



Asia-Pacific Economic Cooperation

ASIA REGION FUNDS PASSPORT Annual Implementation Report 2018 – 2019



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Contents

Section 1. Chairperson’s Report	3
Section 2. General Information	5
Section 3. Summary of Face to Face Joint Committee Meetings	8
Section 4. Implementation and operation	10
Section 5. Guidance	13
Section 6. Amendments to the MoC	14
Section 7. Enlargement and interoperability	15
Section 8. Tax Reference Group	16
Section 9. Industry engagement	17
Section 10. ARFP website	18

Section 1. Chairperson's Report

Joanne Davis-Calvert

*Chairperson of the Asia Region Funds Passport Joint Committee (2018-2019)
Head of Policy & Governance, New Zealand Financial Markets Authority
(FMA)*



This is the third annual implementation report of the Joint Committee on the Asia Region Funds Passport (ARFP). It covers the activities of the Joint Committee (JC) from September 2018 to September 2019.

My appreciation and thanks go to each member of the JC, for their participation and contributions to the work of the JC over the period, including attendance at the 5th face-to-face meeting of the JC in Auckland in September 2018 and the 6th face-to-face meeting in Seoul in May 2019.

It has been an important period in the development of the Passport initiative. On 1 February 2019 the ARFP launched and 'went live'. From this date, Japan, Thailand and Australia were ready to receive registration applications from local prospective Passport funds and entry applications from foreign Passport funds. Subsequently New Zealand confirmed on 26 July 2019 that it had also completed the legal and regulatory requirements for implementation and that it was ready to receive registration applications under the ARFP.

I am very pleased to note that one application for registration as a Passport fund has been received by the FMA and is in the course of being reviewed. I am optimistic that in the coming period additional applications will be made in other Passport economies.

The Passport framework that has been enabled through the Memorandum of Cooperation (MOC) and the dedicated work of each of the partner economies to date, against a backdrop of other local priorities, is commendable. The challenge for local industry is to engage with the initiative and consider the opportunities that it presents individual fund managers, investors and the capital markets more broadly.

Following on from its discussion on the direction of the passport at the sixth face-to-face meeting in Seoul, the JC considers that the following agenda remains important for the coming period:

Developing interest in the ARFP

The ARFP was in part built at the behest of industry, and the JC members have worked hard to ensure that it has been built to meet industry needs while maintaining a framework that can provide investor confidence. The Chair recognises the endeavours of the JC members in promoting the ARFP in each of their economies, and at international fora such as IOSCO conferences. The JC appreciates that only through continuing effort to promote the ARFP in the Asia region can its potential be achieved in the long term.

Outreach and communication

Good communication with industry remains key to a smooth implementation. JC members continue reaching out to the private sectors of their countries, and seek to foster constructive dialogues to assist operators, advisers and service providers use the ARFP. A feature of JC meetings is the industry event that follows. Endeavours by local industry to facilitate and participate in local ARFP industry days following the face-to-face JC meetings has provided valuable opportunities for the JC to engage directly with the fund management industry in different JC countries.

Enlargement and interoperability

Given the potential of the ARFP and the financial services sectors of the Asia region, it is important to engage with the other economies of the region. The JC welcomed representatives from the Monetary Authority of Singapore, the Securities and Futures Bureau of Chinese Taipei and the Futures Commission of Hong Kong, as observers of JC meetings and attendees at local industry day during the period. Interested economies are encouraged and invited to attend JC meetings as observers and to reach out to JC members for information and guidance about the ARFP with a view to becoming a member. The JC will also explore interoperability with other passport schemes.

Section 2. General Information

The ARFP

The ARFP is an international initiative of the APEC Finance Ministers' Process. It is intended to facilitate the cross-border offering of eligible collective investment schemes while ensuring investor protection in the economies participating in the ARFP.

In joining in the MoC for the ARFP, participants share the following goals:

- i. deepening the region's capital markets to attract finance for economic growth in the region;
- ii. strengthening the capacity, expertise and international competitiveness of financial markets in the region and the funds management industry, with a view to supporting sound economic development;
- iii. facilitating the channelling of the region's savings within the region, and growing the pool of funds available for investment in the region;
- iv. providing investors in each of the economies with a more diverse range of investment opportunities, enabling them to better manage their portfolio and meet their investment objectives; and
- v. maintaining the legal and regulatory frameworks which promote investor protection, fair, efficient and transparent markets for financial services, supporting financial stability and providing high standards in the management and distribution of collective investment schemes.

Timeline

Date	Action
September 2015	Signing of the statement of understanding on the establishment of the ARFP at the APEC Finance Ministers' Meeting. *Six economies signed: Japan, Australia, Republic of Korea, New Zealand, the Philippines and Thailand.
April 2016	Signing of the MoC: Japan, Australia, Republic of Korea, New Zealand. *Thailand also signed the MoC in June 2016.
June 2016	The MoC entered into force.
November 2016	The JC's first face-to-face meeting in Kuala Lumpur, Malaysia.
April 2017	The JC's second face-to-face meeting in Tokyo, Japan.
July 2017	The JC publishes its first Annual Implementation Report for 2016 – 2017, and draft interim Guidance on host economy's laws and regulations relating to ARFP for consultation
October 2017	The JC's third face-to-face meeting in Bangkok, Thailand.

Date	Action
January 2018	The JC publishes the report on submissions on the draft interim Guidance on host economy's laws and regulations relating to ARFP
April 2018	The JC's fourth face-to-face meeting in Sydney, Australia.
September 2018	The JC's fifth face-to-face meeting in Auckland, New Zealand and the second Annual Implementation Report for 2017-2018 was published.
February 2019	The ARFP goes live with Japan, Thailand and Australia ready to receive registration applications from local prospective Passport funds and entry applications from foreign Passport funds.
May 2019	The JC's sixth face-to-face meeting in Seoul, Republic of Korea
July 2019	New Zealand confirms it has completed the requirements for implementation and that it is ready to receive registration applications from local prospective Passport funds and entry applications from foreign Passport funds.

Investor protection

Under this framework, when a fund exports to another participating economy, the fund must comply with:

- the regulations of the home economy in which the fund is registered as an ARFP fund applying in relation to the operation of the fund;
- applicable regulations applying in relation to the offer of the fund in any host economy; and
- the ARFP Passport Rules.

This is expected to promote a high level of investor protection measures.

ARFP framework

Under the ARFP framework, efforts are made to make mutual the entry processes for funds that are managed in accordance with rules agreed upon between the relevant regulators of the participating economies.

Broadly speaking, when exporting collective investment schemes, it is necessary to prepare application documents that are compliant with the regulations of the export destination country (the host economy). Under the ARFP framework, if funds comply with the Passport Rules, and there is an appropriate application to relevant authorities from the host economy, the fund will be able to be offered after not more than 15 business days.

ARFP framework

eligible CIS

- CIS must be eligible for the passport, and apply to the home regulator
- the Passport Rules set out:
 - types of CIS that are eligible
 - where the CIS must be located
 - offers must be made in Home Economy

register as a
passport fund in
home economy

home economy requirements

- the home regulator will apply the Passport Rules including:
 - experience, capacity, good standing of the operator
 - funds under management
 - custody arrangements
 - risk management
 - investment restrictions

notify the
host economy

host economy requirements

- passport Fund must notify the host regulator
- the host regulator will assess the notification
- CIS must meet host economy requirements, including in relation to:
 - disclosure (including annual and periodic reports)
 - distribution and licensing of distributors
 - complaints handling

ARFP membership for economies

- must be signatory to Appendix A of the IOSCO MMOU
- must have been assessed by the IMF/World Bank under an FSAP to have broadly implemented relevant IOSCO Principles
- must not be listed on the Financial Action Task Force's list of high-risk/non-cooperative jurisdictions

Section 3. Summary of Face to Face Joint Committee Meetings

Fifth Face-to-Face Joint Committee Meeting Auckland, New Zealand (19-20 September 2018)

The JC held its fifth face-to-face meeting in Auckland, New Zealand on 19 and 20 September 2018. The meeting was hosted by the FMA (Chair) and attended by representatives from Thailand (Deputy Chair), Australia, Japan and the Republic of Korea.

The JC agreed:

- to publish feedback on operational issues and issues relating to applications and interpretation that came out of the pilot experience
- that each member should engage with its local industry to exchange details of industry bodies in participant economies with a view to promoting industry-level engagement across the region
- subject to urgency, generally amendments to the MoC and any interpretational guidance on the MoC to be published by the JC would be addressed periodically in a consolidated manner. Current issues would be addressed after implementation of the passport when issues were more likely to be identified and their priority assessed
- the ARFP website will be hosted and administered by the current Chair for the relevant period
- the Tax Reference Group would consider whether information on tax treatment for each member economy could be prepared and consolidated in a report for publication to support the launch of the passport planned for 1 February 2019
- to launch the passport on 1 February 2019.

The JC also welcomed observers from the Monetary Authority of Singapore, and Securities and Futures Bureau of Chinese Taipei.



Sixth Face-to-Face Joint Committee Meeting Seoul, Republic of Korea (8-9 May, 2019)

The JC held its sixth face-to-face meeting in Seoul, Republic of Korea on 8 and 9 May 2019. Representatives attended from New Zealand (Chair), Republic of Korea (Deputy-Chair), Australia, Japan and Thailand.

The JC agreed:

- to update and improve the ARFP website, including adding an FAQ section to the website, to help fund managers find out how to offer funds to another economy
- that, in order to help reduce barriers to entry to the Passport and enhance uptake of the Passport, the JC would discuss, as a standing agenda item at each meeting, any issues identified by industry with the Passport and how they might be addressed
- the next meeting of the JC would take place in Singapore.



The JC was also introduced to the idea of interoperability of the Passport with the Pacific Alliance. The Tax Reference Group reported back that agreement was not reached as to publication of tax information by the different jurisdictions and that each member would consider this independently. The second day of the sixth face-to-face meeting was also attended by officials from the Monetary Authority of Singapore, the Securities and Futures Bureau of Chinese Taipei, and the Hong Kong Securities and Futures Commission in an observer capacity.

Section 4. Implementation and operation

Passport now live

The Asia Region Funds Passport is now in operation. Japan, Thailand and Australia have been open for registration applications from local prospective Passport funds and entry applications from foreign Passport funds since 1 February 2019. New Zealand completed the legal and regulatory requirements for implementation required in New Zealand on 26 July 2019 and is also now able to receive registration applications from local prospective Passport funds and entry applications from foreign Passport funds. Korea continue to make progress with the legal and regulatory requirements for implementation required in their respective jurisdictions.

Australia

Australia is ready to export and import passport funds.

The legislation to establish the ARFP in Australia commenced in September 2018 and implements the legislative framework necessary to register Australian collective investment schemes as passport funds and to recognise incoming foreign passport funds.

Information on how to apply to become a registered Australian passport fund or a notified foreign passport fund is available on ASIC's website. Applications can be lodged online using ASIC's Regulatory Portal.

Regulatory guidance for the funds management industry and operators that wish to use the ARFP is available on ASIC's website. These include:

- Regulatory Guide 131 Funds management: Establishing and registering a fund;
- Regulatory Guide 132 Funds management: Compliance and oversight;
- Regulatory Guide 133 Funds management and custodial services: Holding assets;
- Regulatory Guide 134 Funds management: Constitutions;
- Regulatory Guide 136 Funds management: Discretionary powers; and
- Regulatory Guide 138 Foreign passport funds.

Japan

The Financial Services Agency (JFSA) established its local framework for application procedures for ARFP registration in 2017, and published the Implementation Guidelines on its website together with other relevant documents produced by JFSA (https://www.fsa.go.jp/en/faq/others/others_d.html#06).

JFSA participated in the ARFP Sydney conference hosted by the Financial Services Council in Australia, held in October 2018. It was extremely beneficial to move forward to the next stage together with developing and improving necessary practical approaches for obtaining benefits extensively from the cross border fund distributions among participating economies in accordance with the MoC, in conjunction with the ARFP launch in February 2019.

During the conference, JFSA made a presentation to the participants about its current strategic initiatives and challenges which are important elements to support a growth of the ARFP framework substantively in the long run for the relevant stakeholders.

In November 2018, JFSA participated in the ARFP seminar held at the Australian Embassy in Tokyo which invited a number of market participants from two countries. JFSA representative presented on the Japanese Passport Rules, including the related procedure for operators to import to and export from Japan. The participants also discussed the Australian markets and its pension scheme.

During the period, JFSA has been engaging with several domestic and overseas management firms to raise awareness of the framework.

Republic of Korea

In June 2018, an amendment bill on “the Financial Investment Services and Capital Market Act (FSCMA)” was submitted to the National Assembly of Korea for the purpose of laying an institutional foundation for the ARFP. The amendment bill serves as firm legal grounds for enabling the passport fund registration of the Korean-domiciled public offering funds which suit the requirements of the MoC, and for de-registering an existing passport fund if deemed unqualified. The bill also contains statements that substantially streamline registration requirements with an aim to make it easier for the passport funds of other member economies to gain entry into Korea when compared to ordinary foreign-domiciled funds. The bill was fully reviewed by several standing committees of the National Assembly in August 2019, and will go through legislative and other assessments and be taken up for consideration and passage at a plenary session in due course. The Financial Services Commission (FSC) is making continued efforts to explain and persuade the National Assembly to pass the bill. Once passed at the plenary session, the bill will come into force six months after its official declaration. In the run up to the implementation of the amendment, FSC plans to orchestrate and complete all necessary preparations including establishment of sub-regulations, etc.

New Zealand

New Zealand has completed all matters required so that it can export and import passport funds.

Regulations necessary to establish the ARFP in New Zealand were made on 13 May 2019 and came into force on 14 June 2019. These regulations put in place the parts of the ARFP required to allow New Zealand managed investment schemes to register as passport funds, and recognise incoming foreign passport funds. Changes have also been made to New Zealand's register of financial products and schemes to accommodate the ARFP.

The FMA has released information on its website on the ARFP. This includes information on the regulations that have been made incorporating the passport rules and arrangements into New Zealand law and guidance and an application form for foreign passport fund operators wanting to offer managed investment products in New Zealand under the ARFP. The guide explains how to approach the application for entry in New Zealand and discusses some of the New Zealand obligations that will apply to the passport fund.

Thailand

Thailand's regulatory framework for passporting funds under the ARFP was established on 16 February 2018.

The SEC has developed a guidance on the SEC's laws and regulations applicable to the ARFP, as a guideline for foreign Collective Investment Scheme (CIS) operators seeking to offer their CIS in Thailand. The guidance is available in English and is published on the ARFP and the SEC websites.

The SEC is translating key rules and regulations relevant to the ARFP. Although the English translation is an unofficial translation, it is intended to give an outline of applicable rules and regulations as a reference for those who are interested in distributing funds in the Thai market. The English translation is intended to be available on the [SEC website \(Rules and Regulation Search\)](#).

Section 5. Guidance

As legislation has been drafted and administrative arrangements put in place in the lead up to the launch of the passport, some additional clarity can now be provided about the laws that apply in in each economy to incoming passport funds.

The JC has therefore revised the published guidance and it is available on the [ARFP website](#). The revised guidance updates some key Host Economy regulatory matters applicable to passport fund operators seeking entry to Host Economies. Additional information can be found by referring to the links provided for each economy in the International Contacts section of the ARFP website.

Section 6. Amendments to the MoC

At the fifth face-to-face JC meeting in Auckland in September 2018, the members discussed the merits of various proposed amendments to the Passport Rules in Annex 3 of the MoC including whether the assets under management test applicable to fund operators should be amended from USD 500 million to USD 350 million and amendments required to incorporate appropriate references to Australia's proposed corporate collective investment vehicle (CCIV).

A number of interpretative matters relating to the MoC were also discussed including matters relating to:

- when a financial supervisory authority in the opinion of the Home Regulator is generally largely compliant or largely compliant with the guidelines of the Basel Committee on Banking Supervision
- when an operator will meet the track record test where there has been a change in control
- interpretation of the limits on investments conferring significant management influence
- the requirement to report breaches to the Home regulator
- requirements for securities lending
- the option to be repaid the redemption price out of the currency in which the member paid for their interests.

The JC agreed that, subject to urgency, amendments to the MoC and any interpretational guidance on the MoC to be published by the JC would be addressed periodically in a consolidated manner and current issues would be addressed following implementation of the passport.

At the sixth face-to-face JC meeting in Seoul in May 2019, the members again discussed proposed amendments to the Passport Rules in Annex 3 of the MoC. The JC agreed to consider, at a later date, lowering the assets under management test to promote consistency with other passport schemes and reduce unnecessary barriers for entry. It was noted that amendments required to incorporate appropriate references to Australia's proposed CCIV would follow once relevant legislation was introduced.

A number of interpretative matters relating to the MoC were also discussed including matters relating to:

- the application of exposure limits to index funds and benchmark funds
- the application of the group limit
- collateral requirements for securities lending
- a fund's assessment of acceptable risk in relation to the holding of assets and arrangements
- obligations relating to the keeping of registers of members

Section 7. Enlargement and interoperability

The JC has continued its active efforts to engage with other economies in the Asia region that may be interested in joining the AFRP, for example, by having representatives of other economies attend JC meetings in an observer capacity.

JC members have continued to engage with the other economies of the Asia region in regional and wider international events such as the IOSCO Annual Conference. In addition, members continue to work with and assist those economies that have expressed interest in joining the Passport. The next JC meeting will be held in Singapore which will be a further opportunity for local industry to learn about and engage with the Passport.

At the sixth face-to-face JC meeting in Seoul in May 2019, the JC discussed the potential interoperability between the Passport and the Pacific Alliance or other passport schemes. Each economy agreed to consider this further independently.

Australia has undertaken capacity building steps with other economies. In September 2019, a technical workshop was held in Bandar Seri Begawan, Brunei to provide information about the ARFP and an update on its implementation, to delegates from Brunei, Vietnam and the Philippines.

Section 8. Tax Reference Group

The JC established a Tax Reference Group made up of tax representatives from member countries in 2017. The committee was chaired by Australia and brought together tax specialists from ARFP economies to cooperate and collaborate across Passport economies and to advance the understanding of tax outcomes for Passport funds across Passport regions. The group met on several occasions throughout late 2017 to early 2019 with representatives sharing information on tax consequences for funds and investors in their respective jurisdictions.

The Tax Reference Group considered what tax information could be published to support the launch of the Passport on 1 February 2019. The group was of the view that ideally a consistent approach should be adopted across the jurisdictions about the release of tax information. At this stage, none of the tax representatives have decided that they are in a position to formally release any tax guidance on the ARFP. The members noted that the Tax Reference Group had been successful in bringing Passport countries together to better understand their respective tax settings and potential tax outcomes for Passport funds. Whilst the Tax Reference Group is now inactive, it can be reconvened at a later date should the need arise.

Section 9. Industry engagement

Members of the JC continue to reach out to industry and officials within the Asia Pacific region.

In September, after the fifth face-to-face meeting in Auckland, an industry event was organised by the Financial Services Council of New Zealand, a leading financial services sector body. At the event attendees heard from a variety of speakers including pilot participants, local operators and their advisers and also officials from passport economies.

A similar industry event was held following the sixth face-to-face meeting in Seoul in May 2019. This event was organised by the Korean Financial Investment Association, a think-tank for the financial investment industry. Presentations included a comparison of tax treatment for funds in the ARFP countries and officials from passport economies provided information about operation/implementation of the ARFP in those countries.

Section 10. ARFP website

Initially the ARFP website was maintained in Australia on an Australian Treasury server. Content was uploaded at the discretion of the JC Chair. At the fourth face-to-face meeting in Sydney, it was proposed that responsibility for maintaining the ARFP website should be shared among the JC members and that the website could be improved through re-design and branding and should be resourced equitably.

The JC established a working group comprising representatives of the member economies to develop options on improving, maintaining and funding the ARFP website. They presented their report to the JC at the fifth face-to-face meeting in Auckland. At the meeting the JC agreed to move the website to the APEC secretariat to be hosted and maintained as a satellite site with the Chair of the JC to be responsible for uploading content.

After further assessing the practicalities of this option the JC agreed in January 2019 an alternative approach. This was to keep the website on the current WordPress platform but transfer hosting and administration rights to the Chair of the JC for the time being. The JC determined that the advantages of this approach included that:

- existing functionality could be retained
- the current domain would stay the same
- no web development would be required
- in the longer term the JC would retain flexibility to upgrade the current website.

The costs of this alternative were determined to be minimal. The JC agreed that the Chair for the time being would take on hosting and administration of the website in its economy and meet the costs of this.

Successful migration of the website from Australian Treasury stack was completed by 30 April 2019 with the FMA, as current Chair, taking over administration and hosting.

Throughout 2019 the content and design of the website was updated and improved with the following key changes made or in progress:

- new design and refreshed content
- translations of some parts of the website into member economies' languages
- inclusion of additional content from each ARFP regulator
- inclusion of links to website of each ARFP regulator.

Thailand, as the new Chair of the JC, will take over administration and hosting of the website from the FMA in October 2019.