIC.	A constitution. A compliance plan is not required.
<i>Is any external compliance oversight required?</i>	Yes. The fund manager must either have a board of directors with a majority of external directors or a compliance committee of at least 3 members with a majority of external members.	No.
<i>What are some of the effects of registration of the fund?</i>	The responsible entity of a registered fund and its officers and employees owe certain statutory duties. The members of a registered fund have power to remove and replace a responsible entity. There are specific requirements in relation to the winding up and deregistration of registered funds.	

¹ See our Fact Sheet on Retail Clients and Wholesale Clients for more information.

<p><i>What offer documents can be used?</i></p>	<p>A PDS must be used to promote interests in the fund to retail clients.</p> <p>The PDS must meet content requirements contained in the Corporations Act.</p>	<p>An information memorandum may be used to promote interests in an unregistered fund to wholesale clients.</p> <p>The Corporations Act does not contain specific content requirements for an information memorandum, however the issuer must ensure it does not contain any misleading or deceptive statements.</p>
<p><i>What are the fund manager's AFS licence requirements?</i></p>	<p>The fund manager must hold an AFS licence that authorises it to:</p> <ul style="list-style-type: none"> ▪ operate the registered fund ▪ deal in financial products ▪ provide financial product advice (however exemptions exist in particular circumstances). <p>As a licensee, the fund manager must meet base level solvency and cash needs requirements. It must also have net tangible assets of at least 0.5 per cent of the gross assets of the registered fund (with a minimum NTA of \$50,000 and a maximum NTA of \$5 million).</p>	<p>Generally, the fund manager must hold an AFS licence that authorises it to:</p> <ul style="list-style-type: none"> ▪ deal in financial products * ▪ provide financial product advice (however exemptions exist in particular circumstances) ▪ provide a custodial service in respect of financial products that comprise assets of the fund (however exemptions exist in particular circumstances). <p>* The issue of interests in the fund could be outsourced to an appropriately authorised AFS licensee.</p> <p>As a licensee, the fund manager must meet base level solvency and cash needs requirements.</p>
<p><i>Who has custody of the fund's assets?</i></p>	<p>The fund manager can hold the assets of the fund if it meets ASIC's requirements in relation to financial resources ² and custodial standards.</p> <p>However fund managers usually outsource custody to an external custodian.</p> <p>Custodians of registered funds do not require an AFS licence.</p>	<p>The fund manager can hold the assets of the fund, however it may have to be authorised under its AFS licence to provide a custodial service.</p> <p>Fund managers can outsource custody to an external custodian that has an appropriate AFS licence.</p>
<p><i>What dispute resolution systems must the fund manager have?</i></p>	<p>The fund manager must have an internal dispute resolution procedure and also be a member of FOS, the Financial Ombudsman Service.</p>	<p>If the fund manager has no retail clients, then formal dispute resolution procedures are not required.</p>

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This Fact Sheet is current as at July 2009, contains general summary information only and should not be relied upon as a substitute for legal advice.

² Generally a custodian must have net tangible assets of \$500,000 for direct property funds and \$5,000,000 for other types of funds.