State of the Funds Management Industry

Research Report
Prepared for Financial Services Council

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Foreword

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Australia has a competitive, diverse and internationally respected funds management industry, with low fees by global standards. Our regulatory and legal systems are highly regarded globally, helping to make Australia a reliable and trusted place to invest capital. Yet the bi-partisan vision of seeing Australia as a financial centre on par with the likes of Singapore and Hong Kong (SAR), China and Australia's potential as a major exporter of funds management services remains unrealised.

The funds management industry, underpinned by investment in superannuation, continues to see significant growth, with $4.31 trillion in funds under management as of September 2022 (up from $3.81 trillion in June 2020). The proportion of FUM managed in Australia on behalf of overseas investors is only 6.5%, however with only modest growth achieved over the last 30 years (from less than 1% in 1991). The proportion of funds management exported from Australia is relatively small compared to other international markets and regional financial services centres. A contributor to our domestically focused sector is regulatory policy settings that have largely been inwardly looking, rather than implementing more ambitious policies that would make Australia's fund management industry compete globally.

It was pleasing to see the long awaited Corporate Collective Investment Vehicle (CCIV) regime come into effect last year. The CCIV is an investment vehicle more familiar to many international investors than traditional trust investment structures.

While the legal vehicle has been established, with a few further changes such as including a transition regime for existing products to enter into the CCIV framework and addressing tax issues, the CCIV can become a commercially viable vehicle of global standing.

The established CCIV framework offers an opportunity to showcase Australia's investment expertise and grow the funds management sector, as a key contributor to Australia's GDP and as an export industry.

Addressing structural system inefficiencies by providing product rationalisation to enable legacy products to be transferred into modern investment vehicles and providing clear tax settings with greater certainty for foreign investors will increase the attractiveness and competitiveness of Australia's funds management industry. In the context of a domestic economy facing a broad-based slowdown, the FSC encourages the Government to harness this potential driver of economic growth and employment.

In the State of the Funds Management Industry Report, we are pleased to provide an overview of the Australian funds management sector, with identified opportunities for policy makers to boost growth in one of Australia's largest sectors.

An efficient and competitive Australian funds management industry delivers value to the Australian economy in the form of taxes and employment and enables Australians to create wealth and save for retirement. A globally competitive funds management industry also has the potential to provide enhanced market liquidly, broaden investment choice for Australians and provide greater access to international markets and the potential for greater tax contribution and employment.

This report provides a comprehensive overview and explanation of the current landscape of the funds management industry in Australia. It identifies key trends and regulatory policy recommendations which could help improve the efficiency, attractiveness, and competitiveness of the funds management industry in Australia.

We believe that this report will be a valuable resource for anyone looking to gain a deeper understanding of the funds management industry in Australia, including how it compares against international peers and key reforms that the sector could benefit from to deliver efficiencies and enhance competitiveness for fund managers in global markets and also to enable fund managers to deliver better investment outcomes to Australians.

As a leading professional services firm, KPMG Australia (KPMG) is committed to meeting the requirements of our stakeholders – not only those we audit and advise, but also employees, governments, regulators and the wider community. We strive to contribute to the debate that is shaping the Australian economy and as such I am pleased to present to you the State of Funds Management Industry Report.

Contents

01. Executive Summary

The purpose of this Report is to provide a view on the state of the Australian funds management industry and to provide a comparison of its attractiveness and competitiveness against five key global peer jurisdictions. Additionally, this report outlines key regulatory and tax recommendations which may enhance Australia's attractiveness and competitiveness relative to global jurisdictions.

A snapshot of Australia's Funds Management Industry

Key Statistics

647[1] Number of fund managers operating in Australia

560,000[2] Number of people employed in Financial Services

3,656[3] Total number of Managed Investment Schemes

**$4,306 bn**[4] Total funds under management ($AUDbn)

**$3,485 bn**[5] Total funds under management in managed funds ($AUDbn)

6,451[6] Number of products offered by fund managers in Australia

6.5%[7] Percentage of funds (FUM) exported

Australia's funds management industry is a major contributor to Australia's national economic output, employment and growth. The funds management industry:

1. Is a significant contributor of employment in Australian and indirectly employs 560,000 across industries such as legal, accounting and technology services, administration, processing, marketing and other services.
2. Currently manages over $4.3Trn AUD of which 65% of flows are sourced from superannuation.
3. As at September 2022 total funds under management (FUM) placed with resident (Australian) investment managers, totalled $2,574bn[8] in FUM, or approximately 108% of Australia's GDP (please see Diagram 2).
4. Contributes positively to Australia's financial position not only in terms of tax revenue, it is also a part of two pillars within Australia's Retirement system (compulsory superannuation contribution and voluntary savings).

See Chapter 2 of the Report for other key industry statistics, overview of the key participants and a description of how the industry operates, including key trends impacting the industry.

[1] Morningstar, database of all Australian domiciled fund manager as at 1/02/2023 in terms of number of fund managers, product offered and total funds under manager per manager and products. Noting that this Morningstar database shows that 483 of the 647 managers have funds under management greater than zero.
[2] 560,000 people are employed in the Australian Financial Services sector of which the Funds Management sector is a subset. The figure is sourced from ABS Labour Force, Australia, Detailed, Quarterly, Table 6. Figures are four quarter moving averages – and does not provide a sub-sector result.
[3] Australian Securities and Investments Commission, Annual Report 2021 – 22, pg. 255. 3,656 managed investment schemes are registered with ASIC as at 2021/22-year end, down from 3,726 in 2017/18.
[4] Australian Bureau of Statistics (ABS), Managed Funds, Australia, September 2022, Tables 1 and 9.
[5] Ibid.
[6] Morningstar, database Op. Cit.
[7] ABS Tables 1 and 9
[8] See Diagram 1.

How Australia compares with other jurisdictions

Australia has a strong, professional, and large funds management industry underpinned by a strong domestic source of funds. Conversely, as a financial services centre, Australia, according to the Australia as a Financial & Technology Centre Advisory Group (AFTCAG), has fallen behind on a competitive basis since the Johnson Report [9] was published in 2009 "from just outside the top 10 to outside the top 20 [10]", with a moderate 6.5% [11] of funds under management currently sourced from offshore investors.

Funds under management in Australia are significantly sourced domestically (largely as a result of the superannuation compulsory system), with regulatory and tax settings tending to focus on domestic issues, weighted towards consumer protection and tax integrity. This domestic focus has resulted in complexities particularly in tax settings, that tend to create a perception of complexity and higher taxes (relative to peer jurisdictions) for foreign investors.

Chapter 3 of this Report provides a high-level comparison of Australia to five global funds management jurisdictions being USA, United Kingdom, European Union-Luxembourg, Singapore and Hong Kong (SAR), China. The chapter includes, per jurisdiction, an overview summary of legal structures, and key policy and taxation settings.

In summary, in regards to both the regulatory and tax setting, we observed the following in the jurisdictions reviewed:

Australia's peers demonstrate a focus on enabling regulatory and tax initiatives to maintain global funds management attractiveness and competitiveness:

- In Australia, tax and regulatory reform in funds management has tended to be tactical and responsive rather than holistic and modernising. This stands in contrast to the broad, coordinated tax and regulatory reform in the funds management sector that has occurred in Luxembourg, Singapore, Hong Kong (SAR), China and other major financial centres. For example, Singapore, where 78% [12] of funds under management is sourced from outside Singapore, has seen significant growth of funds under management between 2011 (S$1Tn) and 2022 (S$5.4Tn) off the back of a number of concerted regulatory changes including enhancing its funds management company regime, introducing various tax incentive schemes and launching the ASEAN CIS passport regime. In Luxembourg, the proportion of funds sourced from other countries is approximately 95%, [13] and in Ireland it is approximately 90% [14].

- While new Australian tax policies have generally been well considered and mindful of the need for cohesiveness, the way in which policy settings have developed over time has resulted in complexity, with foreign investors needing to understand multiple sets of rules. For example, numerous different withholding tax rates exist for different types of income (with multiple exemptions), rather than a simple low or nil rate on common types of investment income which exists for other major funds management jurisdictions.

Quick to legislate: Other jurisdictions have been faster than Australia in developing new collective investment vehicles. When Australia has in fact legislated, it has taken considerable time and led to regulatory and tax rules that are complex. For example:

- Policy announcements following the release of the Johnson Report in 2010, saw the Asian Regions Funds Passport came into effect in 2019 and Corporate Collective Investment Vehicle (CCIV) legislation came into effect in 2022. Further, when the CCIV regime was announced by Australia it was understood that the intent would be that the commencement would be swiftly followed by a tax transparent limited partnership regime that has not eventuated. In addition, while the corporate investment vehicle has been established, the key settings necessary to enable the vehicle to be more likely to encourage success, such as having a transition regime, have not been developed. By comparison as at October 2022 in Singapore, since the introduction of the Variable Capital Company (VCCs) fund structure in 2020 (which enables a fund manager to establish a corporate/company fund structure akin to Australia's CCIV regime), 660 VCCs have been incorporated representing 1,300 sub funds managed by 420 fund managers [15].

Provide competitive and clear tax settings and greater certainty for foreign investors: For example:

- Australia has unwound the offshore banking unit regime, reduced then doubled the MIT withholding rate (from 22.5% to 15%, to 7.5% then back to 15%), increased MIT withholding to 30% for certain non-concessional MIT income and restricted withholding tax exemptions available to foreign pension and sovereign wealth funds from 1 July 2019.

- While the withholding tax exemption in Australia for foreign sourced income results in a similar tax outcome to fund income managed in other countries, the high headline rates of withholding tax on Australian sourced income and the use of multiple rates for different types of income creates an impression that Australian tax will be higher and more complex than other major funds management jurisdictions. This is difficult to explain to foreign investors, creating the impression of complexity.

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[9] Australian Financial Centre Forum *Australia as a Financial Centre, building on our Strengths,* November 2009, known as the Johnson Report.

[10] Australia as a Financial & Technology Centre Advisory Group (AFTCAG), Report, *Making Australia and Internationally Competitive Financial Centre & Attracting Asia-Pacific Business Headquarters to Australia*, January 2021 p2.

[11] Australian Bureau of Statistics, *Managed Funds, Australia, September 2022*, Tables 1 and 9.

[12] Monetary Authority of Singapore (MAS), *Singapore Asset Management Survey*, 2021, p2 and *Singapore Asset Management Survey*, 2011, p1

[13] Over 95% of assets in Luxembourg funds come from other countries: https://www.cssf.lu/en/2023/02/origin-of-uci-initiators-in-luxembourg/ See also: https://www.cssf.lu/en/2023/03/investment-fund-managers/

[14] See: https://www.centralbank.ie/statistics/data-and-analysis/other-financial-sector-statistics/investment-funds

[15] MAS *Singapore Asset Management Survey*, 2021, p 5.

- The complexity of Australia's double tax treaty network and the key differences between Australia and other major funds management jurisdictions notably Luxembourg and Hong Kong (SAR), China (noting that the Australian Government has recently announced that it is considering negotiating a treaty with Luxembourg). By way of example, Singapore currently has over 100 double tax treaties in place, mitigating double taxation and eliminating withholding tax, as compared to Australia which currently has 46 treaties [16].

Tax settings which encourage foreign investment

- The general requirement that tax policy measures introduced be revenue neutral or revenue positive has meant that any attempt to simplify or reduce withholding tax rates on fund distributions to foreign investors to align with the low or nil rates applied by global peer jurisdictions has been met with challenge. This is notwithstanding that such reduction and simplification measures would attract foreign investment, thus increasing FUM of the Australian asset managers and the associated corporate tax payable in respect of the management fees earned.

[16] Inland Revenue Authority of Singapore List of DTAs, Limited DTAs and EOI Arrangements (iras.gov.sg) and Income Tax Treaties | Treasury.gov.au

Summary of Key Recommendations

Chapter 4 of this Report proposes key targeted, implementable (low to no impacts to the federal budget), policy recommendations we believe are required to:

- enhance Australia's attractiveness and competitiveness globally; and
- enhance efficiencies and deliver outcomes to Australian investors and those who invest with Australian fund managers

Recommendation 1
Introduce a regime to facilitate the transition of existing investment funds into the CCIV structure on a tax neutral basis, ensuring investment entities are able to transition into the CCIV. The transition rules should maintain consumer protections while removing unnecessary compliance costs.

Recommendation 2
Simplify the tax rules for CCIVs that fail the 'widely held' test to remove unnecessary barriers to the adoption of the vehicle.

Recommendation 3
The Government consider reviewing existing tax rules that apply to foreign partnerships or hybrid entities with the goals of aligning with tax regimes in competing jurisdictions; reducing compliance costs and complexity; and removing barriers that discourage investment via Australian managed vehicles.

Recommendation 4
Product modernisation reforms be introduced to facilitate investors being transferred from a legacy financial product (of a broad range of types) into another product. This reform should ensure there is no taxation imposed on the investor or the product because of the rationalisation, and social security entitlements should be unaffected.

In addition, to enable modernisation of MIS products, we recommend consideration be given to include a simplified consumer interest test for the rationalisation, similar to the existing ASIC relief relating to the conversion of funds into the AMIT regime.

Recommendation 5
Australia's complex range of withholding tax rates for managed funds be replaced with a single low rate of 5% applying to all payments made by globally focussed funds, particularly Passport funds, other than income that is already exempt and income from Australian real property. In addition, the tax rules that inappropriately apply withholding tax on payments, particularly on foreign exchange hedging and gains on sale of bonds, be reformed.

Recommendation 6
The Government consider working with other Passport jurisdictions to relax the restrictive rules on the types of financial arrangements that can be used in Passport funds. This change to allowable investments should help many common or typical funds used in Passport jurisdictions to become eligible to become Passport funds.

Recommendation 7
Consideration be given to the disclosure requirements for Passport funds which could benefit from simplification and harmonisation so there is one common disclosure requirement across all Passport jurisdictions.

Recommendation 8
Legislate a climate-related financial risk disclosure regime for Australia's significant financial institutions and large companies to allow fund managers to more effectively price climate risk in their investment portfolios and make Australia a more attractive investment destination for climate-risk aware capital. The Australian reporting regime should be aligned with the TCFD and ISSB standards and be phased in appropriately.

Recommendation 9
The Government consider legislating the Foreign Financial Services Provider regime for FFSPs that deals with wholesale clients and professional investors to support funds management competition and investors' choice (currently operating under an ASIC relief instrument).

Recommendation 10
We are supportive of the Government reviewing the Your Future, Your Super (YFYS) performance test (the benchmarks specifically) and of the consultation process on draft regulations regarding the benchmarks used for the performance test assessment. Given the nascent and importance of the test, we recommend the Government continue to assess the YFYS performance test for unintended consequences and to ensure the performance test approach and benchmarks are not inappropriately constraining investment decisions of trustees.

02. Funds Management in Australia Size, Scale, Importance & Contribution

Key Statistics

647[17]
Number of fund managers operating in Australia

560,000[18]
Number of people employed in Financial Services

3,656[19]
Total number of Managed Investment Schemes

$4,306 bn[20]
Total funds under management ($AUDbn)

$3,485 bn[21]
Total funds under management in managed funds ($AUDbn)

6,451[22]
Number of products offered by fund managers in Australia

6.5%[23]
Percentage of funds (FUM) exported

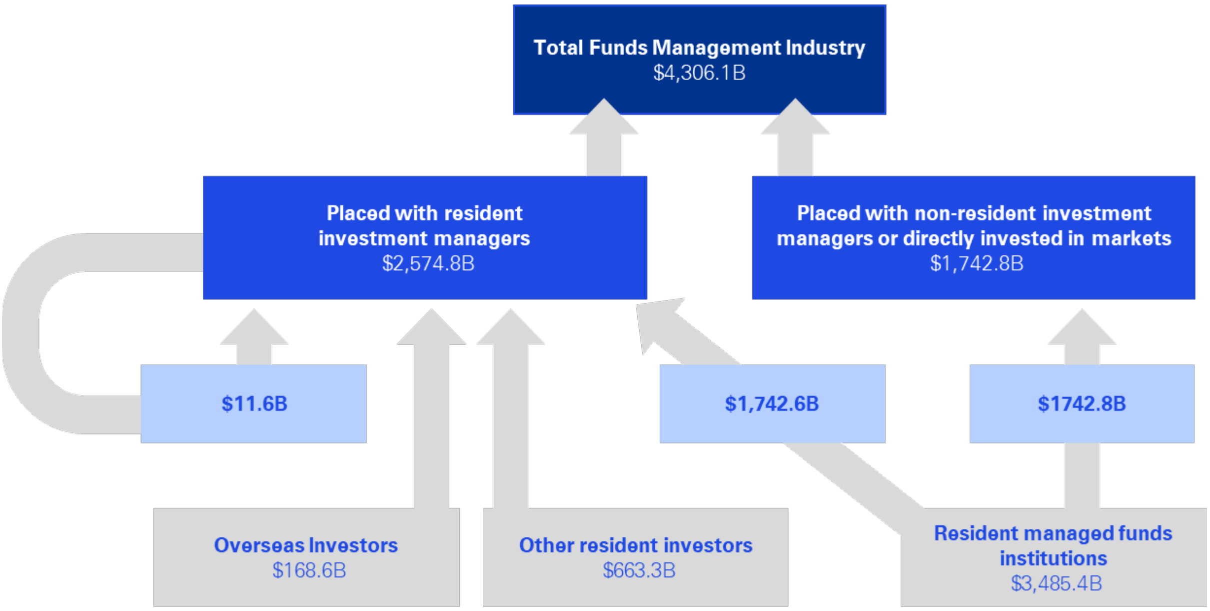
Introduction

Australia's financial services sector is the second largest sector in the national economy, contributing 7.5% to Gross Value Added (GVA) in September 2022[24], behind the mining sector. The funds management sector is a major component of the financial services sector and plays a key role in the economy. This includes acting as a major source of economic growth and a key liquidity provider to capital markets by allocating investor capital, with the aim of generating financial returns, to those who require liquidity and access to capital[25]. As of September 2022, the industry managed over $4.3 trillion in assets for Australian investors, wholesale clients (domestic and global) and governments.

[17] Morningstar, database of all Australian domiciled fund manager as at 1/02/2023 in terms of number of fund managers, product offered and total funds under manager per manager and products. Noting that this Morningstar database shows that 483 of the 647 managers have funds under management greater than zero.
[18] 560,000 people are employed in the Australian Financial Services sector of which the Funds Management sector is a subset. The figure is sourced from ABS Labour Force, Australia, Detailed, Quarterly, Table 6. Figures are four quarter moving averages – and does not provide a sub-sector result.
[19] Australian Securities and Investments Commission, Annual Report 2021 – 22, pg. 255. 3,656 managed investment schemes are registered with ASIC as at 2021/22-year end, down from 3,726 in 2017/18.
[20] Australian Bureau of Statistics, Managed Funds, Australia, September 2022, Tables 1 and 9
[21] Ibid.
[22] Morningstar, database Op. Cit.,
[23] ABS Tables 1 and 9
[24] Australian Bureau of Statistics, (2022) cat. No. 5206 Australian National Accounts, September 2022.
[25] Other sources of liquidity and investment in the Australian economy includes, for example, banks and mutual banks/building societies.

The industry as a whole is shown in the diagram below.

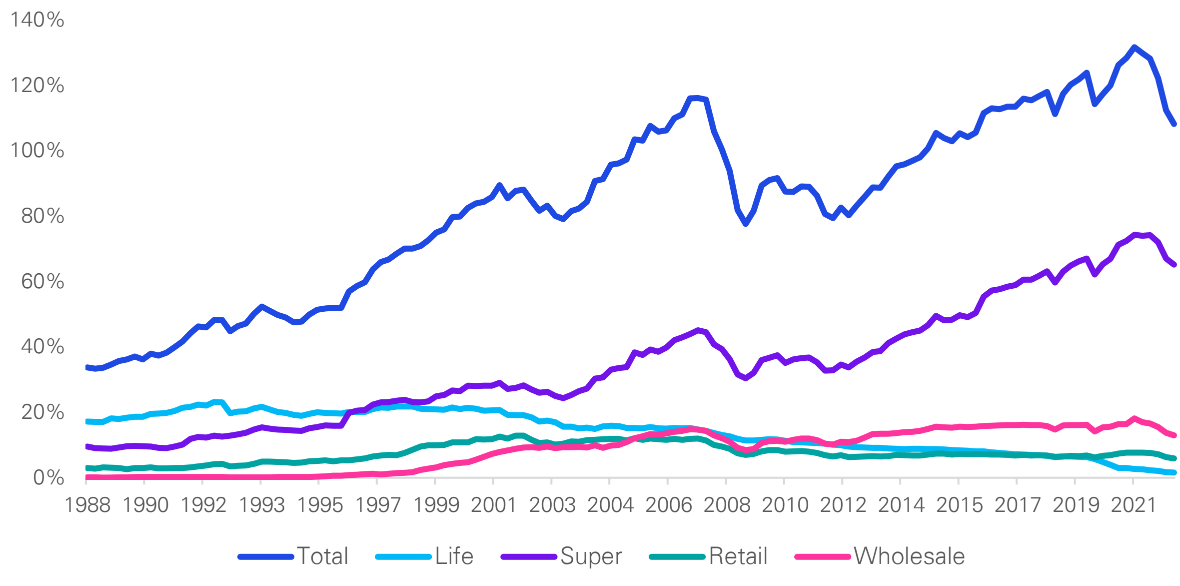
Diagram 1 - Total funds under management in the Australian funds management industry ($AUD Bn) [26]



Source: ABS Managed Funds, Australia, September 2022

As at September 2022, domestically, the total FUM *placed with resident (Australian) investment managers* totalled $2,574bn [27], or approximately 108% of Australia's GDP (please see Diagram 2).

Diagram 2 - Australian funds under management as share of GDP [28]



Source: ABS Managed Funds, Australia, September 2022

[26] Australian Bureau of Statistics, Managed Funds, Australia, September 2022, Tables 1 and 9. Based on the same methodology in ABS Managed Funds, June 2019
[27] See Diagram 1.
[28] ABS Managed Funds, Australia, September 2022, Table 9; ABS National Accounts, Table 1. GDP is calculated as the sum of the previous 4 quarters published in the National Accounts. FUM is defined as FUM from Australian sources; the following categories are omitted from the graph (but included in the total): friendly societies, common funds, government, general insurance, cash management trusts, charities, and other investment managers. The omitted categories in aggregate comprise 21% of the total figure as September 2022.

Who manages fund in Australia?

- **Professional domestic and international fund managers** – professional investment experts who design products, make investment decisions, execute on investment strategies and manage client monies.
- **Life insurers** historically have also been fund managers but increasingly now place their monies with professional fund managers (as institutional clients and or via investment in pooled investments).
- **Superannuation Trustees**: Some of Australia's largest superannuation funds are increasingly developing and insourcing funds management (in part or in full) and or place monies with professional fund managers where they do not have the capability or expertise. The majority of superannuation funds are clients of domestic and international fund managers.

For the purposes of this Report, the term "fund manager" captures all providers who perform professional investment services.

Key Investors & sources of funds in Australia

Broadly there are two distinct types of investors:

- **Retail investors**: are generally comprised of individual and households and these types of investors generally invest their monies in pooled offerings such as managed funds [29].
- **Wholesale and professional investors**: professional institutional investors include fund managers (with specialist investment skills), superannuation funds and life companies. Wholesale investors include family offices, private clients and sophisticated investors who are considered non-retail investors due to their expertise and or their financial investment capabilities. Some investors such as governments (local council, federal such as the Australian Future Fund) also sit within this category of investors.

Importantly, as Australian superannuation funds have grown in size and complexity, a number of superannuation funds have internalised their investment management functions (i.e., developed funds management capabilities in-house). As such, not all superannuation funds monies are managed by external fund managers as it has been historically[30].

[29] Managed Fund is a registered managed investment scheme which is a unit trust. See the section called Types of Structures in Australia later in this chapter for further definitions.

[30] 56% or $1,185 billion of $2,114 billion of superannuation assets with more than six members were placed with professional fund managers as at 30 September 2022. ASFA Superannuation Statistics November 2022.

Superannuation at the core of funds management industry in Australia

As mentioned previously, the superannuation sector is the largest source of funds and currently accounts for approximately 65% of total assets within the funds management industry [31]. The superannuation sector has experienced continued growth between 2000 and 2022 increasing in total FUM from $338bn [32] to $3.49tr [33]. This growth is expected to continue with KPMG estimating that the superannuation sector will grow to $8.6trn by 2040 [34] providing ample growth opportunities for the funds management industry.

Consequently, policy settings and changes impacting superannuation have a direct impact on the funds management industry including its structure, operating models and product/pricing offerings and revenues.

For example, the Your Future, Your Super reforms, introduced in 2020, include several measures which, due to the size and importance of the superannuation segment, are likely to impact the broader funds management sector. This reform package most notably includes a performance benchmark test [35] to address underperforming superannuation funds. While the performance test has focused trustee attention on performance and fees the full impact the performance test has on the broader industry is yet to be realised. However, funds failing the performance test have recently been more involved in merger activity in the sector. This merger activity has resulted in the following:

- The number of mandates [36] available in the market decrease but the average size of mandates increase;
- Increased focus on performance against YFYS benchmarks and tracking error [37] which has meant that investment strategies that are not neatly aligned with benchmarks, may be under review; and
- Additional focus on enhancing product performance is encouraging greater use of passive investment strategies for equities investment (with lower fees than active management) and sharper procurement processes between superannuation funds and fund managers.

Types of Structures in Australia

Funds management structures offered in Australia typically take the following four different legal forms:

- **Registered Managed Investment Scheme:** A managed investment scheme is a pooled investment scheme which is professionally managed and most often takes the legal form of a unit trust. These schemes and their operator are regulated by ASIC, and both must meet a number of requirements under Australian law. Managed Investment Scheme (MIS) is defined in Section 9 of the Corporations Act. An MIS includes for example, a pooled scheme (such as a unit trust/managed fund), statutory fund maintained under the Life Insurance Act 1995, a regulated superannuation fund, approved deposit fund, a pooled superannuation trust, a public sector scheme as defined in the SIS Act and a scheme operated by an Australian ADI.

  The registration status of a MIS affects the governance structure required and the extent to which it is regulated under the Corporations Act. A MIS must register with ASIC if the fund has more than 20 members, is actively promoted or if ASIC determines that the fund should be registered for another reason. If the managed fund is registered, then it must be operated by a responsible entity (RE) that has responsibility for the overall operation and management of the fund [38]. The RE must be an Australian public company and hold an Australian Financial Services License (AFSL). Funds which are not required to be registered are more likely to have a wholesale trustee who is responsible for the overall operation and management of the fund. Wholesale trustees must also hold an AFSL. Managed Investment Schemes are sometimes also referred to as managed funds.

  Diagram 3 on the following page, illustrates the organisational structure of a managed fund structured as a registered managed investment scheme including the fees payable for each service and demonstrates the relationships between the responsible entity, investment manager and third parties.

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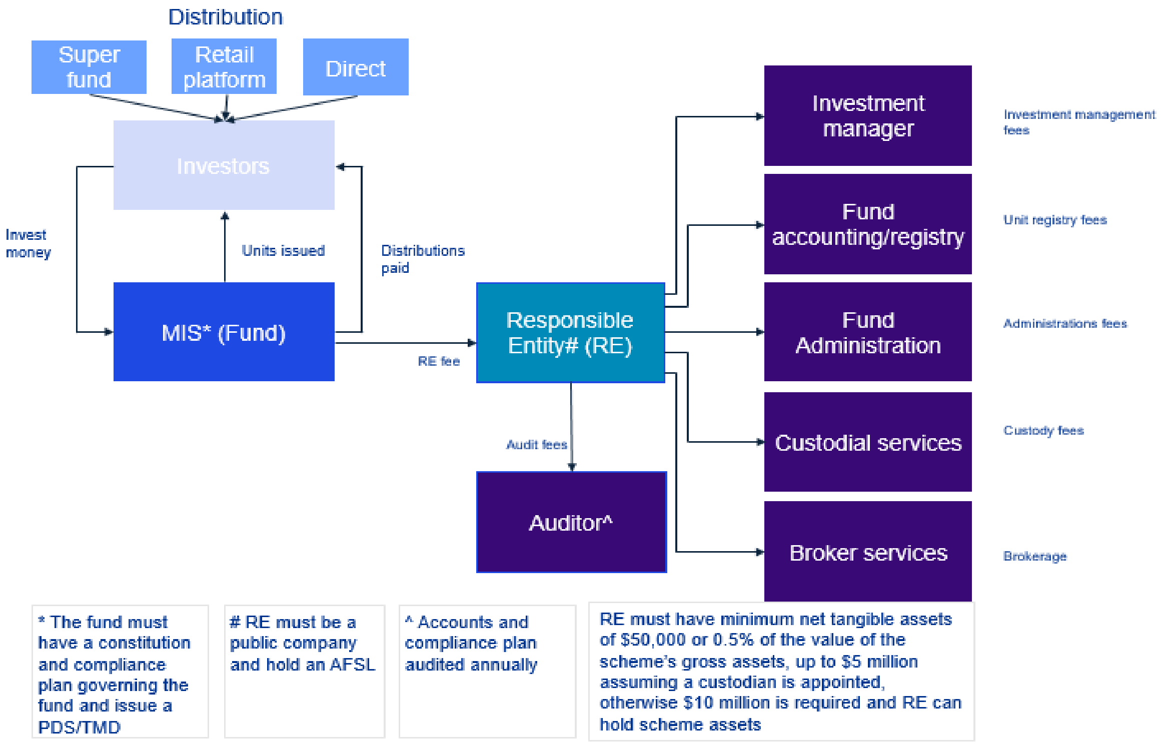
[31] ABS Managed Funds, Australia, September 2022, Table 9. The "Other" category includes charities, friendly societies, common funds, and other investment managers.
[32] ABS Managed Funds, Australia, December 2000.
[33] ASFA Statistics May 2023.
[34] KPMG Media Release, Super fund to reach the $1 trillion barrier by 2040, May 2022.
[35] Where a Superannuation product fails the performance test in two consecutive years, this product cannot accept any new beneficiaries into the product until they pass a future performance test.
[36] A Mandate is a customised investment arrangement between the fund manager and an institutional or wholesale investor.
[37] A tracking error is the difference between a portfolio/fund's performance against a set benchmark. For example, an index fund generally has a tracking error of zero.
[38] The RE will appoint the investment manager of the fund as well as third party services including custody, fund accounting (including unit pricing), administration and auditing services. Equally, a wholesale trustee of an unregistered fund will be responsible for appointing 3rd party services to the operations of the fund.

Diagram 3 - Typical structure of a registered managed investment scheme [39, 40]



- **Unregistered managed investment schemes:**
  Some managed investment schemes may be exempt from registration such as where the fund has no more than 20 members or all the interests in the scheme are issued to wholesale clients only however operators of such unregistered schemes must generally hold an AFS licence to issue, vary or dispose of interests in the scheme to wholesale investors.

- **Unit trust: this includes unregistered managed investment schemes.**
  Based on trust law, these were the original legal form of Australian collective investment schemes available to the public. This common structure enables investors to pool investments, thus beneficially owning a portion of the trust fund (or units), which is professionally managed by a fund manager. A unit trust is operated by a legal entity called a Trustee who represents the trust (and therefore the investors as a whole) and who holds the legal title to the trust assets. Managed funds may be set up as a unit trust/MIS or as a company.

- **Company**
  Investments made via a company structure as opposed to a unit trust or partnership. An example includes Listed Investment Companies (LICs), which operate like a managed funds but are closed ended funds with the same legal structure as an incorporated company.

A new type of investment company that can be registered with ASIC from 1 July 2022, is a corporate collective investment vehicle (CCIV) which allows investors to own shares in the company which link to a sub fund of the Company. A CCIV can be retail or wholesale and must have a corporate director. A corporate director must be a public company and must hold an AFSL [41]. The CCIV regime was passed into law on 10 February 2022 in order to offer an alternative investment vehicle to the unit trust structure and is designed to establish a more internationally recognisable corporate structure (rather than a trust structure) to further Australia's ambition to be a global financial centre in the Asia Pacific region.

- **Limited Partnership**
  A limited partnership is a type of structure where there are one or more general partners who manage the fund and are personally liable for its debts, and one or more limited partners who provide the capital but have limited liability. This structure is not commonly used in Australia outside of the venture capital industry where specific tax concessions and statutory safe harbour provisions exist for passive limited partners.

[39] ASIC Report 702, *Deloitte Access Economics (2021) Competition in funds management*, September 2021.p37.
[40] Investment Group (2023), *What is a managed investment scheme* https://www.oneinvestment.com.au/responsible-entities-and-managed-investment-schemes
[41] Australian Financial Services Licence registered with ASIC.

The fund structure used by a fund manager will depend on a number of considerations including, for example, the following:

- Whether client moneys are pooled or segregated.
- The type of investor the fund may best suit (its target market including whether the investor is non-resident).
- How the product is structured.
- The asset/s that the fund invests in, such as equities, fixed income, property, infrastructure or alternative assets.
- The investor's risk appetite and the asset management philosophy adopted.

Retail and institutional investors have different preferences to the managed funds they choose to invest into. Retail investors typically invest via public offer pooled investment products which are structured as unit trusts, and which are required to be registered managed investment schemes. By comparison, institutional investors, such as superannuation funds, generally invest in wholesale unit trusts or via discrete or segregated mandate(s)[42] with a fund manager where the funds are managed separately from other investors. Under this structure, a fund manager provides the professional investment expertise (for example asset selection and execution) on behalf of the client, and the investor retains ownership of the underlying assets and tend to have a more direct influence over the investment strategy, fees, and reporting requirements for the fund.

Managed funds can also be classified according to whether they are Listed or Unlisted.

- **Unlisted managed funds** cannot be purchased on an exchange and are typically, though not exclusively, acquired through a financial adviser or directly from the fund manager, super fund, platform provider or life company. mFunds are unlisted funds which use the ASX settlement system to conduct transfers between investors and the managed fund provider but are not listed on the exchange. The ASX mFund Settlement Service enables investors to buy and sell units of certain unlisted managed funds via the same intermediary which executes on share purchases such as a stockbroker, financial adviser, accountant and or bank trading platform[43].
- **Listed managed funds** are available on an exchange and can be acquired through a financial adviser, super fund, platform, broker or trading portal. There are three types of listed structures:
  - **Exchange-traded funds (ETFs**) are open-ended funds; the issuer may increase or decrease the number of units on the market in accordance with supply and demand. Dual access ETFs are now also available in Australia, which offers investors the ability to buy or sell their units on an exchange or invest and redeem units directly with the responsible entity (commonly referred to as dual access or a dual entry-exit ETFs).
  - **Listed Investment Companies (LICs**) are a type of closed-ended fund with the same legal structure as an incorporated company.
  - **Listed Investment Trusts (LITs**) are also closed-ended funds but they are established as a trust rather than a company and must be registered as a managed investment scheme.

Other investment products in the market include:

- **Managed accounts** (includes separately managed account and managed discretionary accounts) is a portfolio of assets (such as shares and or managed funds) managed for a consumer by a professional investment manager. Unlike a managed fund which is managed by a fund manager, the individual generally takes advice as to the asset allocation and or asset selection and holds the underlying assets of their managed account. Managed accounts are generally distributed by superannuation and investment platforms/wraps**.**
- **Superannuation and retirement income products** – a range of products may be offered by a superannuation fund and or life company to consumers to help a consumer save and or generate an income in retirement. Depending on the nature of the product structure, the monies are likely to be invested and managed by a professional investment manager.

Product Statistics: As at 30 December 2022

276 [44]
Listed Exchange Traded Funds (ETFs) ($130.44 bn)

234 [45]
mFunds ($1,618.26 m)

92 [46]
Listed Investment Companies (LICs) ($48.70bn)

3,656 [47]
Registered managed investment schemes with ASIC

$144.5 bn [48]
FUM in managed accounts

[42] The terms are used interchangeably to mean a mandate placed by one investor (such as a superannuation trustee) and a fund manager.
[43] Australian Securities Exchange, *Investing in mFunds* www2.asx.com.au/investors/learn-about-our-investment-solutions/investing-in-mfund
[44] Australian Securities Exchange, ASX Investment Products Monthly Update, 30 December 2022.
[45] Ibid.
[46] Ibid.
[47] ASIC *Annual Report 2021/22* pg. 255. This number is for 30 June 2022.
[48] Data from the Institute of Managed Accounts Professional (IMAP) https://www.imap.asn.au/publications/perspectives/114-perspectives-autumn-2023/1117-imap-fumcensus-dec-2022.htm
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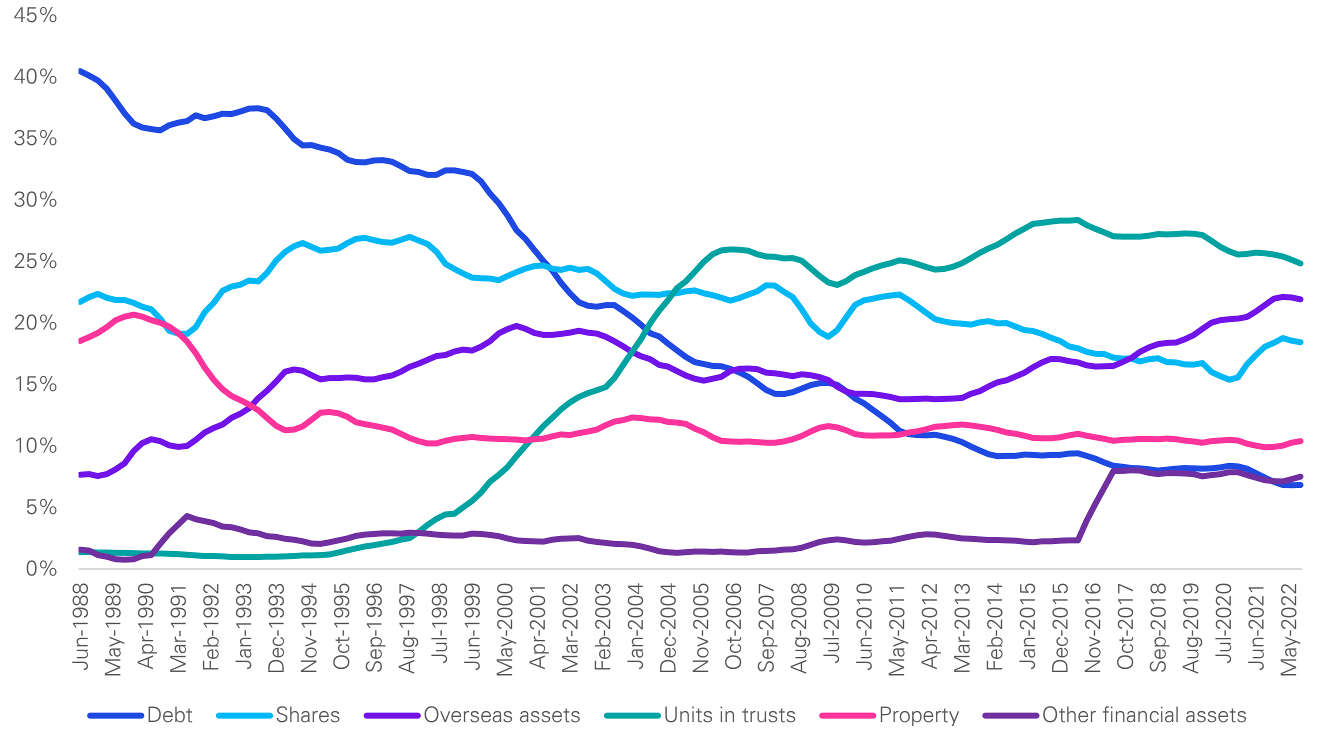
What is the asset split for the industry?

The funds management sector offers investors a range of both growth and defensive asset classes [49]. The asset allocation of Australian investors as a total share of the sector is invested as shown in Diagram 4 (the assets relate to the resident investment managers in diagram 1). Changes by asset class as a share of asset allocation between June 1988 and September 2022 were as follows:

- Investment in Debt (short term and long-term securities) has steadily declined from 45% to 8%.
- Investment in Shares (domestic equities), which rose to 27% in 1996, up from 22% in 1988, has declined to 20%.
- Property, as an asset class, declined from 18% to a range between 12-10% since 1994.
- Overseas assets (all assets including equity and debt securities) has increased from 8% to 20% in 2000, falling to 14% between 2010 and 2014, and has now recovered to 23%.
- Investments in Units in Trusts [50] rose from 1% to 28% in 2016, has now declined to 26%.
- Investments in Other financial assets [51] which grew from 1% to 8% in 2017, has remained steady at 9%.

Diagram 4 - Funds management asset allocation, share of total [52]



Source: ABS Managed Funds, Australia, September 2022.

[49] An example of a growth asset are domestic and international shares. An example of a defensive asset is cash and fixed interest.

[50] Australian Bureau of Statistics, *Managed Funds, Australia, September 2022*, Table 2.

[51] Australian Bureau of Statistics, *Managed Funds, Australia, September 2022*, Table 2. Investments in Other Financial Assets increased in 2017 due to a reclassification: "Other financial" is mainly derivatives and receivables by some Public Sector Superannuation Entities which were recognised for the first time in September 2016, explaining the large increase at that date. Source: 5655.0 - Managed Funds, Australia, Sep 2017 (abs.gov.au).

[52] Australian Bureau of Statistics, Managed Funds, Australia, September 2022, Table 2. Debt includes short-term securities, bonds, loans and placements and excludes deposits and derivatives.

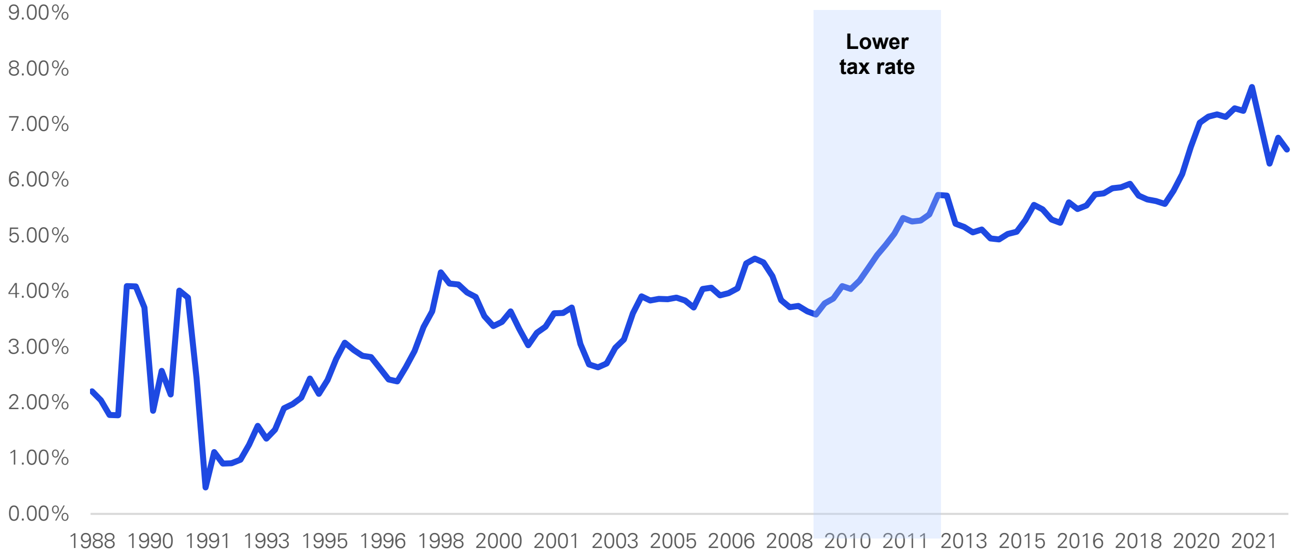
Export of funds management

In 2022, the proportion of FUM managed in Australia on behalf of overseas investors grew to approximately 6.5%, from less than 1% in 1991. Despite this moderate growth, the proportion of funds management exported from Australia is relatively small compared to other international markets and regional financial service centres.

In 2019, the Asia Region Funds Passport (ARFP) was introduced with the hope of reducing the barriers to international competition and supporting Australia in its ambition to become a regional financial services centre [53]. The ARFP is a multilateral regional initiative between participating economies in the Asian region to facilitate the export and import of passport Funds. The agreement allows managed funds developed and offered in one participating economy to be distributed to investors in another participating economy without duplicating regulation of the fund. Australia, Japan, Thailand, the Republic of Korea and New Zealand have signed up to the agreement [54].

However, the Australian tax settings in particular make the export of managed funds to foreign investors challenging and limit the potential for the ARFP to achieve its objectives. There are no Australian funds which have registered under the passport. [55]

Diagram 5 - Proportion of funds managed in Australia coming from offshore [56]



Source: ABS Managed Funds, Australia, September 2022, Tables 1 and 9

There are a number of Australian regulatory requirements imposed on foreign operators of collective investment vehicles who wish to carry on business in Australia, unlike in other jurisdictions. For example, European fund managers leveraging the UCITs regime are able to efficiently export their products into other countries including ASIA but not into Australia. Australian requirements include:

- The foreign operator must, hold an Australian Financial Services Licence (AFSL), unless they can qualify for limited licensing relief [57]:
- The foreign operator may be required to register as a foreign body corporate [58]; and
- If the foreign vehicle is targeting Australian retail investors, then the vehicle must be registered with ASIC as a managed investment scheme and the vehicle governing and disclosure documents must be conform to prescribed form and content rules.

This has implications for offshore fund managers seeking to reach Australian clients as they must actively manage Australian regulatory requirements relevant to Australian businesses. These regulatory requirements (including their costs and processing time) present barriers to entering the Australian market. As such, according to ASIC Report

[53] The Asian Region Funds Passport (ARFP) concept was a recommendation made originally in the 2010 report, *Australia as a Financial Centre – Building on Our Strengths*, by the Australian Financial Centre Forum (also known as the Johnson report). Hong Kong and Singapore are not signatures to the ARFP regime having launched their own regime.

[54] ASIC (2023) Asia Region Funds Passport, ASIC.

[55] New Zealand is the only country listed on the Funds Passport, and the first to have a passport fund registered see Asia Region Funds Passport (apec.org)

[56] ABS Managed Funds, Australia, September 2022, Tables 1 and 9. Funds managed by Australian investment managers on behalf of overseas investors divided by total funds under management (which are managed by Australian resident funds managers).

[57] Existing licensing relief for foreign providers with a limited connection to Australia or whose home market regulation is sufficiently equivalent and who target wholesale clients expires on 31 March 2024. Unfortunately, the "sufficient equivalence" relief is not able to be relied upon by a foreign provider that is not already relying upon that relief. On the next day 1 April 2024, new ASIC relief will commence allowing foreign providers to provide funds management services to certain categories of Australian professional investor. The forgoing ASIC relief was implemented since the licensing exemptions proposed in the new Treasury Laws Amendment (Streamlining and Improving Economic Outcomes for Australians) Bill 2022 lapsed when the Federal Government Federal election was called in 2022.

[58] Wholesale trustees may either be public companies or proprietary limited companies.

702 [59], international competition in the form of direct market entry into the Australian funds management industry has been limited to large international institutions with sufficient scale to justify expansion into the Australia market.

In 2022, the Morrison government tabled The Treasury Laws Amendment (Streamlining and Improving Economic Outcomes for Australians) Bill 2022, in parliament (known as the *Foreign Financial Services Provider regime* (FFSP). The object of the Bill was to provide relief to foreign financial service providers to promote diversified investment opportunities for Australian investors and attract investment and liquidity to Australian markets. The Bill has not been enacted. However, ASIC is providing relief for the FFSP regime for an interim period.

The FFSP supports consumer choice/investment options and enable foreign managers to distribute their offerings to Australia by:

- Providing an exemption from the requirement to hold an Australian financial services licence for persons that provide financial services from outside Australia to professional investors (the **professional investor exemption**)
- Providing an exemption from the requirement to hold an Australian financial services licence for foreign companies regulated by comparable regulators and that provide financial services to wholesale clients (the **comparable regulator exemption**); and
- Fast-tracking the licensing process for foreign companies seeking to establish more permanent operations in Australia by providing an exemption for foreign companies regulated by comparable regulators from the fit and proper person test when applying for an Australian financial services licence to provide financial services to wholesale clients (the **fit and proper person test exemption**).

Type of fees charged by Australian fund managers

Based on survey responses provided to KPMG [60], we note the following observations:

- The majority of survey respondents noted that the fees charged to clients decreased due to greater competition in the funds management industry and economies of scale;
- No fund managers surveyed charge an exit fee; and
- The only fees charged were management fees for passively and actively managed offerings and performance fees for actively managed offerings.

[59] Australian Securities & Investments Commission: *ASIC Report 702 Competition in funds management*, (Deloitte Access Economics), September 2021.

[60] KPMG survey of FSC funds management members, January 2023. Note the percentages represent the proportion of respondents, who offer an active/passive product to the institutional/wholesale/retail market, who charge a management or performance fee.

Consumer and other key trends impacting funds management

Retail consumers are not the only consumer trend that impacts the funds management sector. Below we have outlined the key trends and thematics impacting the funds management industry.

Age of mass personalisation is emerging	Investors, both retail and wholesale alike, are expecting more personalised products that meet their specific investment needs. Driven by their experiences interacting with other sectors (such as banking and retail) and from their experiences of broader services arising from COVID-19, fund managers are beginning to further embrace technology and data enabled systems to deliver increasingly personalised interactions and products. Fund Managers that can deliver customisation across different target markets, efficiently, will likely be the winners of the future.
Environment, Social & Governance (ESG)	ESG is one of the most widespread trends impacting a wide range of different industries including the funds management industry. **Australians are demanding ESG investment products in which to invest**. According to Investment Trends, based on consumer research undertaken in February 2021, a, 33% of Australians currently invest in ESG related investment products and 45% of investors are in the next wave intending to invest in ESG style product. Investors with less than $250,000 have an investment preference towards environmental factors (such as climate change concerns) whereas high net worth retail consumers are more concerned about governance matters but taking investment action in alignment with "E" (environmental) principles[61]. Given the growth in consumer demand for ESG investments, fund managers offer a range of ESG integrated products and investment strategies. Investors may have different ESG investment preferences, from wanting products that account for ESG-related financial risks, to products whose underlying investments are tilted or screened for alignment with environmental, ethical or other sustainability concerns, to products that provide returns and generate direct positive impact on ESG-related outcomes through investment. This trend is expected to continue, not only driven by fund managers own pledge to net zero decarbonisation targets, operationalising their net zero plans and modern slavery due diligence but also due to continued consumer driven demand for ESG strategies and purpose driven investments. According to the Responsible Investment Benchmark Report Australia 2022, the number of Australian assets managed using a rigorous, leading approach to responsible investment has hit a record value of $1.54 trillion, now accounting for 43% of the total market[62]. The inflow of investor monies into ESG related managed funds has given rise to concerns surrounding potential greenwashing. A key enforcement priority for ASIC[63] is to combat greenwashing by scrutinising the authenticity and integrity of some of the 'green' claims made by both companies (such as those on the ASX) and Australian Financial Services Licencees who offer or promote financial products (such as fund managers and superannuation funds). **Demand for investment in assets such as green infrastructure:** In addition to meeting investor demand, investors, fund managers and individual companies are allocating large amounts of capital to low-carbon energy transition. Globally this figure was estimated to be approximately $1trn in 2022[64].
Retirement	**"Over the next 10 years, an estimated 3.6 million Australians will move from the accumulation phase to the retirement phase of superannuation, with somewhere in the region of $750 billion in aggregate retirement savings"[65]** Consumer need and regulatory requirements, in this case, present an opportunity for product manufacturers to accelerate innovation and retirement propositions to address the current market product gap[66], made more evident with the introduction of the Retirement Income Covenant[67] (RIC) obligations which took effect on 1 July 2022.

[61] 2021 Investment Trends ESG Investor and Adviser Report.
[62] Responsible Investment Benchmark Report Australia 2022, pg 8.
[63] ASIC Information Sheet 271 released in late 2022 provides guidance on what ASIC deems to be greenwashing. Greenwashing is "the practice of misrepresenting the extent to which a financial product or investment strategy is environmentally friendly, sustainable or ethical".
[64] Bloomberg, Energy Transition Investment Trends, January 2023.
[65] Helen Rowell, Deputy Chair of APRA, *Speech to the Australian Financial Review Super and Wealth Summit*, November 2021.
[66] Ibid. In the speech, Helen Rowell, Deputy Chair of APRA, *says* "Delivering a speech to the Financial Services Council a few weeks ago, my APRA colleague Margaret Cole observed that super members in the accumulation phase were "spoilt by choice" due to the bewildering range of products and investment options available. Once members transition to retirement, however, they face the opposite problem; an under-developed market where only a relatively small number of companies offer a limited number of options."
[67] Schedule 9, Corporate Collective Investment Vehicle Framework and Other Measures Act 2022 (Cth) (amending legislation) inserted retirement income covenant obligations into the Superannuation Industry Supervision Act 1993 (SIS Act).

The RIC requires all APRA regulated superannuation fund trustee to take reasonable steps in developing and documenting the fund's retirement income strategy. In formulating its retirement incomes strategy, the Trustee is required to balance three objectives, maximising the retiree's expected income, ensuring flexible access to capital and managing risks to the sustainability and stability of the retirement income. The new obligations present an opportunity for funds management with expertise in investment to solve for those matters a trustee must balance in the context of its target market.

Margin Pressure

Fund managers, both domestic and international, are facing increased margin pressures around the world, as investors increasingly look for greater performance/returns at lower cost and fund managers seek to remain competitive for investment flows.

There is evidence that the demand for lower cost investment products has resulted in a reduction in investment management fees for actively managed funds. Between 2012 and 2017 the proportion of fund managers charging more than 70 basis points, fell from 60% to 43% [68]. During the same five years, the average fund fee dropped by five basis points [69]. In a February 2023 survey undertaken by KPMG of FSC fund manager members, the majority of survey respondents noted their consumer facing fees have fallen as a result of greater competition in the funds management industry and economies of scale.

Where consumer demand (such as from superannuation funds and other wholesale investors) seeks greater returns from non-traditional assets such as equities and fixed interest, fund managers investing in unlisted asset such as infrastructure, are facing challenges. In the context of economic uncertainty and volatility, pricing risk is a challenge. "No amount of cost or price discipline can protect margins during times of inflationary shocks, supply constraints and volatile commodity price [70]" and therefore over the coming years, we expect to see a different approach to cost and risk taking in regard to these types in investment. It will require a new way of thinking (risk sharing), which may be a challenge for the sectors' consumers to accept and a superannuation trustee will need to have strong governance processes to proceed with these investments.

This margin pressure is expected to increase, forcing managers to develop new product offerings, increase operational efficiencies to maintain profits and/or seek to merge or exit.

Technology

Margin pressures are contributing to the need for increased efficiency, cost reductions and superior member experience all of which are driving platforms and operating model transformation across the industry. In recent years, a number of fund managers have broadened their distribution to the retail market (directly).

A number of these fund managers have been able to leverage their global capabilities, bringing tried solutions to the Australian market. Investor demand and COVID-19 has increased the importance of digital experiences, tipping the scales in favour of technology-forward fund managers.

Regulatory Pressures

The Australian financial services sector, which funds management falls within, is one of the most highly regulated in the world.

It is evident that regulatory and consumer expectations of financial services as a whole, does on occasion, mean that changes imposed on the superannuation sector in particular, result in changes in investor demands and impacts on the funds management sector as seen with MySuper, Member Outcome, Retirement Income Covenant and Your Future Your Super changes. For example, in addition to impacting the bottom lines, reforms such as YFYS and MySuper performance expectations, will continue to drive appetite and preferences for low cost/benchmark aware and/or positive offerings from superannuation funds to meet regulatory and consumer expectations.

More broadly, the sector has also implemented Design and Distribution Obligations which commenced on 5 October 2021. As legislation is enacted fund managers must adapt and take on additional administrative and compliance obligations which are creating increased regulatory scrutiny and pressures as compressed revenue and margins impact the sector.

[68] Asset & Wealth Management Revolution: Pressure on profitability, PwC report, October 2018, page 5 figure 1.
[69] Ibid
[70] Ibid.

03. The Australian Industry on the Global Stage

This chapter provides an overview of the Australian market including how it is organised, key policies and tax settings or other incentives provided to fund managers.

Brief history

The Australian funds management industry was originally operated by life companies. Indeed British insurers attempted to step up agencies (outposts) in Australia as early as the 1830s in Sydney and Hobart. However, it was a combination of:

- Consumer drive – the British settlers "brought with them a culture of association and societies where one could collectively save" [71]; and
- the gold rush in the1850s

that gave rise to the appropriate economic conditions to sustain insurers that saw the sector rise. The Australian Mutual Provident (AMP) launched in 1849, and by the 1890s, domestic insurers made up 90% of the market providing insurance solutions to safeguard the colony and investments 'needed to expand Australia's export production [72]".

The first unit trust was offered in Australia in 1936 by Hugh Walton, who founded Australian Fixed Trusts (AFT) and publicly offered units in the Trust [73]. This trust was 'fixed', in that its deed declared it would only run until 1951, and the prospectus was prescribed the terms of its investment strategy.

The 50's and 60's saw significant growth in collective investment products. At this time, the banking sector was heavily regulated, which no doubt facilitated growth in the non-banking financial sector as investors looked for alternative long-term investments [74]. Life offices such as AMP, Mercantile Mutual and National Mutual were dominant in superannuation and retirement linked products through the sales of their whole of life and endowment policies through life agents [75].

The leading custodian was Perpetual Trustees, who were used by management companies to hold funds' assets in trust. By this time unit trusts and mutual funds were increasingly open ended and becoming more flexible, offering different income/growth allocations and smaller funds feeding up into master funds.

[71] A History of Insurance in Australia and New Zealand, Swiss Re, pg. 5
[72] Ibid.
[73] T. Mees, M. Wehner and P. Hanrahan (2005), Fifty years of managed funds in Australia, Preliminary Report, Centre for Corporate Law and Securities Regulation.
[74] Australian Financial System (1981) Final Report of the Committee of Inquiry.
[75] M. Eady and B. Gray (1996) The evolving structure of the Australian Financial System, Research discussion paper 9605, Reserve Bank of Australia.

Up to the late 1970's, investors generally used managed funds for long term savings including retirement, investing in equities, property, fixed interest and debentures. In 1981, Australia's first cash management trust (CMT) was established by the merchant bank Hill Samuel [76], providing investors with the opportunity to access a short-term retail deposit offering close to wholesale rates of interest.

The managed funds industry (as measured by funds under management) has seen consistent growth over the last 30 years. Resident Australian fund managers currently look after almost $2.6 trillion in assets [77] on behalf of investors.

Deregulation of the financial services industry in the 1980's, including floating of the Australian dollar and the opening up of financial services licences to new entrants, resulted in competition and innovation of the financial services industry [78]. During this time, the funds management industry was dominated by life insurance companies, who had now moved into funds management, and a range of domestic and foreign owned subsidiary fund managers. In the mid-80s, with the advent of consumer choice and to make it easier for consumer and advisers to invest, retail fund managers (and insurers), who previously only offered their own investment offerings, started amending their product investment menus with the introduction of other fund manager offerings giving birth to the omnibus offer document and or in the case of ASGARD [79], the 1985 launch of its super and investment master trust, pooling investors monies and negotiating institutional and wholesale fees with fund managers, effectively Australia's first platform offering.

The 1980s also witnessed significant reform of the Australian taxation system, including changing from the classical system of taxing dividends to a dividend imputation system, significant reductions in the corporate tax rate and the introduction of a capital gains tax regime. In particular, the introduction of the dividend imputation provided retail investors greater opportunities to invest in the Australian share market.

In a move to increase superannuation coverage, award-based superannuation was introduced in 1986. The first

[76] The Hill Samuel CMT was re-branded to the Macquarie CMT upon the formation of the Macquarie Bank in 1985 and amended to a Cash Management Account in the 2010s following the global financial crisis and government backing bank cash deposits.
[77] Australian Bureau of Statistics (2022), Managed Funds, Australia, September 2022.
[78] M. Eady and B. Gray (1996) The evolving structure of the Australian Financial System, Research discussion paper 9605, Reserve Bank of Australia. Australian Financial System (1981) Final Report of the Committee of Inquiry
[79] Brand and trading name in the 1980s was Sealcorp.

industry fund was created in 1984 (CBUS), with similar funds established in the following years [80]. In 1992, the Superannuation Guarantee (mandatory employer contributions) was introduced, which would go on to see superannuation become the core of the managed funds industry.

In the late 1990s, fund managers moved towards offering super and investment wrap platforms based on investor demand for greater investment choice, fee transparency and consolidated reporting. In response to ASGARD's offering, the first wrap was offered by BT portfolio services in 1997 [81].

The late 90s and early 2000s was a time of major mergers and acquisitions, with Banks investing heavily in fund platform operators and Life Insurance companies demerging. By the mid-2000s, over 60% of the retail funds management industry administration and distribution was under the auspices of the 4 major banks (ANZ, CBA, NAB and Westpac), and the 2 Life companies AMP and AXA, who went on to merge in 2011.

In the last 2 decades, regulations affecting the managed funds industry have changed as a result of investigations and reforms, including the 1996 Financial System Inquiry ('The Wallis Inquiry') which saw the formation of a single prudential regulator (now known as APRA to govern the prudential regulations of Banks, superannuation funds and Insurers) and the formation of the Corporate regulator (now known as ASIC) to provide regulation of corporations, financial market integrity and financial consumer protection. Following this was the Future of Financial Advice (FOFA) reforms in 2012 which saw a shake-up of the distribution of retail funds management through financial advisers, and the 2014 Financial System Inquiry ('The Murray Inquiry'). The most recent investigation has been the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry ('the Hayne Royal Commission') (2018–19). In addition, Design and Distribution Obligations came into effect in 2021 which introduce product governance and distribution obligations requiring issuers to have a customer centric approach when designing products and to target sales and marketing to customers that the products are designed for. Under these reforms ASIC was also provided with product intervention powers which enables it to proactively intervene where a product will, is likely to, or has resulted in significant consumer detriment.

Further, when award superannuation and then the Superannuation Guarantee was first introduced there was little choice for most employees as to what fund they belonged to. This was typically decided by their employer as governed by an industrial award. As such, superannuation balances were not originally portable between funds. Over the last few decades this dynamic has changed significantly with superannuation becoming more portable, most recently as a result of the Choice of Fund provisions.

Following the Hayne Royal Commission, the Banks have largely divested their interests in asset management companies, financial advice distribution and retail platforms. Over this same time, there has been significant consolidation between superannuation funds, with the industry funds now some of the largest institutional investors in the funds management industry.

The organisation of a typical fund

For a MIS, the responsible entity (RE) or wholesale trustee [82] are responsible for the overall operation and management of the fund, including legal and financial compliance and reporting, overseeing of investment decisions, and appointment of third-party services, including custodians, fund administrators and sometimes external investment managers (particularly relevant to Separately Managed Accounts).

Platforms that are MISs are referred to as Investor Directed Portfolio Services (IDPS) and IDPS- like schemes. IDPS schemes are contract-based structures which are unregistered managed investment schemes more lightly regulated than a registered managed investment scheme, while IDPS-like schemes are functionally similar to an IDPS but are structured as registered managed investment schemes which are not unitised trusts. Platform operators must be a public company that holds an AFSL.

Retail managed funds are typically distributed via a super fund, or an investment platform [83] based on the recommendations of a financial adviser. Investment consultants, stockbrokers and research houses are also involved in distribution. Direct distribution is becoming increasingly popular with increased use of digital tools and portal access. Diagram 3 earlier in the report illustrates the typical organisational structure of a managed investment scheme.

[80] Leslie Nielson L Nielson and B Harris (2010) Chronology of superannuation and retirement income in Australia, APH.gov.au

[81] T. Mees, M. Wehner and P. Hanrahan (2005), Fifty years of managed funds in Australia, Preliminary Report, Centre for Corporate Law and Securities Regulation.

[82] MISs meeting certain conditions must be registered with ASIC, have an RE and meet certain obligations. Unregistered MISs are more likely to have a wholesale trustee and must also meet certain obligations.

[83] A platform can be a wrap or master trust. Non-super platforms are IPDS/Wraps and Super platforms are wraps or master trusts.

Principal Governing Law

Instrument	Description
Corporations Act 2001 (Cth) ("Corps Act") and associated regulations	Provides for the regulation of corporations, financial markets and financial services business, including the provision of financial products and services and the operation of registered managed investment schemes, including licensing, conduct, financial product advice and disclosure.
Corporate Collective Investment Vehicle Framework and Other Measures Act 2021 **(Cth)**	The Act contains the regulatory and tax rules that establish the Corporate Collective Investment Vehicle ("CCIV") regime, which came into effect on 1 July 2022.
Australian Securities and Investments Commission Act 2001 (Cth) ("ASIC Act")	Provides for ASIC to administer the Corporations Act and sets out ASIC's functions, powers and business to regulate the conduct of Australian companies, financial markets, financial services organisations (including banks, life and general insurers and superannuation funds) and professionals who deal in and advise on investments, superannuation, insurance, deposit-taking and credit.
Superannuation Industry (Supervision) Act 1993 (Cth) ("SIS Act") and associated regulations	Provides for the prudential management of certain superannuation funds and pooled superannuation trusts and for their supervision by APRA, ASIC and the Commissioner of Taxation.
Privacy Act 1988 (Cth)	Provides for the protection of individual's privacy and regulates how organisations with an annual turnover of more than $3 million handle use, store and dispose of personal information. .
Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) ("AML CTF Act")	Provides for measures to detect, deter and disrupt money laundering, the financing of terrorism, and other serious financial crimes
Income Tax Assessment Acts 1936 (Cth) and Income Tax Assessment Acts 1997 (Cth) and associated regulations and the Tax Administration Act	Provides the tax provisions applicable to investment and the sale of a financial assets and income and expenses of the managed funds and their investors, as well as the bulk of superannuation taxation laws.
A New Tax System (Goods and Services Tax) Act 1999 (Cth) ("GST Act")	Outlines the goods and services tax applicable to financial services entities and the transactions that they undertake.
Australian Prudential Regulation Authority Act 1998 (Cth) ("APRA Act")	Applicable to banks, insurers and superannuation funds (which may perform fund manager functions and are product manufacturers and distributors). These regulations which established and enabled the Australian Prudential Regulation Authority (APRA), provide for prudential supervise and promotes financial system stability in Australia.

Source: KPMG

Key tax settings

Managed Investment Trust (MIT) and attribution management investment trust (AMIT) regime

The primary collective investment vehicle of choice in Australia is the unit trust. A unit trust that satisfies the widely held test and meets various other conditions within the Australian tax law is eligible for treatment as a Managed Investment Trust (MIT).

The MIT regime has been available in Australia since 2008. It was primarily designed to encourage greater foreign investment into Australia by reducing withholding tax on distributions to foreign investors and providing increased certainty as to the tax treatment of an Australian trust for foreign investors. Under the MIT withholding tax regime, foreign investors who are a resident of a country with which Australia has an effective Exchange of Information Agreement on taxation matters are eligible for a reduced rate of withholding tax on certain distributions (i.e., fund payments) from a MIT. The rate of withholding tax depends on the residency of the investor. Concessions are available for both foreign residents and Australian residents and allow foreign residents to access a reduced rate of withholding tax of 15% on most distributions (other than dividends or interest) rather than the normal 30% which would otherwise apply.

Whilst the introduction of the MIT regime and access to reduced rates of withholding tax for non-resident investors was a welcome reform, this was rolled out in an environment where Australia's regional and global peers in the asset management space were reducing (or had already reduced) their withholding rates on fund distributions to nil. In contrast, Australia's MIT regime launched with a 22.5% withholding rate that phased down to 7.5% but was subsequently raised to 15% in 2012 and remains at this level.

CCIV Regime

The Corporate Collective Investment Vehicle Framework and Other Measures Act 2021 ("the Act") which contains the regulatory and tax rules that establish the Corporate Collective Investment Vehicle ("CCIV") regime, came into effect on 1 July 2022.

The CCIV regime allows investors to invest in a 'tax transparent' fund, where assets are held in a corporate structure, rather than in a trust / managed investment scheme ("MIS"). Such a vehicle is likely to be attractive to foreign investors who are more familiar with a corporate structure or limited partnership for collective investment and where local laws do not recognise common law trusts.

From a regulatory perspective, there remain some discrepancies between the requirements for a CCIV and those for a MIS (particularly a wholesale CCIV), meaning the CCIV does not start from a completely level playing field. However, it is important to remember that this is only the first instalment of the tax and regulatory measures and marks a significant development in the international competitiveness of Australia's funds management industry, so we welcome its introduction.

The CCIV has the potential to become a new structural norm for investment funds in Australia, especially those managers wanting to attract foreign investment (which currently represents only 6% of total FUM [84] in Australia). However, to achieve global competitive status, would require further enabling tax and regulatory reforms and supporting administrative and operating models of the key service providers to the industry.

Tax on income of the fund

Generally, a fund is not taxed on income where investors are presently entitled or attributed all income in respect of the income year, as applicable to the type of fund entity. There are different statutory mechanisms to achieve this with each allowing a fund to "push out" its taxable income to investors such that they are taxed on their share of income.

AMITs and CCIVs are more flexible than other trusts as specific rules allow these vehicles to attribute taxable income to members without distributing cash. Where no physical distribution occurs, the rules provide corresponding adjustments to the tax cost bases of affected members interests in the fund, which assists with avoiding double taxation. AMITs and CCIVs also have greater flexibility to stream different types of taxable income between members provided this occurs on a fair and reasonable basis in accordance with the fund's constituent documents.

Less commonly, a fund can itself be subject to income tax on income in a range of circumstances, including where all members are not presently entitled to or attributed all the fund's income for tax purposes, where errors occur in attributing income to members or for distributions/attribution to foreign members where MIT withholding does not apply.

Funds may also be subject to state or territory stamp duty where they acquire certain dutiable assets, predominantly valuable interests in land within the relevant state or territory.

[84] Australian Bureau of Statistics, Managed Funds, Australia, September 2022, Tables 1 and 9. See Page 9 of this Report.

Tax on distributions

Distributions to non-residents are subject to withholding tax at different rates depending on the type of income, including:

- Dividends and interest are subject to final withholding tax in the same manner as if paid directly, i.e., 30% for unfranked dividends and 10% for interest, subject to reduction if Australia has a double tax agreement with the investor's jurisdiction of tax residence.
- For withholding MITs and CCIVs there is a reduced, 15%, rate of final withholding on most other Australian sourced income and capital gains that are distributed to non-resident investors. However, this does not apply to non-concessional MIT income, which is subject to a 30% withholding rate, including certain income from cross-staple structures, MIT trading trust income, MIT residential housing income and MIT agricultural income.
- Trusts that are not withholding MITs are subject to tax at differing rates in respect of the income entitlements of non-resident members (generally the corporate tax rate of 30% for non-resident company members or the highest individual tax rate of 45% for other non-resident members). This operates as an effective non-final withholding tax as non-resident members are required to file their own Australian tax returns and can claim a credit for tax borne by the trustee.

Distributions to resident investors are generally not subject to withholding tax. Resident investors include their share of fund income in their own tax returns.

Tax on unitholder/shareholder transactions

Fund members are subject to the CGT rules in calculating any gains or losses on disposal of their units or CCIV interests. Some resident investors are entitled to discount any capital gains, relevantly by 50% for individuals or trusts and 33 1/3% for superannuation funds that have held their interest for 12 months or longer.

There is an exemption from CGT for non-resident investors if interests in the fund do not comprise "Taxable Australian Property" (TAP). Broadly, a fund will not be TAP if the majority of its assets, by gross value, does not relate to interests in Australian real property.

If a fund member acquires their membership interest with the intention of later realising it for a profit (I.e., a trading motive), they may be subject to income tax on gains or losses on a revenue basis which overrides CGT treatment and precludes the CGT discount on gains. Where interests in a fund are TAP, a purchaser from a non-resident will be required to withhold 12.5% of the purchase consideration subject to certain exemptions. This is a non-final withholding and the non-resident seller will need to file its own Australian tax return and claim a credit for withholding against their actual taxable gain.

Tax exempt status

Certain exemptions exist for particular types of income or investors. Notably, this includes:

- Qualifying foreign pension or sovereign wealth funds are eligible for an exemption from withholding tax on dividends or interest provided they have held less than 10% of the paying entity for at least a 12 month period during the 24 months prior to the payment and also don't exercise significant influence over persons that control the paying entity.
- There is also a withholding tax exemption for certain publicly offered debt.

Tax at the retail product level

Product type	Taxation
Unit Trust/MIS (regardless of product type including if via an IDPS)	• Transparent 'flow through' vehicle for tax purposes – i.e., income is distributed/ attributed annually to ensure that it is taxed in the hands of the investor and not the trust. • Capital gains on sale of units or interests in the MIS are taxable in the hands of the investor and may be reduced by 50% for individual residents or trusts who hold the asset for longer than 12 months (and 33 1/3% reduction for superannuation funds).
Superannuation funds (regardless of the investment options/product type)	• **Tax on contributions to super (taxed at the fund level and deducted from the member's account** Before tax contributions are generally taxed at 15% on contribution (deducted from the monies contributed to the individuals super account). • If the individual's adjusted taxable incomes is more than $250,000 per annum, the tax on before tax contributions to super is 30% not 15%. This is paid by the member directly but can be funded by a release of funds from the superannuation fund. • Post tax contributions to super are only taxed if the individual exceeds their non-concessional contributions cap. • Individuals may claim tax deductions on certain contributions to super depending on their age and work test criteria. **Fund Level – Accumulation Phase** • Assessable income of the fund (at the trust level) supporting member balances in accumulation is taxed at 15%. • Capital gains on assets held for at least 12 months are assessed on 2/3rds of the gain. • Deductions are available for insurance premiums in superannuation. • Tax offsets are available for franking credits and foreign tax credits. • Tax is assessed and paid within the fund and not distributed. **Fund Level – Pension or Income Phase:** • Assessable income of the fund from assets held supporting member balances in pension phase is exempt. • There is no capital gains tax applicable to the assets held supporting members balanced in respect of pension members. • Tax offsets are available for franking credits but not foreign tax credits.
Investment bonds [85]	• Known as tax paid products, the assessable life insurance company's income is taxed at the corporate tax rate of 30%. • The product does not distribute income during the time it is held. If held for 10 years, there is no additional income or capital gains tax to pay by the investor on withdrawal.

Source: KPMG

[85] These are life insurance policies and can be issued by life companies and friendly societies. Originally these products had an insurance component to them, but today they are predominantly investment vehicles.

How Australia compares with other jurisdictions

In summary, in terms of regulatory and tax settings, we observed the following of Australia and the jurisdictions reviewed (see details regarding those jurisdictions in appendix C:

Australia's peers demonstrate a focus on enabling regulatory and tax initiatives to maintain global funds management attractiveness and competitiveness:

- In Australia, tax and regulatory reform in funds management has tended to be tactical and responsive rather than holistic and modernising. This stands in contrast to the broad, coordinated tax and regulatory reform in the funds management sector that has occurred in Luxembourg, Singapore, Hong Kong (SAR), China and other major financial centres. For example, Singapore, where 78% [86] of funds under management is sourced from outside Singapore, has seen significant growth of funds under management between 2011 (S$1Tn) and 2022 (S$5.4Tn) off the back of a number of concerted regulatory changes including enhancing its funds management company regime, introducing various tax incentive schemes and launching the ASEAN CIS passport regime [87].

- While new Australian tax policies have generally been well considered and mindful of the need for cohesiveness, this has resulted in complexity, with foreign investors needing to understand multiple sets of rules, such as numerous different withholding tax rates for different types of income (with multiple exemptions), rather than a simple low or nil rate on common types of investment income which exists for other major funds management jurisdictions.

Quick to legislate: Comparatively to peer jurisdictions, Australia has been slow to develop new collective investment vehicles and when it has done so it has taken considerable time and led to regulatory and tax rules that are complex. For example:

- Policy announcements following the release of the Johnson Report in 2010, saw the Asian Regions Funds Passport came into effect in 2019 and Corporate Collective Investment Vehicle legislation came into effect in 2022. Further, when the CCIV regime was announced by Australia it was understood that the intended would be swiftly followed by a tax transparent limited partnership regime that has not eventuated. And whilst the corporate investment vehicle has been established, the key settings necessary to enable the vehicle to be more likely to encourage success, such as having a transition regime, have not been developed. Conversely, as at October 2022 in Singapore, since the introduction of the Variable Capital Company (VCCs) fund structure in 2020, 660 VCCs have been incorporated representing 1,300 sub funds managed by 420 fund managers [88].

- There are delays in progressing proposed tax law amendments that seek to simplify complexity and resolve uncertainties arising from ATO litigation. For example, proposed amendments to simplify the taxation of financial arrangements and reforms of our corporate and individual tax residency rules were announced some time ago but remain unenacted.

Provide competitive and clear tax settings and greater certainty for foreign investors. For example:

- Australia has unwound the offshore banking unit regime, reduced then doubling the MIT withholding rate (from 22.5% to 15%, to 7.5% then back to 15%), increased MIT withholding to 30% for certain non-concessional MIT income and restricted withholding tax exemptions available to foreign pension and sovereign wealth funds from 1 July 2019.

- While the withholding tax exemption in Australia for foreign sourced income results in a similar tax outcome to fund income managed in other countries, the high headline rates of withholding tax on Australian sourced income and the use of multiple rates for different types of income creates an impression that Australian tax will be higher and more complex than other major funds management jurisdictions. This is difficult to explain to foreign investors, creating the impression of complexity.

- The complexity of Australia's double tax treaty network and the key differences between Australia and other major funds management jurisdictions notably Luxembourg and Hong Kong (SAR), China (noting that the Government has recently announced that it is considering negotiating a treaty with Luxembourg). By way of example, Singapore currently has 100 double tax treaties and exchange of information agreements in place mitigating double taxation and eliminated withholding taxes, compared to Australia which currently has 46 treaties [89]

Tax settings which encourage foreign investment:

- The general requirement that tax policy measures introduced be revenue neutral or positive has meant that any attempt to simplify or reduce withholding tax rates on fund distributions to foreign investors to align with the low or nil rates applied by global peer jurisdictions has been met with challenge. This is notwithstanding that such reduction and simplification measures would attract foreign investment, thus increasing FUM of the Australian asset managers and the associated corporate tax payable in respect of the management fees earned.

[86] Monetary Authority of Singapore (MAS), *Singapore Asset Management Survey*, 2021, p2 and *Singapore Asset Management Survey*, 2011, p1
[87] ASEAN Collective Investment Scheme (ASEAN CIS).
[88] MAS *Singapore Asset Management Survey*, 2021, p 5.
[89] Inland Revenue Authority of Singapore List of DTAs, Limited DTAs and EOI Arrangements (iras.gov.sg) and Income Tax Treaties | Treasury.gov.au

How Australia compares with other jurisdiction

Comparison	USA	UK	Luxembourg	Hong Kong (SAR), China	Singapore	Australia
Choice of Fund Structure	• Mutual funds • Corporate • RICs and REITs • Partnerships • Specific regimes	• Unit Trusts • Open ended investment companies • Contractual schemes • Limited partnerships	• Regulated Vehicles (UCITs, UCI part 2, SIFs, CICAR) • Non-Regulated Vehicles (RAIF, SCSp, SCS)	• Mandatory Provident Fund • Open ended Fund Companies • Exchange Trade Funds	• Limited Partnerships • Variable Capital Companies • Private Limited Companies • Unit Trusts	• Unit Trust (registered and unregistered managed funds, REITs and ETFs) and • Corporate or investment company for collective investment vehicles (for example CCIVs, LICs)
Licensed Operator	No	Yes	Yes	Yes	Yes	Yes
Regulatory Investment Restrictions	Are imposed on some vehicles	Yes – in authorised funds, with fewer rules for professional funds.	• Applies to UCITS. • UCI has more flexible investment restrictions but cannot passport. SICAR has some investment restrictions	Are imposed and vary by structure in regards to retail investors. Borrowing restrictions also apply.	No restrictions	Are imposed on some vehicles.
Level of Investment Restriction	To qualify as a RICs 90%+ of gross income and total NAV must derive from certain sources.	Rules on eligible assets and spread of investment risk (more detailed for retail funds).	• UCITS must invest in transferable securities and other liquid assets. Uncovered short sales and borrowings are not permitted. • UCI has more flexible investment restrictions but cannot passport. SICAR has some investment restrictions	• Open ended Funds: investment limitations and diversification restrictions apply depending on the fund and additional requirements on 'specialised schemes. See Chapter 7 of the UT Code. Close ended Retail Fund: must comply with requirements under the UT Code. REITs listed on the SEHK can only invest in income generating properties, can only invest 10% of NAV in developments, and prohibited from investing in vacant land or participating in property developments.	NA	Are imposed for some vehicles, restrictions on carrying on or controlling a trading business in order to achieve tax transparency
Tax status	Mutual funds are tax exempt at the entity level.	Generally, exempt from tax on capital gains, but otherwise are taxable entities, see below.	Generally, exempt from tax except for subscription tax on most structures.	Mutual funds, unit trusts and similar investment schemes are exempt from tax at the fund and in the hands of the resident investor.	Generally, exempt from tax at the fund level due to the availability of Singapore tax exemptions.	Transparent paid at the investor level not at the fund level (applicable to non-superannuant investor domestically).
Tax Treatment at entity level	Does not apply provided the mutual fund (akin to a managed fund) meets	No tax arises in practice but may do in some mixed portfolio funds.	Generally, tax exempt except for subscription tax payable on most structures and	No tax applies generally	Fund managers may create a tax presence in Singapore and certain income and gains may	No tax applies generally

Comparison	USA	UK	Luxembourg	Hong Kong (SAR), China	Singapore	Australia
	certain gross income and asset requirements and distributes income annually. See page 45.		income tax under certain conditions for SICAR and RAIFs. See page 54.		be liable for tax at the fund level. Tax liability can be eliminated under Singapore tax incentive schemes for funds under certain conditions.	
Tax treatment on distribution	Tax paid at resident investor level unless they are qualified dividends which attract 20% tax.	Tax paid at resident investor level; treatment depends on the underlying portfolio of the fund.	No. Investment funds resident in Luxembourg generally are exempt from CIT, municipal business tax, and WHT on dividends.	Nil tax applies	Tax paid at resident investor level. Nil tax applies at resident investor level for REITs	Tax paid at resident investor level
Capital gains tax	Long-term capital gains are taxed at a maximum rate of 20% at the Mutual fund level. %	Capital gains exempt at the fund level; investors may be subject to tax on capital gains on disposal of units.	• Tax exempt for UCITS, AIF, SIF. • SICAR and RAIF are tax exempt under conditions (see page 44)	Nil tax applies	Nil tax applies	• Applies at the Super funds level • Non-Super – applies in the hands of the resident investor.
Withholding tax	Non-US withholding and estate taxes and certain US tax reporting requirements on investments in US funds	No UK withholding tax on distributions.	Outbound distributions not subject to WHT	Nil tax applies	Applicable on specified payments (e.g., interest, royalty, fees for technical services rendered in Singapore, director fees, etc)	Tax withheld on Australian sourced unfranked dividend (non-CFI) and some interest (with exceptions) at various rates depending on the country of residence of investor.
Dividend WHT	30%	0%	0%	0%	0%	15/30%
Interest WHT	30%	0%	0%	0%	15%	0/10%
Capital Gains WHT	30%	0%	0%	0%	0%	0/15/30%
Treaty Status	Are available (in reference to double tax situations)	Are available (in reference to double tax situations)	Generally, not available. See page 45 for more details.	No	Are available (comprehensive and limited double tax agreements)	Are available (e.g., where double tax agreements allow recognition of the vehicle or trace through to investors)
ESG [90]						
Climate reporting	SEC has set ESG as an examination priority for 2022 from a disclosure perspective	Mandatory for larger asset managers, and in future also for smaller asset managers	New requirements came into force August 2022 to integrate ESG	Yes - SFC published a circular in June 2021	Guidelines only issued by Monetary Authority of Singapore in May 2022	APRA Guidance on climate risk management and integration of ESG in investment governance. ASIC policy on ESG disclosure in retail product disclosure documents and greenwashing guidance. Both APRA and ASIC encourages voluntary TCFD disclosure. In consultation phase for

[90] KPMG Evolving Asset Management Regulation Report 2022, *Navigating Uncertainty*, Chapter 2.

Comparison	USA	UK	Luxembourg	Hong Kong (SAR), China	Singapore	Australia
						mandatory climate related disclosure for covered entities
Modern Slavery Regime	Applicable	Applicable	Applicable	Proposed in 2018 but not yet enacted		Applicable
Investment labels	Monitored only by regulator	In consultation phase	In consultation phase. Greenwashing banned by EU Commission (March 2022) and increased consumer rights issued (Consumer Rights Directive).	SFC authorises funds with investment focus on ESG and maintains a list on verified ESG funds on their website	ESG Fund Labelling Framework is in consultation phase with a vision of establishing Singapore as an ESG Fund Certification Centre	Monitored only by regulator
Conflicted Remuneration Regime (including restrictions on commissions paid to distributors and ban on asset-based fees on fund managers)	The SEC issued new proposed enhancement to private fund investors in February 2022 (does not ban commissions) [91]	Yes, Retail Distribution Review imposed a ban on commissions for retail financial advice (from 2012)	EU Commission is discussing a full ban on inducements. Certain conditions (conduct) and volume-based distribution fees (permitted under strict conditions) are set out in MIFID II.	No regime applies	No regime applies	Yes, for retail clients Future of Financial Advice was enacted in 2012 and in addition to banning conflicted remuneration for financial advice also ban asset-based fees and shelf space fees.
Regional Passport Offered	NA	The current temporary marketing regime for EU funds will be replaced by the "Overseas Funds Regime".	Yes (UCITS)	Yes (Mainland-Hong Kong (SAR), China Mutual Recognition of Funds (MRF) scheme)	Yes (Singapore Resident Fund Scheme)	Yes (Asian Region Funds Passport)
Product Governance Requirements (e.g., DDO / MiFID II)	NA	Yes – onshore MiFID II requirements and forthcoming "Consumer Duty" requirements	Yes, MiFID II requirements apply	NA	NA	For retail clients Design, Distribution Obligations came into effect 5 October 2021.

Source: KPMG

[91] KPMG Report, Op. Cit., page 26.

04. Key Policy Recommendations for the Australian Funds Management Industry

This chapter outlines key policy recommendations, to:

- enable greater efficiency (in terms of administrative, system and capital markets); and
- to enable Australia to better export funds management capabilities and compete for foreign investor funds.

Summary of Recommendations

Recommendation 1

Introduce a regime to facilitate the transition of existing investment funds into the CCIV structure on a tax neutral basis, ensuring investment entities are able to transition into the CCIV. The transition rules should maintain consumer protections while removing unnecessary compliance costs.

Recommendation 2

Simplify the tax rules for CCIVs that fail the 'widely held' test to remove unnecessary barriers to the adoption of the vehicle.

Recommendation 3

The Government consider reviewing existing tax rules that apply to foreign partnerships or hybrid entities with the goals of aligning with tax regimes in competing jurisdictions; reducing compliance costs and complexity; and removing barriers that discourage investment via Australian managed vehicles.

Recommendation 4

Product modernisation reforms be introduced to facilitate investors being transferred from a legacy financial product (of a broad range of types) into another product. This reform should ensure there is no taxation imposed on the investor or the product because of the rationalisation, and social security entitlements should be unaffected.

In addition, to enable modernisation of MIS products, we recommend consideration be given to include a simplified consumer interest test for the rationalisation, similar to the existing ASIC relief relating to the conversion of funds into the AMIT regime.

Recommendation 5

Australia's complex range of withholding tax rates for managed funds be replaced with a single low rate of 5% applying to all payments made by globally focused funds, particularly Passport funds, other than income that is already exempt and income from Australian real property. In addition, the tax rules that inappropriately apply withholding tax on payments, particularly on foreign exchange hedging and gains on sale of bonds, be reformed.

Recommendation 6

The Government consider working with other Passport jurisdictions to relax the restrictive rules on the types of financial arrangements that can be used in Passport funds. This change to allowable investment should help many common or typical funds used in Passport jurisdictions to become eligible to become Passport funds.

Recommendation 7

Consideration be given to the disclosure requirements for Passport funds which could benefit from simplification and harmonisation so there is one common disclosure requirement across all Passport jurisdictions.

Recommendation 8

Legislate a climate-related financial risk disclosure regime for Australia's significant financial institutions and large companies to allow fund managers to more effectively price climate risk in their investment portfolios and make Australia a more attractive investment destination for climate-risk aware capital. The Australian reporting regime should be aligned with the TCFD and ISSB standards, be phased in appropriately.

Recommendation 9

The Government consider legislating the Foreign Financial Services Provider regime for FFSPs that deals with wholesale clients and professional investors to support funds management competition and investors' choice (currently operating under an ASIC relief instrument).

Recommendation 10

We are supportive of the Government reviewing the YFYS performance test (the benchmarks specifically) and of the consultation process on draft regulations regarding the benchmarks used for the performance test assessment. Given the nascent and importance of the test, we recommend the Government continue to assess the YFYS performance test for unintended consequences and to ensure the performance test approach and benchmarks are not inappropriately constraining investment decisions of trustees.

CCIVs - What is missing from a tax and regulatory perspective?

The CCIV regime was introduced in 2022 with the intent of providing a corporate investment vehicle with flowthrough tax treatment that would be comparable, and competitive, with similar corporate fund vehicles in other financial centres such as Luxembourg, United Kingdom and Singapore. However, there has been limited adoption of the CCIV to date, impeding Australia's potential to compete in the region, with tax complexities a key factor that is discouraging take up of the new vehicle.

An important barrier to the broader take up of the CCIV regime is that current law does not enable the transition of existing funds (e.g., existing MIS) into CCIVs or into a CCIV sub fund (and setting up a new CCIV to replicate the existing MIS is inefficient and expensive). Under current law, when am existing fund is converted into a CCIV, there may be capital gains and income tax implications which may flow through to the investors. In addition to the income tax and capital gains considerations of transition, there will be stamp duty implications (particularly for trusts with real property holdings), which are more difficult to resolve, as they require consultation in each state and territory. These tax costs would likely make it unviable to convert an existing fund into a CCIV.

Another tax issue for the CCIV regime is that the tax rules become problematic for a CCIV that fails to meet tests to be widely held. CCIVs need to be set up to deal with this unlikely event, which adds substantial complexity which could be easily addressed by small technical tax changes.

There are also substantial consumer protection requirements for the conversion of old funds. While it is important that consumer interests are protected, the existing approach is very costly and can easily fail. A simpler and more effective regime for protecting consumers during a transition would also facilitate the conversion of existing funds into CCIV sub-funds. See recommendation 4.

From a regional perspective, linking the CCIV regime with the Asia Region Funds Passport regime has always been an objective of the Australian funds management industry. However, amendments are required to enable the new CCIV regime to enhance Australia's attractiveness and competitiveness to overseas investors and to deliver efficiencies and productivity savings to the Australian funds management industry and investors.

Recommendation 1

Introduce a comprehensive regime to facilitate the transition of existing investment funds into the CCIV structure on a tax neutral basis, ensuring investment entities are able to transition funds in the CCIV. The transition rules should maintain consumer protections while removing unnecessary compliance costs.

Recommendation 2

Simplify the tax rules for CCIVs that fail the 'widely held' test to remove unnecessary barriers to the adoption of the vehicle.

1. Adopt a progressive outlook to innovative funds management vehicles that are globally competitive

Prior to introduction of the CCIV, the collective investment vehicle of choice in Australia were unit trusts with the most recent innovations the MIT and AMIT regimes further entrenching their status as the predominant investment vehicles in Australia.

This approach is inward looking and has resulted in the majority of Australian funds under management being held in unit trusts that are not well understood by retail investors in other major financial centres. It has also resulted in classification differences and uncertainty of tax treatment between Australia and other countries, discouraging foreign investment into Australian funds.

To attract foreign investment, it is critical that Australia has a suite of collective investment vehicles that are competitive with those offered in jurisdictions such as Singapore, Luxembourg, Hong Kong (SAR), China and the UK and contain key features such as flexibility of structure (e.g., compared to umbrella funds with multiple compartments in other jurisdictions), tax transparency (i.e., flowthrough treatment) and simplicity of withholding tax on distributions (as discussed earlier).

The adoption of a tax flowthrough limited partnership regime would be an important next step given the widespread usage of such partnerships in other countries. Examples of other types of vehicles are set out in the country summaries in Chapter 3.

The counterpoint to developing new Australian fund vehicles that are globally competitive is to simplify Australia's treatment of foreign fund vehicles. It is common when building a large fund structure to incorporate vehicles from different jurisdictions, either as feeders for certain types of investors or to accommodate portfolio investments in different countries. Australia's current foreign hybrid limited partnership (FHLP) tax rules seek to align with the foreign tax treatment of certain foreign limited partnerships and similar corporate vehicles that are flowthrough for tax purposes in their local jurisdiction. However, Australia's rules are complex and their interaction with other Australian tax rules can make it difficult and costly to calculate amounts in an Australian partnership return. For example, the FHLP rules deem qualifying foreign limited partnerships to be Australian partnerships and require an Australian tax calculation which can be extremely difficult where only limited foreign tax information is available and/or it is necessary to look through long chains of foreign limited partnerships.

Recommendation 3

The Government consider reviewing existing tax rules that apply to foreign partnerships or hybrid entities with the goals of aligning with tax regimes in competing jurisdictions, reducing compliance costs and complexity; and removing barriers that discourage investment via Australian managed vehicles.

Provide Product Rationalisation relief

There is long standing awareness and need for product modernisation to assist the many Australians who are currently invested in out of date or legacy products. Investors are unable to exit from these products for various reasons (largely due to potential tax and social security penalties and impacts)).

Product modernisation reform provides both tax and system efficiencies and also delivers a productivity (and risk reduction) benefit to product providers – without compromising consumer protections.

The sector [92] has long been advocating for removal of barriers to product modernisation, in particular by granting CGT relief to legacy managed investment schemes/unit trusts. Financial product issuers aiming to transfer assets from one managed investment scheme to another in order to simplify and rationalise the underlying investment structure or product within a fund, will trigger CGT on unrealised gains which can be imposed on the individual holding the relevant legacy investment product, and on the vehicle making the investments.

There exists a limited modernisation regime for superannuation. While CGT relief is available if an entire super fund is merged with another fund, there is currently no such relief for transferring members and underlying assets to another product within the same super fund.

Benefits of product modernisation will flow through to investors largely expected to be in the form of lower investment fees and better investment performance provided by modern products.

- An FSC 2014 survey [93] of six diversified financial services organisations estimate at least 600 legacy structures with multiple products, affecting over 2.44 million customers. For these members, an effective product rationalisation regime would mean that 79 legacy IT systems could be closed, and $22.6 billion in funds under management could be transferred to contemporary products, with an estimated saving of $94 million for consumers over the short term.
- In its 2019 report into the superannuation industry [94], the Productivity Commission highlighted the extent of the problems caused by legacy investment products, estimating that over 10% of APRA regulated fund assets were locked into relatively high fee paying and low return financial products.
- APRA estimated that 37 per cent (208 out of 568) of choice superannuation products were closed to new members and considered legacy products. [95]

The introduction of a product modernisation regime may also:

- Increase competition, because there will be more investors able to shop around for current products;
- Reduce unwanted product proliferation; and
- Encourage product innovation.

The proposed rollover reforms will be particularly critical to encourage existing MIS/unit trusts in legacy product to be modernised into new AMITs and for the conversion of existing unit trusts, into new CCIVs, thereby giving critical mass to the CCIV market and an established investment rating / history to new CCIVs that have transitioned from legacy products (see recommendation 1).

Recommendation 4

Product modernisation reforms be introduced to facilitate investors being transferred from a legacy financial product (of a broad range of types) into another product. This reform should ensure there is no taxation imposed on the investor or the product because of the rationalisation, and social security entitlements should be unaffected.

In addition, to enable modernisation of MIS products, we recommend consideration be given to include a simplified consumer interest test for the rationalisation, similar to the existing ASIC relief relating to the conversion of funds into the AMIT regime.

[92] For example, see Financial Services Council (2022) Federal Budget 2022-23 FSC submission.
[93] FSC 2019–20 Budget submission, section 5.1.
[94] Productivity Commission (2018) Superannuation: Assessing Efficiency and Competitiveness, Report no. 91.
[95] APRA Information Paper, 'Choice sector performance: improving outcomes for superannuation members', October 2021.

4. Asian Region Funds Passport (ARFP) enhancements and eliminate non-resident withholding tax

The CCIV framework was introduced to support Australia's participation in the Asian Region Funds Passport (ARFP). However, the adoption of the CCIV has been limited to date (see above), with tax complexities a key factor that is discouraging take up of the new vehicle.

Australia has high headline withholding tax rates and different rules for different types of income. As set out in Chapter 4, while exemptions exist, the rules are complex, difficult to explain to foreign investors and give rise to a perception of risk for foreign investors (of high tax rates such as 30% on unfranked dividends) that may not reflect the true tax rate.

In contrast, other funds management jurisdictions often have simplified withholding regimes or broad exemptions for certain types of fund vehicles, which presents a much clearer and more attractive picture to foreign investors.

The Australian non-resident withholding tax (NRWT) system is complex compared to other Passport countries and can be attributed to:

- Multiple rates, with very high 'headline' rates.
- Complexity and difficulty of determining appropriate rate – this complexity has increased over time with the introduction of integrity rules such as for non-concessional MIT income.
- Interactions with tax treaties (including how the treaties deal with trusts).
- Incorrect or inappropriate levying of tax; much simpler approaches in competitor jurisdictions, with Singapore in particular having a zero withholding tax rate (please see able in following column).
    - For example, in Australia, interest from bonds are exempt from withholding tax but gains on the sale of those bonds are not eligible for the interest withholding tax exemption, even though these gains are economically equivalent to interest; and
    - Withholding tax at 15% can apply to fictitious 'gains' such as gains created by foreign exchange hedges.
- The ending of the simplified withholding regimes such as the former 7.5% MIT withholding rate or existing interest withholding tax exemption in the Offshore Banking Unit (OBU) regime.

An offshore investor in a diversified Australian fund may be advised that they could face:

- Withholding tax of 30% on an unfranked dividend, even though this would only occur for a small part of most portfolios (if at all), while franked dividends are not subject to withholding tax; and
- Withholding tax of 10% on interest, but difficult to explain exemptions that might otherwise reduce this to zero in most (but not all) cases.

The multiple exemptions mean the actual withholding tax revenue raised from Australian funds is very small, but the actual tax is arbitrary and unpredictable. As a result, Australia has an inefficient outcome – a tax system that significantly deters foreign investment, which is difficult for Australian funds to comply with and which delivers relatively little revenue.

This complexity means the possible tax consequences cannot be explained in a simple and easy to understand manner to foreign investors – particularly retail investors who are the target of the Passport. As global competitors reduce their NRWT over time Australia is becoming less competitive.

This is illustrated in the below table of comparative withholding tax rates, noting that Australia has both the highest and most complex range of variable rates to other jurisdictions.

For a foreign retail investor looking to invest in an Australian passport fund, these headline rates would need to be presented in the investor offer document and would clearly put the Australian fund at a competitive disadvantage to funds in any of the other jurisdictions.

	Dividend WHT	Interest WHT	Capital Gains WHT
Hong Kong (SAR), China	0%	0%	0%
Luxembourg	0%	0%	0%
Singapore	0%	15%	0%
UK	0%	0%	0%
Australia	15/30%	0/10%	0/15/30%

Recommendation 5

Australia's complex range of withholding tax rates for managed funds be replaced with a single low rate of 5% applying to all payments made by globally focused funds, particularly Passport funds, other than income that is already exempt and income from Australian real property. In addition, the tax rules that inappropriately apply withholding tax on payments, particularly on foreign exchange hedging and gains on sale of bonds, be reformed.

Recommendation 6

The Government consider working with other Passport jurisdictions to relax the restrictive rules on the types of financial arrangements that can be used in Passport funds. This change to allowable investments should help many common or typical funds used in Passport jurisdictions to become eligible to become Passport funds.

Recommendation 7

Consideration be given to the disclosure requirements for Passport funds which could benefit from simplification and harmonisation so there is one common disclosure requirement across all Passport jurisdictions.

5. Climate risk disclosure and reporting

We support the introduction in Australia of a mandatory climate-related financial disclosure regime.

Currently, Australian corporates need to disclose material financial risks to their business and investors have been encouraging Australian companies through stewardship activities to disclose their climate-related financial risk as part of their general risk disclosure. *KPMG's recent Sustainability Survey*[140] , found that in the absence of public policy directives, Australian companies (including fund managers) are taking the initiative and meeting the demands from their stakeholders, such as investors and regulators. KPMG found*:*

1. **90 percent** of ASX100 companies **recognise climate as a financial risk.**
2. 20 percent more (now **89 percent**) are **reporting carbon targets.**
3. **74 percent are now reporting against TCFD**, which is above global peer G250[141] of 61 percent.
4. Reporting of '**social' risks to the business is now up to 90 percent** which is 40 percent above global peer G250.

However, there are still companies that are not applying the TCFD recommendations and available disclosure is not consistent in quality.

Globally, other international markets and regulators have or are in the process of implementing mandatory ESG / Climate[142] reporting requirement. It is important Australia is not left behind and keeps pace to continue to attract investment. If Australian companies do not adopt good disclosure, there is a risk of less investment flows from overseas investors who are considering climate risk in their portfolios.

The Australian regime should allow for the continuous improvement of disclosures over time. We note that there will be costs for entities not currently reporting and those who are behind in best practice, primarily in needing to invest resources in processes and systems to enable robust climate reporting.

We also believe a mandatory regime would help reduce costs for Australian companies, creating a mandatory baseline and preventing costly duplication of reporting requirements and inconsistent expectations from different investors and stakeholders.

There is merit in driving greater domestic and international consistency in climate-related financial disclosure, given that the Australian funds management industry operate in the global economy and these efforts will improve the effective functioning of the capital markets in Australia and globally.

Legislate a climate-related financial risk disclosure regime for Australia's significant financial institutions and large companies to allow fund managers to more effectively price climate risk in their investment portfolios and make Australia a more attractive investment destination for climate-risk aware capital. The Australian reporting regime should be aligned with the TCFD and ISSB standards and be phased in appropriately.

[140] https://kpmg.com/au/en/home/insights/2022/10/sustainability-reporting-survey-2022.html

[142] KPMG has submitted a response in February 2023 on Treasury's consultation paper *Climate-related financial disclosure*, Section 2.1 discusses how other jurisdictions are approaching Climate related financial disclosure and notes that our recommendations are similar to the approach taken by the EU and New Zealand.

6. Enabling legislation to enhance competition and wholesale investor choice

Further to page 14 and noting ASIC Report 702 into competition in funds management in Australia, in 2022, the Morrison government tabled The Treasury Laws Amendment (Streamlining and Improving Economic Outcomes for Australians) Bill 2022, in parliament (known as the *Foreign Financial Services Provider regime* (FFSP). The object of the Bill was to provide relief to foreign financial service providers to promote diversified investment opportunities for Australian investors and attract investment and provide liquidity to Australian markets.

However, with the timing and results of the federal election in 2022, the Bill was not passed, and the markets are currently operating, where applicable, under ASIC relief for the FFSP regime for an interim period.

Recommendation 9

The Government consider legislating the Foreign Financial Services Provider regime for FFSPs that deals with wholesale clients and professional investors to support funds management competition and investors' choice (currently operating under an ASIC relief instrument).

7. Enhancing Your Future Your Super performance test to ensure it works as intended

The recent Your Future, Your Super reforms introduced a number of important measures to improve the superannuation system for members. This includes holding superannuation funds to account for underperformance. MySuper and imminently, trustee-directed products are subject to an annual performance test and assessment against benchmarks relating to the strategic asset allocation of the fund.

Recommendation 10

We are supportive of the Government reviewing the YFYS performance test (the benchmarks specifically) and of the consultation process on draft regulations regarding the benchmarks used for the performance test assessment. Given the nascent and importance of the test, we recommend the Government continue to assess the YFYS performance test for unintended consequences and to ensure the performance test approach and benchmarks are not inappropriately constraining investment decisions of trustees.

05. Appendices

Appendix A - Background

Appendix B - Principal law currently governing the Australian funds

Appendix C – A review of key global funds management jurisdictions

Appendix D – Data survey methodology

Appendix E - Glossary and acronyms

Appendix F – Bibliography

Appendix A – Background

Background and scope

This research report was commissioned by the Financial Services Council (FSC) as outlined with the Letter of Engagement dated 15 December 2022.

The purpose of the Engagement is to provide a research report on the State of the Funds Management Industry. The scope of the research is agreed as follows:

- An executive summary of the Report.
- Key facts and statistics about the size, scale, importance of the Australian funds management industry to the Australian economy.
- Key facts and statistics that give insights and emerging trends into the structure of the industry. This will include consumer preferences and uses of fund management products.
- Key facts and statistics on an agreed set of policy areas, with information to educate policy makers about appropriate regulatory settings.
- To provide a cross jurisdictional comparisons of international fund management industries in the UK, USA, Singapore, Hong Kong (SAR), China and Luxemburg (EU example), to look at overseas policy incentives for fund managers such as tax settings.
- Key policy recommendations to increase the attractiveness and competitiveness of the Australian funds management industry; and
- An appendix outlining key regulatory settings for the funds management industry in Australian and how they operate, and core principles underlying their regulation.

Approach

The research conducted quantitative and qualitative research from a range of sources including:

- A targeted bespoke survey was issued to the members of the Financial Services Council with funds management operations.
- Publicly available data and information such as that made available by ASIC (various Reports), the Australian Bureau of Statistics (September 2022 Managed Funds database) and various international reports such as the ICI Fact Book 2021. See the bibliography for a full list of publications accessed and referenced.
- A non-public database, Morningstar, which provides a number of reports on managed funds amongst other information.
- We also undertook a literature review and
- Contributions and peer review were also received from KPMG domestic and global funds (asset) management and taxation subject matter experts.

Appendix B - Principal law currently governing the Australian funds

Regulatory Oversight

The Funds management industry falls under the jurisdiction of several regulatory bodies.

- ASIC is the corporate and financial services regulator of the markets in which fund managers operate. ASIC oversees and administers the Corporations Act 2001 and the Australian financial services licence (AFSL) regime that govern fund managers and other participants in the funds management industry who carry on a financial services business in Australia. Operating or managing an investment fund is an example of a financial services business.
- Superannuation fund with funds management capabilities are dual regulated by APRA and by ASIC.
- In the case of MIS offered by statutory funds, Life companies are regulated by APRA and ASIC if the fund is offered to retail investors via an offer document.

Other regulatory bodies that oversee aspects of the funds management industry include:

- the Australian Prudential Regulation Authority (APRA), which focuses primarily on prudential regulation of institutions including superannuation funds and life insurance companies
- the Australian Taxation Office (ATO), which collects Commonwealth tax and regulates Self-Managed Super Funds (SMSFs)
- the Australian Securities Exchange (ASX), which makes rules for investment funds that list on the ASX
- the Australian Financial Complaints Authority (AFCA), which considers complaints from retail investors about managed investments including financial advice, disclosure and inappropriate transactions
- the Australian Transaction Reports and Analysis Centre (AUSTRAC), is the Australian Government agency responsible for detecting, deterring and disrupting criminal abuse of the financial system to protect the community from serious and organised crime. An operator or manager of an investment fund would typically be registered with AUSTRAC.
- the Office of the Australian Information Commissioner (OAIC) mainly deals with issues that are covered by the Privacy Act 1988 (Privacy Act).

Principal Governing Law

Instrument	Description
Corporations Act 2001 (Cth) ("Corps Act") and associated regulations	Provides for the regulation of corporations, financial markets and financial products and services and the operation of registered managed investment schemes, including licensing, conduct, financial product advice and disclosure.
Corporate Collective Investment Vehicle Framework and Other Measures Act 2021	The Act contains the regulatory and tax rules that establish the Corporate Collective Investment Vehicle ("CCIV") regime, came into effect on 1 July 2022
Australian Securities and Investments Commission Act 2001 (Cth) ("ASIC Act")	Provides for ASIC to administer the Corporations Act and sets out ASIC's functions, powers and business to regulate the conduct of Australian companies, financial markets, financial services organisations (including banks, life and general insurers and superannuation funds) and professionals who deal in and advise on investments, superannuation, insurance, deposit-taking and credit.
Superannuation Industry (Supervision) Act 1993 (Cth) ("SIS Act") and associated regulations	Provides for the prudential management of certain superannuation funds and pooled superannuation trusts and for their supervision by APRA, ASIC and the Commissioner of Taxation.
Privacy Act 1988 (Cth)	Provides for the protection of individuals privacy and to regulate how organisations with an annual turnover of more than $3 million handle personal information.
Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) ("AML CTF Act")	Provides for measures to detect, deter and disrupt money laundering, the financing of terrorism, and other serious financial crimes
Income Tax Assessment Acts 1936 (Cth) and Income Tax Assessment Acts 1997 (Cth) and associated regulations and the Tax Administration Act	Provides the tax provisions applicable to the investment and sale of a financial assets and income and expenses of the managed funds and their investors, as well as the bulk of superannuation taxation laws.

Instrument	Description
A New Tax System (Goods and Services Tax) Act 1999 (Cth) (“GST Act”)	Outlines the goods and services tax applicable to financial services entities and the transactions that they undertake.
Australian Prudential Regulation Authority Act 1998 (Cth) (“APRA Act”)	Applicable to banks, insurers and superannuation funds (which may perform fund manager functions and are product manufacturers and distributors). These regulations which established and enabled the Australian Prudential Regulation Authority (APRA), provide for prudential supervise and promotes financial system stability in Australia.

Source: KPMG

Key tax settings

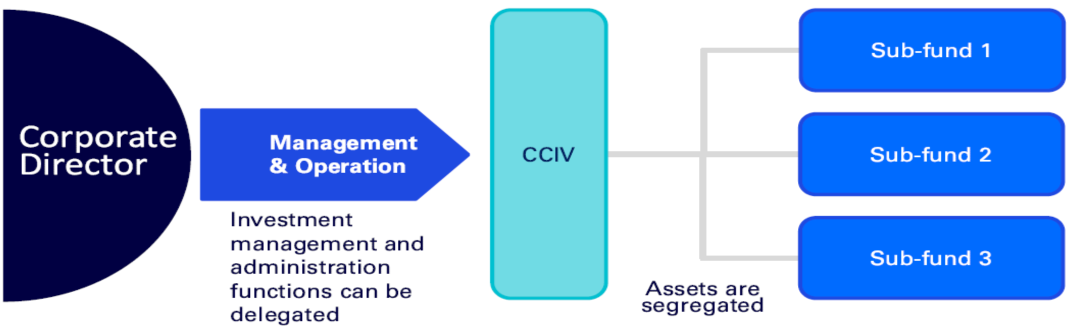
What are the key regulatory features of the new CCIV regime?

The key regulatory features of the regime include:

- CCIV were established and are regulated as a new type of investment company under the Corporations Act 2001 (Cth) ("Corporations Act"). The CCIV must be a company limited by shares, which may be redeemable and allow for open and closed-ended fund structures.
- Generally, a CCIV will have the same legal capacity and powers, and it is subject to many of the same rules as other companies but will also be subject to specific rules appl cable to CCIVs, in recognition of the status of a CCIV as a variable capital investment company that is intended to be an alternative choice of fund structure to an MIS.
- The operator of a CCIV is its Corporate Director which must be a public company holding an appropriate Australian Financial Services Licence AFSL") authorising it to operate a CCIV. The Corporate Director will operate the CCIV in the same manner as a Responsible Entity / trustee would administer an MIS, but a CCIV is not a trust and Corporate Director is not a trustee. A CCIV must comprise at least one sub-fund with at least one member. A sub-fund is not a separate legal entity, but it is separate for liability since, under the regime, CCIV assets and liabilities must be allocated to a sub-fund. Sub-funds essentially operate as if they are separate vehicles, with each sub-fund having Its own separate Investment strategy and Investors, although cross-investment by a sub-fund into another sub-fund is permitted.
- As is a company limited by shares, a CCIV gives investors statutory protection from liability for a CCIVs debts. Even though this statutory protection is not currently provided to investors in an MIS, this has not been an Issue in practice, as comfort can be provided in other ways.
- As is currently the case for an MIS, a CCIV may either be a retail CCIV or a wholesale CCIV, depending on whether the CCIV has members who directly or indirectly acquired their shares in the CCIV as retail clients.

CCIV Structure

The structure of a CCIV is represented in the diagram below:



Source: KPMG

Key differences between retail and wholesale CCIVs

Some important differences between retail and wholesale CCIVs are as follows (and consistent with the regulation of retail and wholesale MIS):

Regulatory requirement	Retail CCIV	Wholesale CCIV
Corporate Director	Must have a Corporate Director, and the Corporate Director (and officers of the Corporate Director) Owe general duties and the Corporate Director owes additional specific duties.	Generally, the same as for retail CCIV, but the Corporate Director does not owe as many additional specific duties.
Compliance Plan	A retail CCIV must have a compliance plan, which sets outs adequate measures to be applied by the Corporate Director In operating the CCIV to ensure compliance with regulations and the constitution of the CCIV.	A wholesale CCIV is not required to have a compliance plan.
Constitution	Must have a constitution, and the constitution may be only modified, repeat ed or replaced in limited circumstances.	Must have a constitution, and the process for modifying, repealing or replacing the constitution Of the CCIV must be set out in the constitution (I.e., wholesale CCIVs are afforded more flexibly in this regard).
Redemption of Share Capital	A retail CCIV may only redeem shares if certain criteria are satisfied, based upon the familiar VIS distinction between "liquid schemes" and " ran-liquid schemes".	A broader scope for redemptions of share capital is afforded to wholesale CCIVs.
External Directors	At least half of the directors of a Corporate Director must be external.	There is no external director requirement.

The key tax features of the CCIV Regime

The overarching policy objective of the CCIV taxation framework is that the general tax treatment of CCIVs and their members should align with the tax treatment of MITS / AMITs.

The application of the existing attribution flow through regime (i.e., AMIT tax regime) to CCIVs and their members is consistent with the policy intent of creating a tax flow-through corporate vehicle that can operate as an alternative collective investment vehicle to the MIS.

The effects of the "deeming principle" on tax outcomes are as follows

CCIV	For income tax purposes, unless where expressly excluded, the CCIV is regarded as the trustee of each CCIV sub-fund trust. This reflects that, under the CCIV regulatory framework, the CCIV is the legal owner of the assets, owes the liabilities and carries on the business referable to each of Its sub-funds. Sub-funds Absent the "deeming" principle, the income tax framework would ordinarily apply to a CCIV. To ensure, instead, that flow-through tax treatment applies to the sub-funds of a CCIV, the "deeming" principle is required for each sub-fund to be recognised as a trust and therefore a separate taxpayer for Income tax purposes. The approach of treating each sub-fund of the CCIV in this manner supports the statutory segregation of assets and liabilities that is a key feature of the CCIV regulatory framework.
Members	The "deeming" principle also results in members of a CCIV being treated as beneficiaries of the relevant CCIV sub-fund trust for income tax purposes. A member's shares in a CCIV are deemed to be units in the relevant CCIV sub-trust, and further the rights, obligations, and other characteristics attributable to the member's shares are connected, to the extent practicable, With deemed units in the relevant CCIV sub-trust.
AMIT eligibility criteria	A sub-fund of a CCIV that meets the (modified) AMIT eligibility criteria is automatically treated as an AMIT for the purposes of the income tax law. The taxation rules amend the existing provisions of Division 276 (MIT criteria) and Division 276 (AMIT criteria), to ensure a sub-fund is capable of being recognised as an AMIT (notwithstanding the egal form of a CCIV). Refer to the tables overleaf for further details.

The taxation rules amend the MIT eligibility criteria for these purposes as follows

Eligibility Criteria	MIS	CCIV
MIS Requirement	Under the ordinary MIT eligibility requirements, a trust must be an MIS for the purposes of section 9 of the Corporations Act. However, not all MIS are required to be registered with ASIC under the Corporations Act. For instance, where all of the interests in the relevant scheme are issued to wholesale clients only, registration is not required.	As a body corporate, a CCIV is not capable of qualifying as an MIS for the purposes of section 9 of the Corporations Act. Accordingly, the MIT eligibly criteria are modified to remove this requirement. This MIS requirement is replaced by a new requirement that substantially achieves the same effect (i.e., broadly, the sub-fund of the CCIV must be used for collective Investment by pooling contributions of members of the sub-fund to acquire rights to benefits produced from those contributions)
"Widely Held" Requirements	Under the ordinary MIT eligibility criteria, the MIS must be "widely held" to be eligible for, as an example, concessional withholding tax treatment applicable to fund payments made to certain foreign investors. The specific criteria applicable to a particular MIS depend on whether the MIS is: • A registered MIS that is a retail fund; • A registered MIS that is a wholesale fund; or • An unregistered MIS that is a wholesale trust.	The "widely held" requirements are modified in light of the fact that a CCIV cannot qualify as an MIS for the purposes of section 9 of the Corporations Act.

The AMIT eligibility criteria are amended as follows for CCIVs

Eligibility Criteria	MIS	CCIV
"Clearly Defined Rights"	Pursuant to AMIT eligibly requirements, broadly members of the trust must have "clearly defined" rights to the income and capital of the trust. MIS that are registered under section 601 EB of the Corporations Act are taken to have satisfied this requirement.	The "clearly defined rights" requirement is disregarded when assessing whether a CCIV sub-fund trust is an AMIT, as a CCIV will have clearly defined rights as a consequence of its registration under the Corporations Act.

A CCIV sub-fund trust that meets the modified AMIT eligibility criteria will automatically be treated as an AMIT

Outcomes where AMIT eligibility criteria are not met

Where a CCIV sub-fund trust does not satisfy the AMIT eligibility criteria for a particular year of income, the tax outcomes for the CCIV sub-fund trust and Its members depend on the reasons for failing the criteria (I.e., whether the relevant CCIV sub-fund trust falls to qualify as an AMIT by virtue of being a "trad ng trust" or not).

The outcomes for CCIV sub-fund trusts in these circumstances broadly align with the outcomes that result for MIS that do not satisfy the AMIT eligibility criteria. Importantly, the failure by a CCIV sub-fund trust to satisfy the AMIT eligibility criteria does not taint the status of other CCIV sub-fund trusts within the same CCIV.

While the CCIV regime has introduced a new legal form of collective investment vehicle, Australia's tax settings for pooled investment outside of superannuation remain anchored around the trust taxation rules. For example, each sub-fund of a CCIV is deemed to be a separate trust for income tax purposes, of which the CCIV is the deemed trustee and members of the sub-fund are treated as trust beneficiaries. Consequently, a CCIV sub-fund may also qualify as a MIT or AMIT.

The key tax settings applicable to unit trusts and CCIVs are summarised below (collectively referred to as a "fund". This is described in general terms to accommodate differences in defined terms under each tax regime.

Appendix C - A review of key global funds management jurisdictions

United States of America [96]

The funds management sector in the USA is broader than managed (mutual) funds, encompassing for example, hedge funds, private equity, venture capital and real estate investment managers. For the purposes of this section, the following addresses the USA managed (mutual funds) market only.

Brief history of the Mutual Funds market in the USA

The investment company concept dates to the late 1760s in Europe, according to K. Geert Rouwenhorst in The Origins of Mutual Funds, when "a Dutch merchant and broker…invited subscriptions from investors to form a trust...to provide an opportunity to diversify for small investors with limited means."

The emergence of "investment pooling" in the United Kingdom in the 1860s brought the concept closer to US shores. In 1868, the Foreign and Colonial Government Trust formed in London. This trust resembled the US fund model in basic structure, providing "the investor of moderate means the same advantages as the large capitalists...by spreading the investment over a number of different stocks."

Perhaps more importantly, the British fund model established a direct link with US securities markets, helping to finance the development of the post—Civil War US economy. The Scottish American Investment Trust, formed on February 1,1873, by fund pioneer Robert Fleming, invested in the economic potential of the United States, chiefly through American railroad bonds. Many other trusts followed that not only targeted investment in America, but also led to the introduction of the fund investing concept on US shores in the late 1860s and early 1960s.

The first mutual, or open-end, fund was introduced in Boston in March 1924. The Massachusetts Investors Trust introduced important innovations to the investment company concept by establishing a simplified capital structure, continuous offering of shares, the ability to redeem shares rather than hold them until dissolution of the fund, and a setoff clear investment restrictions and policies.

The stock market crash of 1929 and the Great Depression that followed hampered the growth of pooled investments until a succession of landmark securities laws—beginning with the Securities Act of 1933 and concluding with the Investment Company Act of 1940—reinvigorated investor confidence. Renewed investor confidence and many innovations led to relatively steady growth in industry assets and number of accounts.

Type of investment structures in the United States

Fund sponsors in the United States offer four main types of registered investment companies:

- Mutual funds
- Closed-end funds
- Exchange-traded funds (ETFs) and
- Unit investment trusts (UITs).

The majority of investment companies are mutual funds, both in terms of number of funds and assets under management. Mutual funds can have actively managed portfolios, in which a professional investment adviser creates a unique mix of investments to meet a particular investment objective, or passively managed portfolios, in which the adviser seeks to track the performance of a selected benchmark or index. One hallmark of mutual funds is that they issue redeemable securities, meaning that the fund stands ready to buy back its shares at their next computed net asset value (NAV). The NAV is calculated by dividing the total market value of the fund's assets, minus its liabilities, by the number of mutual fund shares outstanding.

Money market funds are one type of mutual fund. They offer investors a variety of features, including liquidity, a market-based rate of return, and the goal of returning principal, all at a reasonable cost. These funds, which are typically publicly offered to all types of investors, are registered investment companies that are regulated by the Securities and Exchange Commission (SEC) under US federal securities laws, including Rule 2a-7 under the Investment Company Act. That rule contains numerous risk-limiting conditions concerning portfolio maturity, quality, diversification, and liquidity. Since October 2016, institutional prime money market funds (funds that primarily invest in corporate debt securities) and institutional municipal money market funds maintain a floating NAV for transactions based on the current market value of the securities in their portfolios. Government money market funds and retail money market funds (funds designed to limit all beneficial owners of the funds to natural persons) are allowed to use the amortized cost method of pricing or penny rounding—or both—to seek to

[96] The content covering the USA is reproduced from the Investment Company Institute Fact Book, 2021, Appendix A. The USA funds management market (called the asset management market in the USA) includes the managed funds, the private equity, hedge funds and real estate investment trusts which are not addressed in this comparison. The ICI content reproduced in this section only focuses on the managed funds market.

maintain a stable share price. Money market funds' boards of directors also have the ability to impose liquidity fees or to suspend redemptions temporarily if a fund's level of weekly liquid assets falls below a certain threshold.

Unlike mutual funds, closed-end funds do not issue redeemable shares (The closed-end funds discussed in this appendix issue a fixed number of shares that are listed and traded on a stock exchange. Other types of closed-end funds—such as interval funds, which offer shares and periodic repurchases at NAV—are beyond the intended scope of this Report). Instead, they issue a fixed number of shares that trade intraday on stock exchanges at market-determined prices. Investors in a closed-end fund buy or sell shares through a broker, just as they would trade the shares of any publicly traded company.

ETFs are a hybrid of investment companies. They are structured and legally classified as open-end management investment companies or UITs (discussed below) but trade intraday on stock exchanges like closed-end funds. ETFs only buy and sell fund shares directly with authorized participants in large blocks, often 50,000 shares or more. UITs are also a hybrid, with some characteristics of mutual funds and some of closed-end funds. Like closed-end funds, UITs typically issue only a specific, fixed number of shares, called units. Like mutual funds, the units are redeemable, but unlike mutual funds, generally the UIT sponsor will maintain a secondary market in the units so that redemptions do not deplete the UIT's assets. A UIT does not actively trade its investment portfolio—instead it buys and holds a set of particular investments until a set termination date, at which time the trust is dissolved and proceeds are paid to shareholders.

Principal Governing Law

Instrument	Description
The Securities Act of 1933	This law requires the registration of public offerings of securities—including investment company shares— and regulates such offerings. The 1933 Act also requires that all investors receive a current prospectus describing the fund.
The Securities Exchange Act of 1934	This law regulates the trading, purchase, and sale of securities, including investment company shares. The Securities Exchange Act of 1934 ('34 Act") also regulates broker-dealers, including investment company principal underwriters and others that sell investment company shares, and requires them to register with the SEC. In 1938, the '34 Act was revised to add Section 15A, which authorized the SEC to create self-regulatory organizations. Pursuant to this authority, in 1939, a self-regulatory organization for broker-dealers—which is now known as the Financial Industry Regulatory Authority (FINRA)—was created. Through its rules, inspections, and enforcement activities, FINRA, with oversight by the SEC, continues to regulate the conduct of broker-dealers, thereby adding another layer of protection for investors.
The Investment Company Act of 1940	The Investment Company Act of 1940 ("Investment Company Act") regulates the organisation of companies, including mutual funds, that engage primarily in investing, reinvesting, and trading in securities, and whose own securities are offered to the investing public. The regulation is designed to minimize conflicts of interest that arise in these complex operations. The Investment Company Act requires these companies to disclose their financial condition and investment policies to investors when stock is initially sold and, subsequently, on a regular basis. The focus of the Investment Company Act is on disclosure to the investing public of information about the fund and its investment objectives, as well as on investment company structure and operations. It is important to remember that the Investment Company Act does not permit the SEC to directly supervise the investment decisions or activities of these companies or judge the merits of their investments.
The Investment Advisers Act of 1940	This law regulates investment advisers. With certain exceptions, the Investment Advisers Acts of 1940 ("Advisers Act") requires that firms or sole practitioners compensated for advising others about securities investments must register with the SEC and conform to regulations designed to protect investors. Since the Advisers Act was amended in 1996 and 2010, generally only advisers that have at least USD100 million of assets under management or advise a registered investment company must register with the SEC. The Advisers Act contains provisions requiring fund advisers to meet recordkeeping, custodial, reporting, and other regulatory responsibilities.

While the SEC oversees the above laws, the Commodity Futures Trading Commission (CFTC) is also important to the asset management industry as it regulates the trading in commodities and most derivatives markets.

Key policy settings/regulations

Policy-making that impacts investment companies is typically undertaken by the legislative branch of the government or via regulators (i.e., the SEC or CFTC). Both the SEC and CFTC have membership in the Financial Stability Oversight Council (FSOC) of the U.S., which includes other regulatory bodies such as the Federal Reserve Board.

In addition, as a significant portion of the assets in the funds are invested by public and private pension funds overseen by the U.S. Department of Labor ("DOL"), the DOL's policy-making and regulatory efforts impact the industry. The DOL oversees the Employee Retirement Income Security Act of 1974 ("ERISA") which is aimed at protecting the interests of employee benefit plan participants and their beneficiaries.

Policymakers interact with the public and industry participants, including industry trade bodies. The largest industry trade body for the asset management industry is the Investment Company Institute (www.ici.org). Other industry trade bodies relevant to the US funds management sector include:

- Managed Funds Association (MFA), which represents hedge funds and their advisers (www.managedfunds.org)
- American Investment Council (AIC), which represents private equity funds and their advisers (www.investmentcouncil.org)
- National Venture Capital Association (NVCA), which represents venture capital funds and their advisers (www.nvca.org)
- Investment Adviser Association (IAA), which represents investment advisers (www.investmentadviser.org)
- National Association of Real Estate Investment Trusts (Nareit), which represents real estate investment trusts (www.nareit.org)

Key tax settings

Mutual funds are subject to special tax rules set forth in subchapter M of the Internal Revenue Code. Unlike most corporations, mutual funds are not subject to taxation on their income or capital gains at the entity level, provided that they meet certain gross income and asset requirements and distribute their income annually.

To qualify as a regulated investment company (RIC) under subchapter M, at least 90 percent of a mutual fund's gross income must be derived from certain sources, including dividends, interest, payments with respect to securities loans, and gains from the sale or other disposition of stock, securities, or foreign currencies. In addition, at the close of each quarter of the fund's taxable year, at least 50 percent of the value of the fund's total net assets must consist of cash, cash items, government securities, securities of other funds, and investments in other securities that, with respect to any one issuer, represent neither more than 5 percent of the assets of the fund nor more than 10 percent of the voting securities of the issuer. Further, no more than 25 percent of the fund's assets may be invested in the securities of any one issuer (other than government securities or the securities of other funds), the securities (other than the securities of other funds) of two or more issuers that the fund controls and that are engaged in similar trades or businesses, or the securities of one or more qualified publicly traded partnerships.

If a mutual fund satisfies the gross income and asset tests and thus qualifies as a RIC, the fund is eligible for the tax treatment provided by subchapter M, including the ability to deduct from its taxable income the dividends it pays to shareholders, provided that the RIC distributes at least 90% of its income (other than net capital gains) each year. A RIC may retain up to 10% of its income and all capital gains, but the retained income and capital gains are taxed at regular corporate tax rates. Therefore, mutual funds generally distribute all, or nearly all, of their income and capital gains each year.

The Internal Revenue Code also imposes an excise tax on RICs, unless a RIC distributes by December 31 at least 98 percent of its ordinary income earned during the calendar year, 98.2 percent of its net capital gains earned during the 12-month period ending on October 31 of the calendar year, and 100 percent of any previously undistributed amounts. Mutual funds typically seek to avoid this charge—imposed at a 4% rate on the under-distributed amount—by making the required minimum distribution each year

Types of Distributions

Mutual funds make two types of taxable distributions to shareholders: ordinary dividends and capital gains. Ordinary dividend distributions come primarily from the interest and dividends earned by the securities in a fund's portfolio and net short-term gains, if any, after expenses are paid by the fund. These distributions must be reported as dividends on a US investor's tax return and are taxed at the investor's ordinary income tax rate unless they are qualified dividends. Qualified dividend income is taxed at a maximum rate of 20%. Some dividends paid by mutual funds may qualify for these lower top tax rates. Long-term capital gains distributions represent a fund's net gains, if any, from the sale of securities held in its portfolio for more than one year. Long-term capital gains are taxed at a maximum rate of 20%. Certain high-income individuals also are subject to a 3.8% tax on net investment income (NII). The tax on NII applies to interest, dividends, and net capital gains, including those received from a mutual fund.

Non-US investors may be subject to US withholding and estate taxes and certain US tax reporting requirements on investments in US funds.

Amounts distributed to non-US investors that are designated as interest-related dividends or dividends deriving from capital gains will generally be eligible for exemption from US withholding tax. Other distributions that are treated as ordinary dividends will generally be subject to US withholding tax (at a 30 percent rate or lower treaty rate). To help mutual fund shareholders understand the impact of taxes on the returns generated by their investments, the SEC requires mutual funds to disclose standardized after-tax returns for one-, five-, and 10-year periods. After-tax returns, which accompany before-tax returns in fund prospectuses, are presented in two ways:

- After taxes on fund distributions only (pre liquidation).
- After taxes on fund distributions and an assumed redemption of fund shares.

Types of Taxable Shareholder Transactions

An investor who sells mutual fund shares usually incurs a capital gain or loss in the year the shares are sold; an exchange of shares between funds in the same fund family also usually results in either a capital gain or loss. Investors are liable for tax on any capital gain arising from the sale of fund shares, just as they would be if they sold a stock, bond, or other security. Capital losses from mutual fund share sales and exchanges, like capital losses from other investments, may be used to offset other capital gains in the current year and thereafter. In addition, up to $3,000 of capital losses in excess of capital gains ($1,500 for a married individual filing a separate return) may be used to offset ordinary income. The amount of a shareholder's gain or loss on fund shares is determined by the difference between the cost basis of the shares (generally, the purchase price—including sales loads—of the shares, whether acquired with cash or reinvested dividends) and the sale price. Many funds voluntarily have been providing cost basis information to shareholders or computing gains and losses for shares sold. Tax rules enacted in 2012 require all brokers and funds to provide cost basis information to shareholders, as well as to indicate whether any gains or losses are long-term or short-term, for fund shares acquired beginning in 2012.

Tax-Exempt Funds

Tax-exempt bond funds distribute amounts attributable to municipal bond interest. These "exempt interest dividends" are exempt from federal income tax and, in some cases, state and local taxes. Tax-exempt money market funds invest in short-term municipal securities or equivalent instruments and also pay exempt-interest dividends. Even though income from these funds generally is tax exempt, investors must report it on their income tax returns. Tax-exempt funds provide investors with this information and typically explain how to handle exempt-interest dividends on a state-by-state basis. For some taxpayers, portions of income earned by tax-exempt funds also may be subject to the federal alternative minimum tax.

United Kingdom

Brief history

The UK asset management industry is the second largest in the world in terms of assets under management (behind the United States). The UK Investment Association (the IA) estimates that £11.6 trillion of assets are managed from the UK.[97] Within Europe, the UK investment management industry is the largest and its market share is estimated by the IA at 37%. For many years the UK has been a major domestic and international capital market.

Assets managed within the UK industry are over four times bigger than the size of the UK economy. The IA estimates that the industry employs 122,000 people, of which 45,000 are directly employed by investment management firms.

For many years, laws governing the industry were based on the EU legal and regulatory framework. At the point of Brexit, these laws were "onshored" and copied into the UK statute book. Assets managed in the UK have continued an upward trajectory since Brexit, but the structure of the industry has altered somewhat. UK firms are no longer able to "passport" their products and services around the EU, and market access arrangements such as delegation have come under closer scrutiny by EU regulators. The UK, on the other hand, continues to allow EU funds to be marketed into the UK, first under a temporary permissions regime and potentially in future under a new Overseas Funds Regime.

The UK also remains an important fund domicile. Estimates[98] suggest that up to £2 trillion could be held in UK-domiciled funds. The UK offers a wide range of tax-efficient investment vehicles across different categories and structures (including authorised and unauthorised, listed and unlisted, open-ended and closed-ended). The vehicles permit investment in all types of asset classes and investment strategies, and to different types of investors.

Since 2013, the UK has had a "twin-peak" regulatory approach. However, the Financial Conduct Authority (FCA) is the prudential and conduct supervisor for all UK asset managers. The Bank of England's Financial Policy Committee is responsible for identifying and acting on potential systemic risks.

UK financial services regulators have long been viewed as among the leaders around the world. In the retail market, for example, the FCA's industry market study led to the introduction of an annual "assessment of value" for UK fund managers. The forthcoming introduction of the FCA's "Consumer Duty" will further increase expectations of good conduct and investor protection

Type of investment structures in the United Kingdom

UK collective investment vehicles can take four different legal forms:

- **Unit trusts:** Based on trust law, these were the original legal form of UK collective investment schemes available to the general public.
- **Open-ended investment companies:** OEICs were introduced as an export vehicle into Europe, where the unit trust legal structure is not generally recognised.
- **Contractual schemes:** These are "tax transparent" and enable clients such as pension funds to benefit fully from the UK's extensive network of Double Tax Treaties. The fund is not subject to tax – instead, detailed information on income distributions from the fund is provided to investors to include in their own tax returns.
- **Limited partnerships:** In these schemes, the fund manager is often the "General Partner", and the investor(s) are the "Limited Partners". Limited partnerships are commonly used for unauthorised closed-ended funds investing in illiquid assets – for example, private equity, hedge funds, venture capital, real estate, infrastructure.

Funds with any of these four types of legal structure and whose fund manager complies with relevant rules, may be authorised by the FCA. If the funds comply with additional, detailed rules, they may be promoted to retail customers.

Unit trusts, closed-end investment companies and limited partnerships may choose not to be authorised, restricting their distribution to professional clients only. However, the managers of such vehicles are authorised and regulated by the FCA. At present, OEICs and contractual schemes can exist only in authorised form. HM Treasury has consulted on the introduction of unauthorised schemes taking these legal structures.

[97] UK Investment Association Annual Survey - 2021-2022. All statistics quoted in regards to funds management in the United Kingdom in this section of the Report, are sourced from this survey, unless stated otherwise
[98] EFAMA (the European Fund and Asset Management Association) estimates that £1.5 trillion of assets are held in UK-domiciled funds. However, this data only captures authorised funds and as such the total value is greater- for example, IOSCO in its 2023 statistics report estimates that £0.4 trillion is held in UK closed-ended funds.

Principal Governing Law

UK laws and regulations covering asset management activities are wide-ranging. The table below covers key regulations, but there are many more, including rules relating to conduct in capital markets, the holding of client assets, anti-money laundering/terrorist financing etc.

Instrument	Description
The Financial Services and Markets Act 2000 (FSMA)	FSMA and related secondary legislation define the regulatory perimeter and set out the activities and entities that fall within the scope of UK financial services regulation. For asset managers, these activities are regulated and supervised by the FCA. FSMA and related secondary legislation also set out the requirements and procedures for asset managers to be authorised to carry on regulated activities, and for supervision and enforcement.
Open-Ended Investment Companies Regulations 2001	The OEIC regulations set out requirements relating to the way in which collective investment may be carried on by UK open-ended investment companies (OEICs) and provide the FCA with certain powers (for example, to revoke an OEIC's authorisation). The regulations disapply or modify certain general provisions of company law to enable OEICs to be open-ended.
Onshored UCITS Directive	EU fund regulation was first introduced in 1985 by the Undertakings for Collective Investment in Transferable Securities Directive (UCITS Directive). Over the years, these rules have been updated, expanded and augmented by accompanying regulations (e.g., the key investor information document). As a result of Brexit, the UK "onshored" EU law, including the rules at that time.
Onshored Alternative Investment Fund Managers Directive (AIFMD)	EU regulation of alternative funds was first introduced in 2011 and provided a framework for alternative investment fund managers (AIFMs), including managers of hedge funds, private equity firms and investment trusts. AIFMD regulates the fund managers rather than the underlying funds. The UK onshored the AIFMD requirements.
FCA handbook (COLL)	The FCA requirements for authorised funds are set out in the FCA Handbook (including rules derived from the UCITS Directive). COLL sets out rules and guidance on specific aspects of the operation of authorised funds, as well as for overseas, "recognised" schemes. In addition to UK UCITS rules, COLL sets out rules for other types of authorised funds: Qualified Investor Schemes (QIS), Non-UCITS Retail Schemes (NURS), and Long-Term Asset Funds (LTAFs).
FCA handbook (FUND)	The FCA FUND handbook contains the FCA's rules for AIFMs (including rules derived from the AIFMD).
Markets in Financial Instruments Directive II (MiFID II)	The EU MiFID II Directive was introduced in 2018 and set out revised rules for trading, portfolio management activities, distribution and other types of activities. These rules were onshored.
FCA handbook (COBS)	The COBS Handbook contains the FCA's rules for investment activities and the MiFID II requirements.
FCA prudential requirements (IPRU-INV and MIFIDPRU)	For asset and fund managers there are detailed requirements on capital, liquidity and enterprise risk.
FCA handbook (ESG)	The FCA's ESG handbook sets out ESG disclosure requirements for UK asset managers, including entity- and product-level reporting requirements aligned with the Task Force on Climate-Related Financial Disclosures (TCFD) framework. In future these rules will include the FCA's requirements for sustainability disclosures and investment labels.
FCA Listing Rules (Chapter 15)	The FCA's listing rules set out requirements for closed-ended investment funds applying for, or with, a premium listing.

Source: KPMG

Key regulatory settings

- **Investor protection** remains a key area of focus, with the FCA looking to set a high bar via its forthcoming "Consumer Duty", which aims to transform how firms deal with retail customers. This will build on previous leading initiatives such as the FCA's Retail Distribution Review and asset management market study.
- From a conduct regulation perspective, the UK requirements go above and beyond those in many other jurisdictions. For example, the requirement to have a fully independent depositary to perform oversight and custody. The FCA continues to be in the leading pack on new regulatory initiatives impacting retail markets, including the requirement for authorised fund managers to perform an "assessment of value".
- **ESG** regulation has become a priority – the FCA has already introduced TCFD-aligned disclosures for UK asset managers and has consulted on introducing wider sustainability-related requirements and investment labels.
- **Governance** is also important, with the FCA having introduced the Senior Managers and Certification Regime (SM&CR) for asset managers in 2019.

Key Tax Settings

Regarding tax, the position varies significantly depending on the legal structure of the investment vehicle and the nature of the underlying investments. Different tax regimes for UK-domiciled investment vehicles provide investors with a range of tax-efficient structures. These take advantage of the UK's extensive range of double tax treaties.

In general terms, the overriding principle behind the taxation of authorised funds is that investors are expected to be in broadly the same tax position as they would have been in had they invested in the underlying investments directly. However, there can be exceptions to this.

An exemption from tax on chargeable gains on the disposal of investments is a feature common to most collective investment vehicles, with investors realising taxable gains only on disposal of their units or shares in the fund. This prevents double taxation.

What makes the UK an attractive investment market?

Here are some of the reasons why asset managers consider the UK an attractive location:

- The UK is a G7 economy and a major international capital markets centre. Portfolio managers and fund investors benefit from the co-location of many financial services activities.
- "The UK is a leading centre for asset management. It is the largest in Europe and the second largest globally after the US. Based on FCA data, around 2600 firms manage around £11trillion of assets for UK and foreign clients [99]" and provides portfolio management services to many funds domiciled in the EU and elsewhere.
- The use of the English language, the central time zone, and ready access to talent pool.
- The globally well-regarded strength of contracts written under English law.
- The FCA is recognised as a world-class capital markets regulator.
- The FCA continues to be in the leading pack on new regulatory initiatives impacting retail markets, including the requirement for authorised fund managers to perform an "assessment of value" and its forthcoming "Consumer Duty", which aims to transform how firms deal with retail customers.
- The UK requirements go above and beyond those in many other jurisdictions. For example, the requirement to have a fully independent, authorised depositary to perform oversight and custody.
- The UK's range of tax-efficient vehicles and extensive double tax treaties.

As for the potential hurdles:

- Firms (both UK and EU) are still adjusting to the impact of Brexit and the ongoing potential for divergence between the UK and the EU regulatory regimes.

[99] Financial Conduct Authority, Discussion paper DP23/2 Updating and improving the UK regime for asset management, February 2023, Pg 8

European Union – Luxembourg

Brief history

Luxembourg was a pioneer in the implementation of the European fund regulation, opening markets for international fund distribution and providing European retail and institutional clients with access to international investments. Investment funds domiciled in Luxembourg are distributed in 80 countries, with a particular emphasis on Europe, Asia, Latin America, and the middle east. The world's top asset managers have chosen Luxembourg as the headquarters for their international fund portfolios. The Grand Duchy provides unparalleled international expertise as well as a diverse set of investment vehicles.

Luxembourg has historically been the preferred domicile for UCITS, the world's only truly global fund product that provides the highest level of investor protection. Luxembourg's UCITS funds have developed a strong global brand, but this strength is the result of a decision made in 1988: Luxembourg was the first to incorporate the UCITS Directive into national law. This 'first mover advantage' drew many international fund promoters. UCITS are now widely sold to both the public and institutional investors worldwide. UCITS are used by pension funds to diversify their portfolios with a well-regulated product.

The Alternative Investment Fund Managers Directive (AIFMD), which grants alternative fund managers a European Passport, went to effect in 2013. The Directive's quick implementation has aided Luxembourg's continued development as a well-regulated hub for the global alternative investment industry. Luxembourg chose this time to revamp and modernize its limited partnership regime to ensure maximum compatibility and flexibility under the new AIFMD rules, with a structure more familiar to asset managers from English-speaking countries.

Luxembourg domiciled investment funds are distributed in 80 countries [100].

Vehicle Overview:

Regulated vehicles:

1. UCITS (Undertaking for Collective Investment Transferable Securities)- A regulated fund primarily designed for retail investors but also popular with institutional investors.
2. UCI part 2: A variation of the UCITS vehicle with more flexible investment restrictions but no passporting rights towards the EU 27 member states (unlike the UCITS).
3. SIF (Specialised Investment Fund): A flexible, efficient multipurpose vehicle.
4. SICAR (Investment Company in Risk Capital): Specifically designed for private equity investment and venture capital.

Non-regulated vehicles:

5. RAIF (Reversed Alternative Investment Fund) introduced in 2016: A fund with quick time-to-market, indirectly regulated via the alternative investment fund manager.
6. SCSp (Special Limited Partnership) introduced in 2014: It operates similarly to a limited partnership and is popular for alternative investments including real estate. The SCSp, serves as an additional investment vehicle suited to investment funds. The main difference between SCS and SCSp is that SCS has its own legal personality distinct from its partners, as for the SCSp is a partnership with no legal personality distinct from its partners.
7. SCS (Limited Partnership): A commercial company that requires at least two partners, of which one is a general partner and other, a limited partner.

[100] Luxembourg for Finance, The Financial Centre Development Agency Asset Management - Luxembourg Financial Centre - Luxembourg for Finance

Type of funds management structures in the Luxembourg

A wide variety of investment funds are available catering to all categories of investors.

The two primary categories of investment funds that can be established in Luxembourg are: Alternative Investment Funds (AIFs) and Undertakings for Collective Investment in Transferable Securities (UCITS).

The AIFs can cover a variety of investment strategies in particular illiquid strategies, while the UCITS vehicles are targeted to both retail and institutional investors with "vanilla" strategies.

AIFs can be regulated e.g., SIF /SICAR /UCI part 2, lightly regulated e.g., RAIF or non-regulated e.g., SCSp, SCS. Also, AIFs can be only marketed to institutional/professional investors.

Selecting a legal entity is the first step in the process of starting a hedge fund in Luxembourg that is UCITS-established funds may be organized in one of the following ways: Investment companies with fixed capital (SICAF), investment companies with variable capital (SICAV), and common investment funds (FCP) while AIFs can also be organized as a SICAV/SICAF/FCP but also has the possibility to be structured as a partnership (commercial company, a "soparfi")

SICAV is a publicly traded open-end investment fund structure. SICAV funds shares are available to the public to trade, with prices that are based on the fund investments net asset value (NAV). Due to its commercial company structure, the SICAV is subject to the Luxembourg law (the 2002 Law and/or SIF Law of 2007) as well as Luxembourg Commercial Company law. This fund can be managed by a designated fund management company or by a self-managed investment company if the individuals in charge are qualified for the position. After a SICAV is operational, sub-funds may be established, but must have a distinct investment policy. There are no formalities required for increasing and decreasing the company's capital in this fund structure. The minimum capital requirement for such a fund is EUR 1,250,000, which must be deposited within six months of the fund receiving Luxembourg investment approval. The company's capital can be reached in one year if the SICAV in Luxembourg is registered under the SIF Law. Opening a Luxembourg fund as SICAV is subject to subscription tax. The tax is levied at a rate of 0.05% of the fund's net assets and is assessed annually. The subscription tax is imposed at a lower rate of 0.01% for SICAVs formed under SIF legislation. The ability to execute multiple investment strategies concurrently by creating compartments within the fund is one benefit of registering these types of funds.

SICAF, is a fixed-capital investment fund in Luxembourg. It can be organized in almost every business form available in Luxembourg including, S.A. (Public Limited Company), S.C.A. (Limited Partnership), S.A.R.L. (Limited Liability Company). In contrast to SICAV, a SICAF share capital can only be increased by the company`s shareholders, and any changes to the capital must be notified and published. In Luxembourg, the subscribed share capital of a SICAV or a SICAF must reach 1.25 million EUR within six months of the company`s start-up. Specialized Investment Funds (SIF) have a 12-month timeframe to raise the required capital. SICAVs and SICAFs are exempt from corporate taxation under the law. They are also exempt from dividend withholding tax. They are subject to the subscription tax, which is a yearly tax of 0.05% of their net assets (0.01% if formed as SIFs). In Luxembourg, investment funds must prepare annual accounts and appoint a Luxembourg auditor.

Finally, SOPARFI is one of the most used vehicles in Luxembourg for structuring investments, financing and holding company activities. It is popular because it can benefit from a variety of tax breaks and can take a variety of forms to best suit the needs of the shareholders. Among the various forms that a SOPARFI can take are the following: Sàrl (Société à responsabilité limitée), a private limited company with a high degree of flexibility and a low degree of statutory prescriptions. A Sàrl (Société anonyme) is a public limited company that can be tailored to the needs of a single investor or two or more joint venture partners. A SA is likely to be used to make public offers of Luxembourg-based shares and debt securities. A SA can have many shareholders and provide investors with a high level of confidentiality; SAS (Société par actions simplifiée), which is a simplified form of limited company best suited to the needs of a start-up project. A SOPARFI can benefit from several tax exemptions in Luxembourg if certain conditions are met, including the following: There are no taxes on dividends and liquidation proceeds received; there are no taxes on realized capital gains; there are no withholding taxes on dividends, liquidation proceeds, interest, and royalties paid; there are no statutory thin capitalisation rules; and there are no exit taxes.

Principal Governing Law

Instrument	Description
CSSF Circular 18/698	This circular discusses the investment fund managers who are authorized and organized and are corporations under Luxembourg law; Investment fund managers and organizations acting as registrar agents are subject to specific AML/CFT financing provisions.
AIFMD (DIRECTIVE 2011/61/EU)	An EU regulation known as the Alternative Investment Fund Managers Directive (AIFMD) governs alternative investments, many of which were largely unregulated before the global financial crisis of 2008-2009. The directive establishes requirements for marketing related to securing private funding, compensation practices, risk monitoring and reporting, as well as general accountability. In addition to reducing some of the systemic risk that alternative investment funds may pose to the EU and its economy, the AIFMD's main objective is to safeguard investors.
CSSF Circular 22/811	This circular applies to administrators of regulated and non-regulated entities established or not in Luxembourg. The CSSF makes no distinction between delegation and externalization or outsourcing, both of which are covered by the circular's delegation requirement. Management companies, Alternative Investment Fund Managers, and credit institutions performing administration functions of Luxembourg UCIs, Regulated Luxembourg UCIs, and credit Institutions must obtain a CSSF authorization to perform UCI administration activities.
UCITS Directive	The UCITS Directive ("UCITS") amends the regulatory framework for Undertakings for Collective Investment in Transferable Securities ("UCITS") to address issues relating to the depositary function, manager remuneration and administrative sanctions.

Source: KPMG

Key regulatory settings

Depending on the type of investment fund, these will be managed by a specific type of Investment Fund manager (IFM). Accordingly, UCITS must be managed by a Chapter 15 Management Company (also called "ManCo"), while an AIF must be managed by an authorized AIFM ("AIFM"). Both types of investment fund managers, Chapter 15 ManCo and authorized AIFM, need to abide by the requirements of the CSSF Circular 18/698.

The CSSF Circular 18/698 concerns IFM that are authorized and organized under Luxembourg law. It addresses all IFM-specific nuances, in terms of operations, governance arrangements, own funds, regulatory expectations amongst others.

According to the Circular, all Luxembourg based IFM's must have a certain level of substance (at least 3 FTEs in Luxembourg), arrangements for the so-called 11 functions (UCI administration, investment management, risk management, valuation, compliance, internal audit, complaints and requests handling, IT, accounting, AML/CTF and Marketing) and notable governance arrangements within the IFM (i.e., Management Committee, composed by the Conducting Officers and a Board of Directors).

Additionally, the Circular also addresses internal control requirements, the permitted delegation arrangements, and the expected oversight on behalf of the IFM of those delegations, as well as the degree of formalization of such arrangements.

The asset management industry in Luxembourg is strong in many ways, and, as with all other jurisdictions, these might also come with hurdles.

What makes Luxembourg an attractive investment market?

Driving and implementing innovation is an ongoing strategy of Luxembourg's fund industry. It is continually reviewing its legal and regulatory framework and expanding its toolbox of products and services in an attempt to maintain a place at the forefront of fund management[101].

Accordingly, here are some of the reasons for which fund managers consider Luxembourg an attractive location:

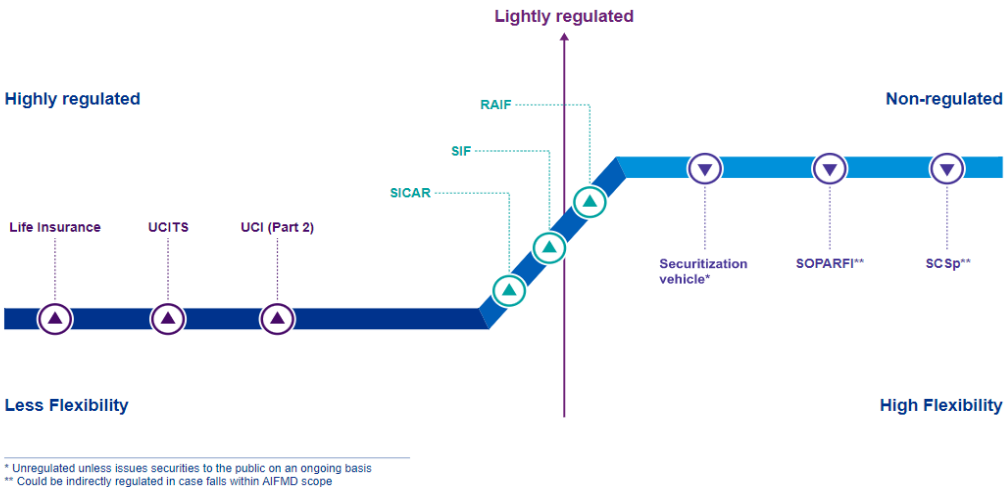
- Luxembourg is the largest European fund domicile.
- Luxembourg's legal and regulatory framework for investment funds is state-of-the-art.
- It has a stable political and social environment as well as a AAA economy.
- It leads the way in investor protection and has a highly experienced and responsive regulator.
- It is a founding member of the European Union and is situated at the heart of Europe.
- It has a unique concentration of investment fund experts specialised in all aspects of product development, administration and distribution.
- Luxembourg's funds "toolbox" offers a spectrum of legal, regulatory and structural choices.
- It has established a competitive framework for UCITS (Undertakings for Collective Investment in Transferable Securities), funds "passported" within the EU, as well as for non-UCITS or alternative investment funds.
- Its laws provide for so-called umbrella funds, which have several compartments under a single legal structure, and each compartment can invest in a different asset class.
- Luxembourg is endowed with an international and multilingual workforce.
- Its fund lawyers, audit firms and tax advisors are highly experienced in cross-border registrations of both UCITS and non-UCITS funds, facilitating fund distribution around the globe.

"Driving and implementing innovation is an ongoing strategy of Luxembourg's fund industry. It is continually reviewing its legal and regulatory framework and expanding its toolbox of products and services in an attempt to maintain a place at the forefront of fund management. Luxembourg hopes that the focus on market leading products and services will help ensure that it remains an attractive option for investors and asset managers" [78]

As for the hurdles, according to KPMG Luxembourg's 2021 Large Scale ManCo Survey, the main challenges faced by the survey participants were:

- Increasing regulatory pressure: higher compliance and operational costs.
- Talent acquisition and retention: many market players noted they are facing recruitment issue.

Diagram 6 - How highly regulated and flexible are the Luxembourg investment structures? [102]



Source: KPMG Luxembourg

[101] KPMG 2022, Why Luxembourg remains attractive for investment - KPMG Global

[102] Ibid.

Key tax settings

	UCITS	Part II Fund (AIF)	SIF (AIF)	SICAR (AIF)	RAIF (AIF)
Income Tax	Tax exempt	Tax exempt	Tax exempt	Tax exemption for income and capital gain derived from transferable securities connected with investments in risk bearing capital. Tax exemption for one year for income on cash held for the purpose of a future investment. The remaining income is subject to CIT and MBT.	Tax exempt, except if it only invests in risk capital (in which case the same tax regime that applies to a SICAR applies).
Net wealth tax	Tax exempt	Tax exempt	Tax exempt	Tax exempt, save for minimum NWT.	Tax exempt except if it only invests in risk capital (in which case the same tax regime that applies to a SICAR applies).
Withholding tax	Outbound distributions not subject to WHT	Outbound distributions not subject to WHT	Outbound distributions not subject to WHT	Outbound distributions not subject to WHT	Outbound distributions not subject to WHT
Subscription tax	0.05% of NAV, except: 0.01% of NAV for money market funds, cash funds or share classes of UCIs reserved to one or more institutional investors. Exemption for special institutional money market funds, pension funds, exchange traded funds, microfinance funds and investing in other funds subject to subscription tax	0.05% of NAV, except: 0.01% (see UCITs)	0.01% of NAV annually. Tax exemption possible for money market funds, pension funds, exchange traded funds, microfinance funds and investing in other funds subject to subscription tax.	No subscription tax	If the RAIF does not invest in a portfolio of risk capital: • 0.01% of NAV annually. Tax exemption possible for money market funds, pension funds, exchange traded funds, microfinance funds and investing in other funds subject to subscription tax. If the RAIF invests is a portfolio of risk capital (such as SICAR): no subscription tax
Access to the Luxembourg DTT network	FCP: no access to DTT (exemption Ireland)	FCP: no access to DTT (exemption Ireland)	FCP: no access to DTT (exemption Ireland)	SCS, SCSp: No. SA, S.à r.l. and SCA: Yes, to be confirmed on a case-by-case basis.	If investment in portfolio of risk capital (refer to SICAR) If not, FCP: no access to DTT (exemption Ireland) SICAV/SICAF: limited to some DTT
Value Added Tax	VAT exemption on management services.	VAT exemption on management services.	VAT exemption on management services.	VAT exemption on management services.	VAT exemption on management services.

Source: KPMG

Hong Kong (SAR), China

Brief history

The origins of Hong Kong (SAR), China's asset management sector date back to 1935 with the establishment of the Exchange Fund by the Currency Ordinance [103]. The role of the Exchange Fund was later expanded in 1976 to encompass the management of official reserves, which further prompted the Government transfer of fiscal reserves to centralise the management of Government financial assets and to mitigate exchange risks associated with investment in foreign currency assets. 2008 marked the start of an incremental trend towards diversification through investment in a wide variety of asset classes which has continued to the present. This includes investment in emerging market and Mainland bonds and equities, private equities, and overseas real estate. The enhancement in portfolio diversification has played in important role in determining the present structure of the industry.

When focusing on the present, it is evident that the asset management industry has shaped to be an important pillar in Hong Kong (SAR), China's financial centre. It serves as an integral part of the economy, accounting for 1.0% of the region's Gross Domestic Product in 2017 with more recent figures producing a total of HK$35,546 billion AUM within the industry [104]. The sector has seen significant growth over the last decade; as at end-2020, there were 1,914 companies licensed by or registered with the Securities and Futures Commission (SFC) to carry out asset management business, representing an increase of 78% over 2014[83].

Mainland China continues to be a key driver for growth within Hong Kong (SAR), China's asset management sector. Recent regulatory developments in the Mainland have resulted in the opening of the Chinese financial services sector and capital markets for foreign investors. The lifting of quotas on certain investment schemes through incentives such as are Stock Connect, Bond Connect, GBA Wealth Management Connect and ETF Connect have been catalysts in this expansion [105], alongside the introduction of Mutual Recognition of Funds (MRF) arrangements. The MRF in particular has been a key driver of growth, which the Hong Kong (SAR), China Trust Industry Report have linked the scheme to a number of major trends leading to an increase in demand for private trusts and trust services in Hong Kong (SAR), China [106], which have been integral to the growth of region's asset management sector.

Private Equity Funds are defined as funds which consist of equity securities in private companies which are not publicly traded on any stock exchange. As at 31 December 2021, the market capital of the private equity business in Hong Kong (SAR), China recorded a figure of HK$1,269.4 billion, making Hong Kong (SAR), China the second largest fund hub globally for non-public equity, sitting behind Mainland China [107].

The Hong Kong (SAR), China asset management industry continues to be attractive for overseas investors. Non-Hong Kong (SAR), China investors remained a major source of funding for the asset and wealth management business, accounting for 65% of the AUM in 2021[83]. A large proportion of the investor base is located within North America (23%) and the Asia Pacific (13%)[5]. Despite this, most of the capital in managed funds are directed towards Hong Kong (SAR), China assets with 56% of the AUM in asset management being assets managed within the region[83], with the remaining being sub-contracted or delegated to other offices or third parties overseas for management.

Types of investment companies in Hong Kong (SAR), China

As at 20 September 2022, there were 882 Hong Kong (SAR), China domiciled unit trusts (up from 852 for the same period in 2021) and 1,393 non-Hong Kong (SAR), China domiciled unit trust (up from 1, 378 in September 2021 [108]). In addition, Hong Kong (SAR), China also offers the following types of investment schemes:

- **Mandatory Provident Fund (MPF) -** The Mandatory Provident Fund (MPF) is an employment-based retirement protection system designed to assist in the provision of retirement benefits for the workforce [109]. The system was introduced in December 2000 by the Government of Hong Kong (SAR), China and has since become an important part of the fund management industry in the region. Public funds and pension funds, which include the MPF (as well as other retirement schemes) accounted for 38% of the assets held under trusts as at 31 December 2021 [110]. The current system requires employers to contribute 5% of their employees' income to the MPF, regardless of their salary. This has been challenged in recent years due to prevalence of an ageing population in Hong Kong (SAR), China , which has lead industry executives and Hong Kong (SAR), China residents alike to believe that the MPF in its current form is not enough to support Hong Kong (SAR), China's post-retirement needs. It is argued that an increase in government incentives that could prompt greater voluntary contributions towards the scheme would help mitigate this risk.

  2021 marked the introduction of the eMPF platform, an electronic platform for pension scheme members to manage their accounts.

  As at 30 September 2022, there were 26 MPF schemes and 219 MPF pooled investment funds. [111]

[103] Hong Kong Monetary Authority 2022, "Hong Kong Monetary Authority – History", Hong Kong Monetary Authority, <https://www.hkma.gov.hk/eng/key-functions/reserves-management/history/>.
[104] Legislative Council Secretariat 2021, Asset Management History in Hong Kong, The Legislative Council Commission, pp. 1–2.
[105] KPMG 2020, Vision 2025: The future of Hong Kong's fund management industry, pp. 14–19.
[106] KPMG China & Hong Kong Trustee's Association 2021, Hong Kong Trust Industry Spotlight: Taking centre stage, pp. 24–27.
[107] Securities and Futures Commission 2022, Asset and Wealth Management Activities Survey 2021, pp. 6–8.
[108] Securities and Futures Commission 2022, Quarterly Report July – September 2022, pp.11.
[109] HSBC HK 2022, What is MPF - HSBC HK, <https://www.hsbc.com.hk/mpf/understanding/what-is/>.
[110] Securities and Futures Commission 2022, Securities and Futures Commission 2022, Quarterly Report July – September 2022, pp. 29.
[111] Securities and Futures Commission 2022, Quarterly Report July – September 2022, pp.11.

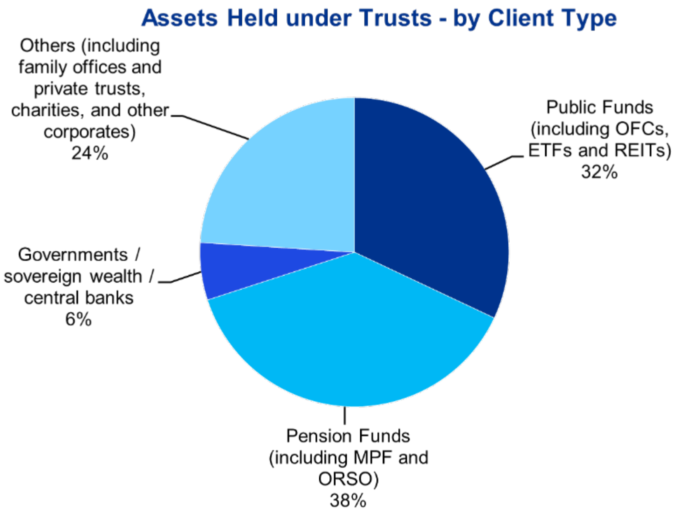
- **Open-ended Fund Companies (OFCs) -** Open-ended Fund Companies are collective investment schemes that have a corporate structure. They are classified as open-ended due to their flexibility for investors to create, redeem and cancel shares. OFCs were introduced in 2018 by the SFC as part of an initiative to enhance market infrastructure [112]. Since then, there has been a substantial increase in interest in OFCs following the launch of the Government's grant scheme that incentivises the setup of OFCs in Hong Kong (SAR), China. The scheme was launched in 2021 and covers 70% of eligible expenses incurred to the incorporation or re-domiciliation of an OFC. The total number of registered OFCs has more than quadrupled since the introduction of the Government's grant scheme. As of 30 September 2022, three were 100 registered OFCs [113].

- **Exchange Traded Funds (ETFs) -** Exchange Traded Funds are open-ended pooled securities that can be traded on a public stock exchange. They can be both actively and passively managed and contain a wide range of investments including stocks, commodities, or bonds [114]. ETFs continue to be a popular product among Hong Kong (SAR), China's corporate trust space. March 2022 figures show that a total of 160 SFC-authorised ETFs were listed on the Stock Exchange of Hong Kong (SAR), China Limited (SEHK), producing total market capitalisation of HK$429.89 billion [115].

- **Real Estate Investment Trusts (REITs) -** Real Estate Investment Trusts (REITs) are pooled investment schemes that invest primarily in real estate. They can be publicly traded on The Stock Exchange of Hong Kong (SAR), China Limited (SEHK) and are managed by an SFC-licensed manager. They are very often viewed as very attractive to both local and overseas investors due to Hong Kong (SAR), China's robust real estate market that offers a wide investment scope. The Government also offers grant schemes for REITs, covering eligible expenses relating to the listing of the trusts. As at 31 December 2021, REITs produced a total market capitalisation of HK$232bn [116].

- **Limited Partnership funds regime (LPF)** aimed at the private equity industry took effect in August 2020 [117].

Diagram 7 - Assets held under Trusts – by client type [118]



Source: Securities and Futures Commission 2022

[112] Securities and Futures Commission 2021, Open-ended fund companies, www.sfc.hk, <https://www.sfc.hk/en/Regulatory-functions/Products/Open-ended-fund-companies>.
[113] Securities and Futures Commission 2022, Quarterly Report July – September 2022, pp.9.
[114] Chen, J 2022, Exchange-Traded Fund (ETF), Investopedia, <https://www.investopedia.com/terms/e/etf.asp>.
[115] Securities and Futures Commission 2022, Op. cit., pp. 38.
[116] Ibid., pp. 13.
[117] The Asset Management Review - The Law Reviews
[118] Securities and Futures Commission 2022, Op. cit., pp. 29.

Principal Governing Law

Instrument	Description
Code on Unit Trusts and Mutual Funds [119]	A code to provide authorisation and operational requirements for all funds made available to public in Hong Kong (SAR), China , including both onshore and offshore
Mandatory Provident Fund Schemes Ordinance and Mandatory Provident Fund Schemes (General) Regulation [120]	Laws governing Mandatory Provident Fund Schemes (MPF), the primary pension funds in Hong Kong (SAR), China
Securities and Futures (Open-ended Fund Companies) Rules [121]	Rules governing the set up and operations of Open-ended Fund Companies (OFC) in Hong Kong (SAR), China .
Limited Partnership Fund Ordinance [122]	An ordinance to provide for the registration and operations of funds as limited partnership funds
Code on Real Estate Investment Trusts [123]	A code established for the authorisation of real estate investment trusts

Source: KPMG

Key regulatory settings

Liquidity Risk Management

Greater Bay Area Wealth Management Connect

- WMC presents new opportunities for cross-boundary retail investment and addresses the demand for wealth management solutions in Hong Kong (SAR), China from the massive investor base in the Guangdong-Hong Kong (SAR), China -Macao Greater Bay Area.
- As of 31 March 2022, more than 100 SFC-authorised Hong Kong (SAR), China -domiciled funds managed by over 30 asset managers were available to Mainland investors via participating Hong Kong (SAR), China banks.
- The SFC works closely with the Mainland authorities, HKMA and other stakeholders to review the scheme and consider enhancements such as increasing quotas, expanding the scope of eligible investment products, increasing the number and types of participating organisations and improving distribution arrangements.

ETF Connect

- Stock Connect is a Mutual Market Access programme through which investors in the Mainland China and Hong Kong (SAR), China can trade and settle shares listed on the other market via the stock exchanges and clearing houses in their home market.
- The link was first launched in November 2014 between the Shanghai and Hong Kong (SAR), China exchanges and was extended in late 2016 to encompass the Shenzhen market.
- In December 2021, the Mainland and Hong Kong (SAR), China exchanges and clearing houses jointly announced their agreement on arrangements to include eligible ETFs in Stock Connect to provide more investment opportunities for local and overseas investors.
- In the first two weeks (4-15 July 2022) since its launch, the total turnover was $2.6 billion for southbound ETF trading and RMB281 million for

[119] Code on Unit Trusts and Mutual Funds www.sfc.hk/-/media/EN/assets/components/codes/files-current/web/codes/section-ii-code-on-unit-trusts-and-mutual-funds/section-ii-code-on-unit-trusts-and-mutual-funds.pdf?rev=b03aa74178af41c48da5f21ae2f3fb6b
[120] Mandatory Provident Fund Schemes Ordinance and Mandatory Provident Fund Schemes (General) Regulation www.elegislation.gov.hk/hk/cap485 and www.elegislation.gov.hk/hk/cap485A
[121] Securities and Futures (Open-ended Fund Companies) Rules www.elegislation.gov.hk/hk/cap571AQ
[122] Limited Partnership Fund Ordinance www.elegislation.gov.hk/hk/cap637
[123] Code on Real Estate Investment Trusts www.sfc.hk/-/media/EN/files/COM/Reports-and-surveys/REIT-Code_Aug2022_en.pdf?rev=572cff969fc344fe8c375bcaab427f3b

northbound ETF trading (both including buy and sell trades).

Mutual recognition of funds

- As part of its efforts to expand market access for Hong Kong (SAR), China public funds, the SFC maintains discussions with the CSRC to enhance the Mainland-Hong Kong (SAR), China Mutual Recognition of Funds (MRF) scheme, including relaxing the sales limit and restrictions for overseas delegation, and offer Mainland investors a more diversified pool of funds managed in Hong Kong (SAR), China .
- Under the Mainland-Hong Kong (SAR), China MRF regime, a total of six Hong Kong (SAR), China MRF funds were approved by the CSRC during the year, bringing the total to 85. For the year ended 31 March 2022, Mainland MRF funds recorded a net subscription of around RMB421.4 million while Hong Kong (SAR), China MRF funds recorded a net redemption of around RMB2.9 billion.

ESG funds

- In view of the rapid growth of environmental, social and governance (ESG) funds and global regulatory developments, the SFC published a circular in June 2021 setting out enhanced requirements for disclosures and periodic assessments of ESG funds, especially those with a climate related focus.

Key Tax Settings

Profits Tax

Hong Kong (SAR), China's profits tax is deemed to be the most relevant regulatory tax setting affecting the region's funds management industry. As instructed by the Inland Revenue Ordinance (IRO), profits tax is charged on individuals carrying on trade, profession, or business in Hong Kong (SAR), China ; and in respect of income profits arising from said trade profession or business [124]. In relation to funds, profits tax is charged on profits from the sale of listed shares and other securities that are traded on the Hong Kong (SAR), China stock exchange (HKEX) or profits from the sale of unlisted shares and securities where the contracts of sale are effected within Hong Kong (SAR), China [96]. Mutual funds, unit trusts and similar investment schemes that are authorised by the SFC are exempt from the tax[96] equally to onshore and offshore funds and to investments in both local and overseas private companies.

Tax exemptions for private funds

The Inland Revenue Ordinance, an order outlining the criterion for profits tax exemptions, was amended in 2019 to facilitate new tax advantages for privately offered funds. The amendment unifies the fund exemption regime through allowing transactions on specified assets made by privately offered funds to be exempt from the profits tax, regardless of the fund's structure, size or purpose [125]. The order was further amended in May 2021 to include tax concessions on carried interest received by investment managers for eligible private funds. This would allow for eligible carried interest received by recipients of qualifying transactions to be charged at a 0% profits tax rate [126].

Currently, the vast majority of privately offered funds in the Asia-Pacific region are domiciled within the Cayman Islands due to the territory's tax-neutral policies. However, the recent regulatory pressure from the OECD have prompted the re-domiciliation of many Cayman Island Partnerships [127]. This in combination with the IRO amendments, have made Hong Kong (SAR), China an attractive domicile for both onshore and offshore private investment funds, facilitating the continual growth of the asset management industry within the region.

Re-domiciliation of OFCs

Alongside the movement of private equity funds, Hong Kong (SAR), China launched its re-domiciliation regime in 2021 which facilitates the migration of overseas OFCs to Hong Kong (SAR), China with enhanced legal and tax certainty [128]. The new regime includes profits and salary tax exemptions and no stamp duty implications during the re-domiciliation process for OFCs, prompting the growth of OFCs within Hong Kong (SAR), China . The first private Cayman Islands corporate fund was registered by the SFC as a re-domiciled private OFC in Hong Kong (SAR), China in April 2022 [129].

[124] Webber, J, Lake, P, Heron, B & Poon, J 2022, The Asset Management Review - The Law Reviews, thelawreviews.co.uk, <https://thelawreviews.co.uk/title/the-asset-management-review/hong-kong>.
[125] Robins, C, Ford, J & Wong, P 2022, Fund Finance Laws and Regulations | Hong Kong, GLI - Global Legal Insights - International legal business solutions, <https://www.globallegalinsights.com/practice-areas/fund-finance-laws-and-regulations/hong-kong>.
[126] Webber, J, Lake, P, Heron, B & Poon, J 2022, The Asset Management Review - The Law Reviews, thelawreviews.co.uk, <https://thelawreviews.co.uk/title/the-asset-management-review/hong-kong>.
[127] Allen & Overy, Fund Finance Law and Regulation 2023, Hong Kong https://www.globallegalinsights.com/practice-areas/fund-finance-laws-and-regulations/hong-kong
[128] Securities and Futures Commission 2022, Asset and Wealth Management Activities Survey 2021, pp. 41.
[129] Ibid., pp 41

Singapore

Brief history

The emergence of Singapore's asset management industry dates back to the 1980s. Following a year-long recession, the 1985 Economic Review Committee (ERC) attempted to facilitate growth in Singapore's financial services sector through leveraging on the rapid expansion in size and diversity of its asset management industry [130]. This gave rise to a period of internationalisation and diversification through the 1980s and 1990s, spearheaded by government tax incentives and the establishment of a Singapore Dollar Bond market that could act as a benchmark for the fixed income and securities markets. The expansion of Singapore's capital markets in this period provided a foundation for growth Singapore's asset management industry as it allowed for the benchmarking of other potential investment instruments, driven by the presence of a well-established debt and equity market.

This growth period has contributed to Singapore's emergence as one of the leading asset management centres in Asia. Recent figures demonstrate strong year-on-year growth with a 2021 AUM of US$4 trillion, or S$5.4 trillion and the number of registered and licensed fund management companies operating in Singapore grew to 1,108 as of 31 December 2021 [131]. Long term economic stability and strong global competitiveness have been driving factors in the growth of the industry, with the World Bank's 2020 Doing Business Report ranking it the top investment destination in Asia [132].

In 1994, then Prime Minister, Mr Lee Kuan Yew, pushed for the liberalisation of the sector to allow for more offshore investment by local funds on a progressive basis, as well as the opening of the market to more foreign players, all included in what was titled the "Big Bang" strategy [133]. This was the key driver behind a trend of global expansion which has resulting in present-day Singapore being an appealing location for global public investors and asset owners. The nation currently serves as a global gateway for access to regional investment opportunities in one the biggest offshore RMB financial centres. As of 31 December 2021, 78% of AUM was sourced outside of Singapore, with more than half of this originating from the Asia-Pacific.[101] A key factor in this global reach is the increasing affluence of "economic powerhouses" such as China and Indonesia; the rising numbers of high-net-worth individuals in the countries have resulted in increased demand for a well-established asset management industry in neighbouring jurisdictions. Moreover, Singapore's fund managers contribute to the industry's expansion into international markets through offshore investment; 90% of the nation's funds are invested outside of Singapore with 17% of AUM being invested in Southeast Asia[101]. These factors have resulted in the Singapore becoming a leading global asset management industry.

Types of investment fund structures in Singapore

- **Limited Partnerships** - Limited Partnerships consist of at least one "general partner" and one "limited partner". A general partner is responsible for the management of a limited partnership and is liable for all debts and obligations of a limited partnership. Funds in Singapore operating as LPs are governed by the Limited Partnerships Act (Chapter 163B), which details laws surrounding the establishment of LP funds [134]. Limited Partners act as the investors of the fund and are not personally liable for the fund's obligations beyond their agreed contribution, they do not "take part in the management" of the partnership [135].

  Conversely, the fund manager (or the general partner), who is delegated to raise funds and manage the limited partnership, takes on unlimited liability for the fund's obligations.

- **Variable Capital Companies** - Variable Capital Company (VCC) is a new corporate structure for investment funds. Introduced in 2020, VCCs act as a tailored corporate structure for collective investment funds, that provides flexibility in the issuance and redemption of its shares [136].VCCs can be established as a single standalone fund or an umbrella fund with two or more sub-funds, with varying investment strategies (either open-ended or close-ended), each holding a portfolio of segregated assets and liabilities [137]. Fund managers operating VCCs also have an increased ability to meet dividend payment obligations, as the structure allows for dividends to be paid out of capital.

  Following the introduction of the new structure, the MAS introduced the Variable Capital Grant Scheme (VCCGS), in which the Financial Sector Development Fund (FSDF) will co-fund 30% of qualifying expenses for Singapore-based service providers, given the incorporation or registration of a VCC [138]. The grant scheme has since acted as a catalyst for the increasing adoption of VCCs in Singapore. As at 14 October 2022, a total of more than 660 VCCs have been incorporated or re-domiciled in Singapore for diverse use cases and fund strategies [139] Fund managers have the ability to incorporate new VCCs or re-domicile their existing overseas investment funds with comparable structures by transferring their registration to Singapore as VCCs. VCCs must maintain a register of shareholders, which must be disclosed to public

[130] National University of Singapore & Lee Kuan Yew School of Public Policy 2017, Singapore's Transformation into a Global Financial Hub, pp. 7–9.
[131] Monetary Authority of Singapore 2022, Singapore Asset Management Survey 2021, p. 2.
[132] PricewaterhouseCoopers 2022, Singapore: the location of choice for asset and wealth management in Asia Pacific, p. 6.
[133] Ibid., p. 13-14.
[134] SingaporeFunds 2022, Singapore Fund Structures, singaporefunds.sg, <https://singaporefunds.sg/singapore-fund-structures/?section=structures>.
[135] Yip, S & Loh, A 2020, Duane Morris LLP - Introduction to Private Equity in Singapore, www.duanemorris.com, <https://www.duanemorris.com/articles/introduction_private_equity_singapore_0420.html#:~:text=In%20Singapore%2C%20the%20Limited%20Partnerships>.
[136] SingaporeFunds 2022, Op. cit.
[137] Accounting and Corporate Regulatory Authority 2021, Variable Capital Companies, Accounting and Corporate Regulatory Authority.
[138] Monetary Authority of Singapore 2023, Variable Capital Companies (VCC) Grant Scheme, www.mas.gov.sg.
[139] Monetary Authority of Singapore 2022, Op. cit, p. 5.

authorities upon request for regulatory, supervisory and law enforcement purposes [140].

- **Private Limited Companies** - A private limited company is a corporate in which the shares are not available to general public and are generally held by less than 50 persons. The structure forms a body corporate with separate legal personality, governed by its board of directors in accordance with its constitution. An investor participates in a private limited company as a member, with the liability of such member limited to the amount (if any) unpaid on their shares in the private limited company. Most privately incorporated businesses in Singapore are registered as private limited companies [141]. A private limited company's name in Singapore usually ends with Private Limited or Pte Ltd. The register of members of a private limited company is available for public inspection. A private limited company must send a copy of its constitution to any member on request.

- **Unit Trusts** - A unit trust is a fund which adopts a trust structure. Similarly to VCCs, they may be structured as either an umbrella fund or as a standalone fund, however they are established under a trust deed; a legal document entered between the trustee and manager which outlines the rules regarding the operation of the fund. A Singapore unit trust does not have separate legal personality and is governed by the manager (overseen by the trustee) in accordance with the terms of the trust deed. The assets of a unit trust are held by the trustee, which is liable for the debts and obligations of the unit trust [142]The trust deed and the register of unitholders are typically not made available to the public.

Principal Governing Law

Instrument	Description
Securities and Futures Act 2001	Over-arching legislation that governs the regulated activities and institutions in the securities and derivatives industry, including the licensing of fund managers and the offering of collective investment schemes (CIS).
Securities and Futures (Licensing and Conduct of Business) Regulations	Subsidiary legislation issued under the Securities and Futures Act (SFA), which sets out the requirements for licensing of fund managers, representative notification and conduct of business, and criteria for exemptions from licensing.
Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations 2005	Subsidiary legislation issued under the SFA, which sets out the requirements for authorisation and recognition of CIS, prospectus and advertisement, and exemptions.

Source: KPMG

Key Regulatory Settings

Fund Management Companies Regime

The carrying on of investment management activities in Singapore is an activity that is regulated under the Securities and Futures Act of Singapore [143]. Fund Management Companies (FMCs) in Singapore fall under two main categories. The first type includes Registered Fund Management companies (RFMCs) whose AUM do not exceed S$250m, and who carry out business for no more than 30 qualified investors (of which no more than 15 may be funds). [144]

On the other hand, Licensed FMCs (LFMCs) hold the CMS license for fund management, without restrictions on total AUM and the number of investors. LFMCs are further categorised into:

(i) Retail LFMCs who can carry out fund management for all types of investors;

(ii) A/I LFMCS who can carry out fund management for qualified investors only; or

(iii) Venture capital FMCs (VCFM) who can manage venture capital funds for qualified investors only.

For the avoidance of doubt, the fund management companies, and the funds are separate entities.

The MAS document titled "Guidelines on Licensing, Registration and Conduct of Business for Fund Management Companies" summarises the eligibility criteria, ongoing requirements, and application procedures for all types of FMCs.

[140] Variable Capital Companies (acra.gov.sg)
[141] SingaporeFunds 2022, Singapore Fund Structures
[142] Ibid.
[143] SingaporeFunds 2022, Licensing Regime, singaporefunds.sg, <https://singaporefunds.sg/singapore-fund-structures/?section=structures>.
[144] Danny Tan 2019, Asset management regulations in Singapore, Lexology, viewed 31 January 2023, <https://www.lexology.com/library/detail.aspx?g=8938b9d8-be80-4012-9787-19609506dc0f>.

Investment Funds Regime[145]

In general, a collective investment scheme (CIS) is an arrangement in respect of any property which satisfies the following elements:

(a) Investors have no day-to-day control over management of the property;
(b) Either or both characteristics are present:
   i. Property is managed as a whole by or on behalf of the FMC;
   ii. Investors' contributions are pooled; and profits/income from which payments are to be made are pooled
(c) (Purported) purpose or effect of the arrangement is to enable investors to participate in or receive profits/income arising from the property.

To offer the CIS to investors in Singapore, the CIS must be authorised (if constituted in Singapore) or recognised (if constituted outside Singapore) and be accompanied by a MAS-registered prospectus and product highlights sheet. The CIS and their manager and trustee must abide by the MAS Code on Collective Investment Schemes, which is a non-statutory code, outlining the requirements relating to custody, valuation and reporting, conflicts of interest mitigation, disclosure and submission of periodic returns.

Exemptions from the authorisation/ recognition of a CIS and prospectus requirements applies to certain offers, including small offers, private placement offers, and/or offers targeted at accredited or institutional investors.

Key Tax Settings

General income tax regime in Singapore

Under Singapore's semi-territorial basis of taxation, income that is accrued in or derived from Singapore (i.e., Singapore-sourced income), or received in Singapore from outside Singapore (i.e., foreign-sourced income remitted or deemed remitted into Singapore) is subject to Singapore tax at the prevailing corporate tax rate under the Income Tax Act (ITA), unless otherwise exempted. The corporate income tax rate in Singapore is currently 17%.

Singapore does not impose tax on capital gains. However, the Inland Revenue Authority of Singapore may seek to apply a broad definition of "income" and argue that gains on the disposal of investments (especially those derived by investment funds) as constituting income from the carrying on of a trade in investments. Divestment gains treated as "income" in nature would be taxable at the prevailing corporate tax rate, unless the income is exempted from tax pursuant to specific tax exemption schemes, or safe harbour rules for ordinary share disposals provided under the ITA.

Unless otherwise exempted under tax treaty or domestic law, Singapore withholding tax is applicable on specified payments (e.g., interest, royalty, fees for technical services rendered in Singapore, director fees, etc.) paid to non-residents. Dividends paid by Singapore tax resident companies are exempt from income tax (including withholding tax) in the hands of shareholders, regardless of their tax residency status.

Taxation of investment funds and fund tax incentive schemes in Singapore

An investment fund (whether constituted offshore or in Singapore) that is managed by a Singapore-based fund management on a discretionary basis, will have a taxable presence in Singapore due to the activities of the fund management carried on in Singapore. In the absence of treaty relief and / or domestic tax incentives, a Singapore-managed fund could be liable to income tax in Singapore on its Singapore sourced income/gains or foreign-sourced income/gains received in Singapore.

Singapore fund incentive schemes provide for tax exemption on "specified income" derived by qualifying Singapore-managed funds from "designated investments".

[145] Monetary Authority of Singapore. https://www.mas.gov.sg/regulation/capital-markets/offers-of-collective-investment-schemes

Key features / conditions of the Singapore fund incentive schemes are summarised below (Note: To avoid doubt, this is not a full account of all qualifying conditions of the schemes):

	Offshore Fund Scheme (S13D)	**Singapore Resident Fund Scheme (S13O)**	**Enhanced-Tier Fund Scheme (S13U)**
Income tax exemption	"Specified Income" from "Designated Investments" is tax exempt. The terms "specified income" and "designated investments" are prescribed in the regulations (subject to regular review and revision); broadly, the scope of exemption covers income and gains from many common types of investments (e.g., shares, debt securities, loans, immovable properties), subject to certain exceptions in respect of Singapore immovable properties.		
Withholding tax exemption on interest paid to non-residents	Interest and interest related payments made to non-residents are exempt from Singapore withholding tax (subject to conditions).		
Fund's legal form	Generally, a qualifying fund refers to a company, a trust [146] or an individual who is not resident in Singapore and does not have any presence in Singapore (other than through the Singapore fund manager). For an offshore fund in the form of a limited partnership, the qualifying fund test is applied on the partner(s) of the limited partnership.	Company or VCC incorporated in Singapore	Funds constituted in all forms
Fund's residence		Must be a tax resident of Singapore.	Generally, no restrictions, but funds in the form of Singapore-incorporated companies must be resident in Singapore.
Fund manager	Singapore-based and holding a CMS licence or expressly exempted from holding a CMS licence or as otherwise approved by the Minister. S13U funds must additionally be managed or advised directly by a Singaporean fund manager that employs at least 3 investment professionals. A VCC fund manager is required to be regulated and cannot be exempt from holding a CMS licence.		
Investors	Non-qualifying investors (i.e., Singapore non-individuals investing above a certain percentage in the fund) would need to pay a financial penalty to the Singapore tax authorities.		No restrictions
Assets under management	No fund size requirement	No fund size requirement	Minimum of S$50 million at the point of application (which may also be met on a committed capital basis for certain types of funds, subject to conditions).
Fund expenditure	No spending requirement	At least S$200,000 in expenses in a financial year.	At least S$200,000 local business spending in a year.
Fund administrator	No restrictions	Singapore-based	Singapore-based if the fund is a Singapore-incorporated and resident company.
Approval requirement	Self-assessment basis (no approval needed from MAS)	Approval required from MAS.	
Sunset clause / duration of incentive	Unless further extended, the sunset clause is 31 December 2024 (i.e., funds must qualify under the scheme on or before this date). [147]	Unless further extended, the sunset clause is 31 December 2024 (i.e., application for these schemes must be submitted on or before this date). [148]	

Source: KPMG

[146] As an exception, a trust administered by a Singapore resident trustee and managed by a Singapore fund manager may also qualify as a qualifying fund.
[147] As long as the fund is formed before 1 January 2025 and has qualified for the S13D scheme (on self-assessment basis) before that date, the S13D scheme is applicable for the life of the fund, subject to the satisfaction of the relevant conditions under the scheme.
[148] Once approved under one of the Section 13O/U Schemes (on or before 31 December 2024), the qualifying fund status is applicable for the life of the fund, subject to the satisfaction of the relevant conditions under the scheme.

Taxation of distributions made to fund investors

	Legal form of fund		
	Company (incl. VCC)	**Limited Partnership (LP)**	**Trust**
Tax treatment of distribution made to investors	One-tier tax exempt dividends, if the company / VCC is a tax resident of Singapore. No withholding tax on dividends paid to non-resident investors.	Where the LP is approved under the Enhanced-tier fund Scheme, limited partners (investors) are not subject to further tax (including non-resident withholding tax) on LP distributions paid out of the LP's exempt income (e.g., specified income from designated investments).	Where the trust is a qualifying fund under the Offshore Fund Scheme or Enhanced-Tier Fund Scheme, distributions paid out of the trust's exempt income (e.g., specified income from designated investments) or out of trust income that has been subject to tax at trustee level would not be taxable in the hands of the unit holders.

Source: KPMG

Taxation of fund managers

The Financial Sector Incentive – Fund Management (FSI-FM) scheme provides for a concessionary tax rate of 10% (17% under normal income tax rules) on income derived by an FSI-FM approved fund manager from the provision of fund management or investment advisory services to qualifying funds (i.e., funds incentivised under one of the fund tax incentive schemes), subject to conditions being met.

For a fund manager to be granted the FSI-FM award, it would be required to meet certain key qualifying conditions:

- Licensed by the MAS to carry out fund management or investment advisory activities in Singapore under the SFA or exempt from holding such licence;
- Has minimum assets under management (AUM) of S$250M;
- Employs a minimum of 3 investment professionals (IP) in Singapore; and
- Other quantitative and qualitative criteria (e.g., projected growth in AUM, business spending and number of IPs hired, overall business growth plans, economic spin-off in Singapore, etc.).

An FSI-FM award is generally granted for a period of 5 years and is subject to renewal after each block of 5 years. When assessing the application for renewal of the FSI-FM award, the MAS would consider both quantitative and qualitative factors of the applicants (including their past track records and future business plans in Singapore).

Goods and Services Tax (GST)

In Singapore, a business will be liable to register for GST if the value of its taxable supplies in a 12-month period has exceeded or is expected to exceed S$1 million. A fund manager that is expecting to derive fund management fee income exceeding S$1 million in a 12-month period will have a liability to register for GST. GST is chargeable on standard taxable supplies at the prevailing rate of 8% (set to increase to 9% from 1 January 2024). A GST-registered business may claim GST on expenses incurred in Singapore as its input tax credit.

As funds are generally expected to make mainly GST-exempt or out-of-scope supplies, they are usually not liable or may not be eligible to register for GST, and hence would not be able to claim the GST on expenses incurred in Singapore (e.g., fund management fee charged by a GST-registered fund manager).

Partial GST remission is available to Singapore Resident Fund and Enhanced Tier Fund tax incentive schemes. The GST remission is based on an annual fixed recovery rate set by the MAS. The fixed recovery rate for 1 January 2023 to 31 December 2023 is 91%. The recovery rate is revised annually and has historically ranged between 87% to 93%.

For the Offshore Fund tax incentive scheme, there is a 100% GST remission in place for qualifying funds that meet the relevant conditions, i.e., it is treated as being wholly reliant on a Singapore-based fund manager ("SFM") to carry on its business, so is treated as belonging in Singapore. This reliance occurs when the SFM is the sole contracting manager and has overall responsibility to oversee or carry out the activities of the fund, and thus is the person controlling and managing the fund.

Appendix D - Data survey methodology

KPMG Survey of FSC Fund Manager members: Fees and ESG Diagrams

We surveyed FSC Australian fund managers members to gain an understanding of key statistics. The survey response rate meant that data was not representative of the sector to leverage for key statistics such as total funds management. However, the information provided enables a view on ESG styles being used in Australia and types of fees being charged.

Australian Bureau of Statistics Data

The ABS aims to provide a holistic view of assets and liabilities of institutions which pool funds for investment. These institutions include those which buy assets with their own funds (such as life insurers and superannuation funds), as well as institutions which provide investment management services (commonly referred to as fund managers).

"The approach taken by the ABS is to provide a measure of the managed funds industry which includes the consolidated position of the managed funds institutions plus funds under management of investment managers on behalf of clients other than managed funds institutions, less any cross investment between fund managers. This measure is wider than the measure provided by the consolidated assets of managed funds institutions view."

See ABS for their methodology Managed Funds, Australia methodology, September 2022 | Australian Bureau of Statistics (abs.gov.au)

Appendix E - Glossary and accronyms

Term / Acronym	Definition
ABS	Australian Bureau of Statistics
Active management	Also, active asset management. A fund with an objective or strategy to achieve greater than market returns.
AFCA	Australian Financial Complaints Authority
AFSL	Australian financial services licence
AMIT	Attribution Managed Investment Trust (AMIT) is a managed investment trust that has made an irrevocable election to apply the new AMIT regime.
APRA	Australian Prudential Regulation Authority
ASIC	Australian Securities and Investments Commission
Asset Manager	Same as a Fund Manager
ASX	Australian Securities Exchange
ATO	Australian Taxation Office
AUM	Assets Under Management
BEAR	Banking Executive Accountability Regime, legislation implemented to increase accountability obligations for authorised deposit taking institutions (ADIs). Further Accountability Regime, not yet effective, will replace BEAR and apply more broadly.
Cash Management Trust (CMT)	Managed Investment where funds of unit holders are pooled and invested primarily in cash assets.
CGT	Capital gains tax
Corporate Collective investment Vehicle (CCIV)	An investment product that pools together funds from multiple investors with a corporate structure (limited by shares) that is used for funds management.
Corporations Act	Corporations Act 2001
DDO	Design and distribution obligations in in Pt 7.8A of the Corporations Act 2001.
Economies of scale	Occurs where increasing the quantity of a firm's output leads to a decrease in the firm's long-run average total cost of production.
ESG	Environmental, social and (corporate) governance
ETF	Exchange Traded Fund.
FCA	Financial Conduct Authority
Financial adviser	A person or authorised representative of an organisation licensed by ASIC to provide financial advice.
FOFA	Future of financial advice. Legislation enacted in 2012 and further amendments in 2016 (Corporations Act amendments) which introduced a ban on conflicted remuneration, introduction of a best interest, introduced a fee disclosure statement and regulated duties on financial advice providers. In terms of funds management, FOFA also banned volume-based fees. Also applicable are Corporations Amendment (Revising Future of Financial Advice) Regulation 2014 and the Corporations Amendment (Financial Advice) Regulation 2015.
FSC	Financial Services Council
Fund manager	Also known as an Investment Manager or Asset Manager. The person(s) or entity that is responsible for buying and selling of assets on the investor's behalf.
Funds under Management (FUM)	Funds under management is term used to describe the monies a fund manager manages on behalf of investors. It is abbreviated to FUM. In other(global) jurisdictions it is referred to as Assets under Management (AUM).

Term / Acronym	Definition
GDP	Gross domestic product
ICI Fact book	Annual report produced by the Investment Company Institute highlighting trends and activities across the investment industry.
IDPS	Investor-directed portfolio services
Institutional investor	A type of corporate, wholesale investor, including superannuation and pension funds, life insurance and other trust types, that invests either on behalf of themselves or individuals.
Investment manager	Also known as a fund manager. The person(s) or entity that is responsible for buying and selling of assets on the investor's behalf.
LIC	listed investment company
LIT	Listed investment trust
Managed fund	One type of collective investment vehicle structure, in which a fund manager pools together and invests money on behalf of a number of investors. Managed funds can be registered or unregistered, with registration status affecting required governance structures (see responsible entity). A managed fund must register with ASIC if the fund has more than 20 members, is actively promoted or if ASIC determines that the fund should be registered for another reason.
Member Outcomes	Regulatory obligations in effect aimed to improve registered superannuation entities (RSE) business planning practices, the goal being enhanced member outcomes.
MIS	Managed Investment Scheme is defined in Section 9 of the Corporations Act. An MIS includes for example a statutory fund maintained under the Life Insurance Act 1995, a regulated superannuation fund, approved deposit fund, a pooled superannuation trust, a public sector scheme as defined in the SIS Act, a scheme operated by an Australian ADI, a pooled scheme (such as a unit trust/managed fund). It is a scheme registered with ASIC.
MIT	Managed Investment Trust (MIT) is a publicly held and commercially operated collective investment trust that invests principally in passive income activities. MIS is an example of an MIT. From 2016, an eligible MIT may choose to apply the attribution rules in Division 276 of the Income Tax Assessment Act 1997 (ITAA 1997). Where that choice is made, the MIT becomes known as an attribution MIT (AMIT).
MiFID II	Markets in financial instruments directive – EU law which included obligations similar to Design Distribution Obligations (DDO) (Corporations Act amendments) which came into effect in Australia on 5 October 2021.
NAV	Net asset value
Passive management	A fund with similar portfolio characteristics to the underlying index benchmark in an effort to achieve a market return.
Passport Regime	Different jurisdictions offer regimes that enable mutual recognition arrangements with participating countries to enable a funds management product domiciled in one country to be distributed in another country, allowing investors from other jurisdictions to invest in a fund managers product. For example, the European Union has the UCITs regime. Australia has the Asian Regions Funds Passport. Singapore offers …. Hong Kong (SAR), China Offers….
Platform	A class of product that provides investors and financial advisers with access to managed funds and assets such as listed equities and ETF through an online portal. There are Superannuation and non-superannuation platforms. Non super platforms are also known as an IDPS.
RE	Responsible entity
Responsible entity	The appointed governance structure for a registered fund, responsible for the overall management of a fund. Must be an Australian public company and hold an AFSL.
Retail investor	An investor that does not qualify as a wholesale investor. Typically refers to individuals and households.
SMSF	Self-managed superannuation fund
UCITS	Undertakings for Collective Investment in Transferable Securities is an investment funds structure (regulatory framework) that invests in liquid assets allows for the sale of cross boarder distribution.

Term / Acronym	Definition
UK	United Kingdom
Unit Trust	A legal entity that holds assets for its unit holders with profits then being distributed to unit holders.
Unlisted fund	A fund that is not listed on an exchange and must be acquired from an adviser, platform or directly from the fund manager.
US	United States of America
Wholesale investor	A class of investor that is not subject to the same protections as a retail investor due to a greater assumed sophistication. Investors are classified as wholesale if they meet a certain minimum investment amount, minimum net asset or income amount or can demonstrate they are professional investors acting on behalf of an entity with expertise or access to professional advice.
Wholesale trustee	The appointed governance structure for an unregistered fund, responsible for the overall management of the fund. Must hold an SL.

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