

<b>RG 000, Guidance on ASIC market integrity rules for participants of securities markets</b>		
<b>Ref.</b>	<b>Description</b>	<b>Recommendations and Rationale</b>
RG000.3	<p>A market participant must also keep accurate records of its management structure and allocation of responsibilities among these supervisory staff: see Rule 2.1.1(2). Such records should include...</p> <p>(f) clearing and settlement arrangements such as identifying supervisory staff managing these key functions or interactions with other participants where alternative clearing and settlement operations are used...</p> <p>(g) details of any outsourcing arrangements...</p>	<p>Clearing and settlement rules are regulated by ASX. Mandating the documentation of back-office supervisory structures and the allocation of back-office responsibilities may be out of step with the current regulatory framework.</p> <p><b>Recommend removing point (f).</b></p> <p>Outsourcing and offshoring arrangements are captured by ASX Operating Rules, ASX Clear Operating Rules, ASX Settlement Rules, equivalent ASX Guidance Notes (collectively “ASX Rules”), and RG104 ‘<i>Licensing: Meeting the general obligations</i>’. Those obligations include providing prior written notification to ASX for outsourcing arrangements, ensuring appropriate due diligence is conducted, service level agreements are entered into, and management supervision processes are in place. RG 104 also clearly states that AFS Licences remain responsible for outsourced functions.</p> <p><b>Recommend removing point (g) to avoid unnecessary duplication (and mingling outsourcing requirements) under the ASX Rules and RG 104.</b></p>
RG 000.4	<p>A market participant’s management structure records may incorporate by reference other frameworks, policies or procedures it has adopted and implemented. We expect that any such cross-reference in the management structure records would be accompanied by a brief summary of the relevant aspects of the framework, policy or procedure to preserve the usefulness and effectiveness of the management structure records</p>	<p>Requiring participants to summarise policies referenced in management structure records may be overly prescriptive. An internally available link to policies would still preserve the usefulness and effectiveness of management structure documents.</p> <p><b>Recommend the expectation to summarise other policies within management structure records is removed allowing participants to assess how other policies should be cross-referenced.</b></p>
RG 000.8	<p>As such we expect a market participant to review and update its documented management structure in the event of a significant change. A significant change in a market</p>	<p>The phrase “staff responsible for the compliance function” could be read two ways. One way is to read as all compliance staff, the other is to read as the staff member responsible for all compliance e.g. the Chief Compliance Officer.</p>

	<p>participant's management structure may include, but is not limited to, the following:</p> <p>(a) a change in directors, senior managers, supervisory staff or other key staff including staff responsible for the compliance function;</p> <p>(b) a new business or change in business model, including a decision to conduct activities overseas;</p> <p>(e) a change to risk modelling methodologies, risk oversight or the risk profile of business;</p>	<p><b>Recommend this be clarified to specify the most senior compliance officer.</b></p> <p><b>Given outsourcing arrangements are already covered under the ASX Rules and RG 104, we recommend removing point (b). See comments relating to RG000.3.</b></p> <p>'Risk modelling methodologies' is an undefined term in the RG and the ASIC Market Integrity Rules so we believe that term is not a useful example of a significant change. Furthermore, AFS License holders are required to follow RG104 to comply with risk management obligations. RG 104 explicitly requires risk management systems to be in place to identify, measure, control and monitor risks. It also states that AFS Licensees must have measures for monitoring and supervising representatives.</p> <p>It is unclear why this would be a change of supervision, as it is just a methodology as opposed to who is responsible for what, i.e. it isn't changing the fact that one person is in charge of a market making desk, just rather how they calculate the risk of the market making desk. This level of detail is best not be included in a supervisory document</p> <p><b>Recommend removing 'change to risk modelling methodologies' because it is an undefined term.</b></p> <p><b>Recommend removing 'risk oversight' and 'risk profile of the business' because those obligations are already covered in RG 104.</b></p>
<p>RG 000.14-000.15</p>	<p>Compliance procedures</p> <p>Appropriate compliance procedures should assist a market participant's representatives to understand how its obligations apply to its particular business and the behaviours expected (and not permitted) by the participant to ensure it complies with those obligations. This approach fosters a strong focus on</p>	<p>These seem to be blurring the line between supervision and second line of defence in compliance in these paragraphs. Unless this is intended to refer to desk procedures on how they adhere to rules, in which case we suggest they use different terminology or clarify what is meant.</p> <p><b>Recommend change terminology to clarify.</b></p>

	<p>the causes of poor conduct and promotes responsible behaviour and high standards of integrity.</p> <p>In our view, compliance procedures which merely restate the law provide insufficient guidance to a market participant's representatives about how it will comply with its obligations.</p>	
RG 000.19	<p>We expect that, at a minimum, a market participant's written supervisory procedures should specify:</p> <p>(a) the supervisory staff responsible for supervision of the market participant's operations and processes, identified by name or title and position;</p>	<p>Clearing and settlement rules are regulated by ASX. Therefore, supervisory responsibilities for back-office staff should comply with the requirements under the ASX Rules. Notably, ASX Operating Rule 1000 and 14000 requires participants to have adequate resources around management supervision at admission as a participant and on an ongoing basis. Furthermore, expanding the list of supervisory staff beyond 'Responsible Executives' adds additional regulatory burden.</p> <p><b>Recommend consider removing back-office supervisors from the supervisory procedures referenced in this RG.</b></p>
RG 000.25	<p>Expectation for a market participant's written supervisory procedure to set out qualifications, skills and experience the market participant considers important in determining whether supervisory staff can fulfil their assigned responsibilities. (followed by required b and c to review and monitor qualifications).</p>	<p>Increased administration / documentation would be required for each supervisor. On the equities side majority of data would already be collected off the back for RE applications however on the fixed income side data would need to be collated and drafted.</p> <p><b>Recommend removing as a prescription.</b></p>
RG 000.27	<p>We expect that a market participant will periodically review (at least on an annual basis) that each individual involved in the supervision of its business has the appropriate skills, knowledge and experience for the supervisory role they are performing. We expect completion of examinations and continuing education or training requirements to be key considerations, but consider that market participants are best</p>	<p>The expectation to periodically review (at least annually) the 'skills, knowledge and experience' of its supervisory staff may be interpreted broadly to also include a yearly review of a supervisor's existing qualifications. Where a supervisor's responsibilities or area of supervision has remained unchanged, there is no value reviewing their long-standing qualifications on an annual basis.</p> <p><b>Recommend narrowing the annual periodic review to continuing education requirements.</b></p>

	placed to make an overall assessment of the supervisory skills, knowledge, experience, seniority and authority of supervisory staff.	
RG 000.31	We expect these responsibilities to be documented in the market participant's management structure and allocation of supervisory responsibilities.	<p>The requirement to specify the supervision of representatives seems to be too detailed for a Regulatory Guide – it should be sufficient to note that a supervisor is in charge of particular functions /areas of the business which would attach to representatives that work within those functions/areas.</p> <p><b>Recommend more flexible provisions.</b></p>
RG 000.33-000.34	We expect a market participant to maintain records of its supervisory activities, any compliance-related issues it encounters and how the issues were addressed. When a market participant's supervisory actions in a particular matter are called into question, it is almost always to the market participant's advantage to have a written record of the supervisory actions that were taken. A written record will serve as helpful evidence that the supervisors considered an issue or problem and made good faith judgements about the proper course of action. It is in the interests of the market participant, its directors and supervisory staff to ensure these records are made and kept.	<p>This section is somewhat confusing, it is not clear what the expectation is here and how participants would identify 'compliance-related issues'.</p> <p><b>Recommend this be removed, as all AFSL holders already have an obligation to maintain an incident and breach register, which would cover this instance. Documenting individual decisions with respect to issues that don't rise to the level of an incident/breach appears unduly burdensome and inconsistent standards expected by offshore regulators.</b></p>
RG000.39	We consider that on-site reviews are essential in order to exercise strict supervisory control over a market participant's business or branch offices and test compliance with its obligations. On-site reviews may also help a market participant to identify emerging issues in its business. To achieve these goals, on-site reviews of business and branch offices should be carried out regularly and in depth which	<p>Desk reviews conducted off-site can be just as effective as on-site reviews in testing various areas of supervisory control. Furthermore, records are predominately kept electronically and they are accessible remotely. ASIC should allow participants to determine the appropriate level of testing and how it's conducted to best fit their business.</p> <p><b>Recommend removing the requirement to only conduct on-site reviews to test supervisory controls and include language to allow participants to determine how testing should be conducted.</b></p>

	corresponds to the nature, scale and complexity of the financial services provided.	
RG 000.41	A market participant should consider a centralised approach to compliance supervision as its geographical footprint and complexity grows. Centralised compliance supervision supplements the valuable oversight contributed by supervisory staff in business and branch offices and is a means by which the participant may control fragmentation of its supervisory procedures.	<p>Similar comment to 14-15 above, unclear why compliance is in this document as it appears to be blurring the line between compliance and business.</p> <p><b>Recommend reconsidering inclusion of compliance matters.</b></p>
RG000.50	Where a market participant uses an automated system to assist it in supervising compliance with its obligations, we expect that the participant's supervisory procedures should set out how it plans to monitor and test the operation of the automated system and respond to any weaknesses, vulnerabilities, failures or errors which may arise.	<p>Participants have an overarching responsibility to determine the appropriateness of their management structure and if that includes using automated systems to assist in supervising compliance, participants should also decide whether those systems require monitoring and testing. ASIC should not prescribe automated system testing. Furthermore, a failure in an automated system does not necessarily mean a participant is not complying with any of its obligations.</p> <p><b>Recommend removing the expectation that automated systems need to be monitored and tested, as this may not be appropriate for commercial systems. Clearer drafting and examples may assist.</b></p>
RG 000.51	A market participant should consider what if any additional supervisory procedures are necessary to appropriately monitor dealing in new or complex financial products. At a minimum, we consider that supervisory staff given responsibility for supervising representatives who deal in a new or complex financial product should understand the terms, pay-off profile and risks of the product and the nature of the services the market participant's representatives provide in relation to the product..	<p>This paragraph is a standalone requirement in this document, i.e. supervisory procedures for supervisors to understand pay off profile/risks of complex products. This should already be covered by the adequate skills/competencies of the supervisor.</p> <p><b>Recommend this section be removed as duplicate.</b></p>

<p>RG 000.55</p>	<p>A market participant might outsource a function or task to an external third party or to another entity or entities within its corporate group. Written supervisory procedures should include procedures for ensuring that the market participant can satisfy itself that the performance of obligations, and compliance, by outsourced service providers is appropriate. For example, a market participant may include, as part of its service level agreement with a third-party provider, a requirement that:</p> <p>(a) the third-party provider gives a copy of its business continuity program to the market participant; and</p> <p>(b) permits the market participant to make an annual on-site visit to the third-party provider’s premises to facilitate assessment of whether it is meeting its obligations.</p>	<p>Reference to the service level agreement and what information should be included appears out of sync with what the Regulatory Guide extract is intended to cover, i.e. supervision. Guidance on what should be in a service level agreement should be in a regulatory guide on offshoring.</p> <p><b>Recommend moving this guidance to offshoring guidance.</b></p>
<p>RG 000.56(d)</p>	<p>Outsourcing arrangements should be documented so that the following are clearly understood:</p> <p>... (d) who within the market participant will monitor the outsourced service provider and how often.</p>	<p>This level of detail might be beyond what is required in a regulatory guide: the supervisor that is responsible for the outsourced arrangement will already have an overview of this.</p> <p><b>Recommend removal of (d).</b></p>
<p>RG 000.60</p>	<p>We expect the board of a market participant to regularly assess its supervisory procedures.</p>	<p>Very broad statement, not sure what “supervisory procedures” the Board would be expected to review and the frequency etc. The requirement would create additional administration and would a Board level review be the appropriate forum for an internal assessment.</p> <p><b>Recommend removing requirement.</b></p>