

# Australian Hedge Funds



**Australian Government**  
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# Executive Summary

## Australia's hedge funds industry is one of the largest in the Asia-Pacific and comprises:

- › A\$32.6 billion (US\$33.2 billion) in hedge fund strategies managed by more than 85 Australian investment managers.
- › A\$14 billion of funds raised by Australian and global fund of hedge funds from Australian investors.
- › Australia's funds management industry totals A\$1.8 trillion in FUM. One widely used study ranks Australia as the fourth largest industry in the world and largest in the Asia-Pacific.
- › Australia has a growing number of high net worth individuals (HNWIs) and its market ranks ninth largest globally. HNWIs and retail investors continue to be the major investor base for hedge funds in Australia.
- › The Australian Hedge Fund Industry is well supported through a growing number of service providers, including asset consultants, custodians, fund administrators, fund incubators, fund distributors, prime brokers, rating agencies, trustees and responsible entity providers, and legal and accounting professions.

## Hedge Fund Managers

Australia's A\$32.6 billion<sup>1</sup> (US\$33.2 billion) hedge fund manager community is the second largest in the Asia-Pacific region, just marginally smaller than Hong Kong. The nation's hedge fund managers control more assets than Singapore and Japan combined.

### HEDGE FUND MANAGER CENTRES IN ASIA<sup>1</sup>

Location of Hedge Fund Managers	Assets (US\$ million)	Market Share
Hong Kong	38,280	25.1
<b>Australia</b>	<b>33,160</b>	<b>21.8</b>
USA <sup>2</sup>	27,880	18.3
Singapore	21,550	14.1
UK <sup>2</sup>	12,310	8.1
Japan	11,030	7.2
China	3,800	2.5
Other	4,390	2.9
<b>Total</b>	<b>152,400</b>	<b>100</b>

1. Excludes fund of hedge funds.

2 UK and USA hedge fund managers deploying strategies in Asian markets.

Source: AsiaHedge, December 2010

In addition, there is a small but influential Australian expatriate hedge fund manager community offshore.<sup>2</sup>

1. Reserve Bank of Australia, US\$/A\$ rate 1.0163, as at 31 December 2010.

2. The Sunday Times, *UK Rich List 2011*, identifies three Australians ranked amongst the UK's wealthiest hedge fund managers in 2011.

Reflecting the global nature and international sophistication of Australian hedge fund managers, circa 85 per cent of Australian hedge fund assets are deployed in markets outside the country. Global investment strategies deployed include global equity and fixed income, global macro, futures and Asian equity and fixed income.

## STRATEGIES DEPLOYED BY AUSTRALIAN HEDGE FUND MANAGERS

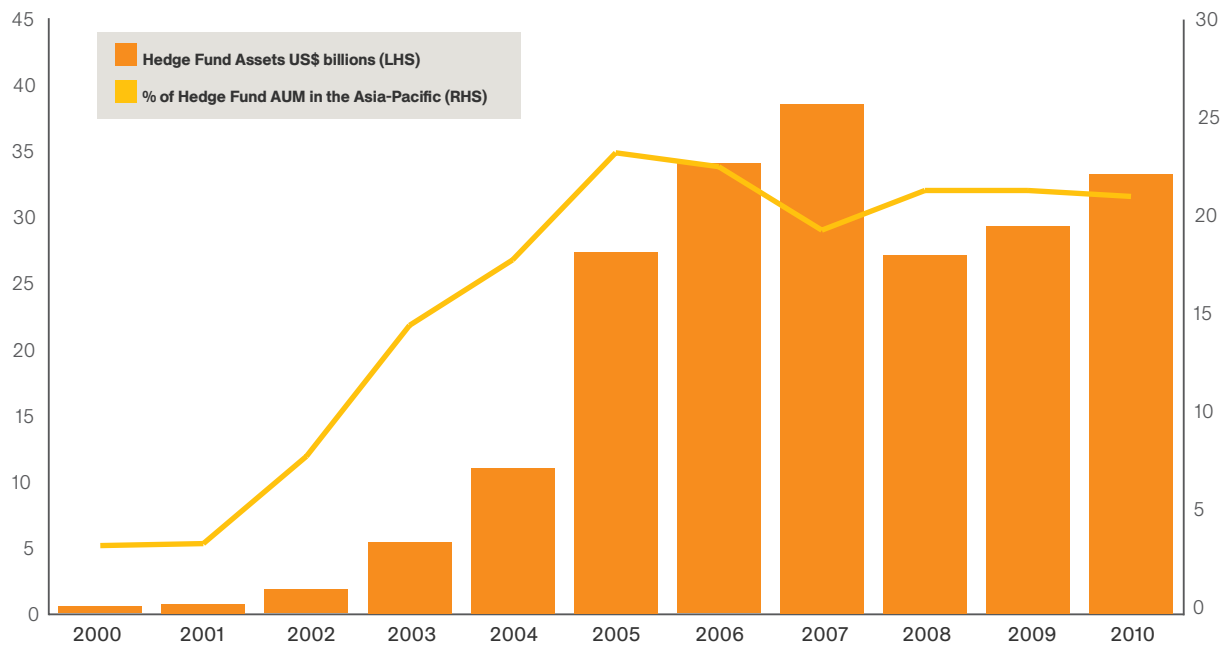
Strategy	Assets under management (US\$ million)	Market Share
Global Equity	13,552	40.9
Asian Equity excluding Japan	4,610	13.9
Macro	2,699	8.1
Managed Futures	2,261	6.8
Asian Equity including Japan	1,209	3.6
Japanese Equity	781	2.4
Global Fixed Income	725	2.2
Multi-Strategy	622	1.9
Chinese Equity	441	1.3
Asian Market Neutral	419	1.3
Asian Fixed Income	407	1.2
Commodity	345	1.0
Currency	78	0.2
<b>Total Investment Strategies in global markets</b>	<b>28,149</b>	<b>84.9</b>
Australian Equity	4,860	14.7
Event Driven	120	0.4
Distressed Securities	12	0.0
Specialist	5	0.0
Other	10	0.0
<b>Total Investment Strategies in Australian markets</b>	<b>5,007</b>	<b>15.1</b>
<b>TOTAL</b>	<b>33,156</b>	

Source: AsiaHedge, December 2010

## Growth in the hedge funds sector

The hedge funds sector has witnessed substantial growth over the past decade. Assets under management (AUM) grew particularly quickly up to 2007, having grown threefold between 2004 and 2007. AUM contracted in 2008 during the global financial crisis and resumed growth in 2009-10, albeit at a slower pace.

## AUSTRALIA'S HEDGE FUND ASSETS



Sources: AsiaHedge; Austrade

There are more than 85 investment managers located in Australia that deploy hedge fund strategies. The top ten managers account for the bulk of industry assets.

### TOP TEN INVESTMENT MANAGERS IN AUSTRALIA DEPLOYING HEDGE FUND STRATEGIES<sup>1</sup>

Management Company	Hedge Fund AUM (A\$ million)
Platinum Asset Management <sup>2</sup>	16,927
Kaiser Trading Group	2,250
Boronia Capital <sup>3</sup>	1,672
Macquarie Group	1,650
Matthews Capital	1,500
Ellerston Capital <sup>3</sup>	1,378
K2 Asset Management <sup>2</sup>	970
Regal	900
JCP Investment Partners <sup>4</sup>	868
H3 Global	570
<b>TOTAL</b>	<b>28,685</b>

- Hedge fund strategies include 130/30 and other shorting-related strategies.
- ASX listed company. Platinum AUM excludes its MLC sourced AUM which is long-only.
- Bloomberg 'World's Top 100 Hedge Funds, US\$ converted to A\$ at \$1.0163.
- Firm wide assets, including long-only, is A\$6.4 billion.

Source: Basis Point Consulting, December 2010

A growing trend in the industry is the entry of 'traditional' fund managers into the 'hedge fund' space. An increasing number of long-only managers are offering products that adopt hedge fund strategies, including equity active extension (130/30) and equity beta variable.

For example, in S&P Fund Services' most recent Alternative Equities Sector Review,<sup>3</sup> there were nine new funds offered by traditional long-only large investment firms and boutiques using hedge fund strategies.

3. Standard & Poor's Fund Services, 27 October 2010.

In addition, there are at least 50 'boutique' or independently owned fund managers offering absolute return or alpha-focussed products.<sup>4</sup> Their assets are not included in this report, unless their assets are deployed in hedge fund strategies.

## Fund of Hedge Funds and Multi-Manager Platforms

A key component of the hedge funds industry is the Australian fund of hedge fund sector.

This A\$14 billion sector can be divided into three groups:

- › Fund of hedge funds that have their manager allocation decisions made by an Australian owned or directed entities (A\$5 billion in assets);
- › Offshore fund of hedge funds that have raised funds from Australian retail investors (A\$6 billion in assets); and
- › Offshore fund of hedge funds that have raised funds from Australian institutional investors (A\$3 billion in assets).

### AUSTRALIAN FUND OF HEDGE FUNDS

Entity	AUM (A\$ million)
Certitude Global Investments / HFA Holdings <sup>1</sup>	1,134
AMP Total Return Fund	868
Ibbotson Associates Australia <sup>2</sup>	593
Advance Asset Management	400
Jana TriplePoint	370
Macquarie Group	332
Colonial First State	300
BT Financial Group	244
Alpha Fund Managers	200
Other	576
<b>TOTAL</b>	<b>5,017</b>

1. Excludes A\$3.9 billion in AUM by US-based Lighthouse Partners, owned by HFA Holdings, the parent company of Lighthouse Partners and Certitude.

2. Includes High Alpha, Alpha Strategies and Global Trading Strategies.

**Source: Basis Point Consulting, December 2010**

In addition, there is a significant fund of hedge fund sector where Australian investors have allocated to offshore fund of hedge funds that are marketed domestically.

4. Basis Point Consulting, 31 March 2011.

## INTERNATIONAL FUND OF HEDGE FUNDS<sup>1</sup>

Entity	AUM (A\$ million)
<i>Funds sourced predominantly from retail investors</i>	
Man Investments Australia <sup>2</sup>	6,000
<b>TOTAL</b>	<b>6,000</b>
<i>Funds sourced predominantly from institutional investors</i>	
GMO Multi-Strategy Trust	1,615
Blackrock Global Allocation Fund	825
Fauchier Partners	625
<b>TOTAL</b>	<b>3,065</b>

1. Includes multi-strategy funds. In addition, a selection of other offshore fund of hedge funds have raised funds in Australia, including AQR, Aurora, Aurum, Dexia, DWS, FRM, HSBC, Legg Mason and Prisma Capital Partners.

2. Includes structured hedge fund product.

Source: Basis Point Consulting, December 2010

Another trend is for traditional long-only fund of funds (commonly referred to in Australia as ‘multi-manager’ funds) and advisor platforms to allocate to alternatives, hedge funds and absolute return-focused funds.

Examples of larger allocations in the hedge funds space include the establishment of an alternatives-focused category on the platforms owned by Advance Asset Management and Colonial First State, as indicated in the Australian fund of hedge funds table above.

## Investors in Hedge Funds

Investors in Australian hedge funds and fund of hedge funds can be categorised into retail and high net worth individuals (HNWIs), Australian institutional, and offshore institutional investors.

The majority of investor funds have come from retail and HNWI investors. It includes the principals’ own funds, ‘self-directed’ funds and allocations from distribution groups such as financial planners on behalf of their retail and HNWI clients.

## INVESTORS IN AUSTRALIAN HEDGE FUNDS<sup>1</sup>

Investor Type	Per Cent <sup>2</sup>
Australian Retail and HNWIs <sup>3</sup>	64
Australian Institutional investors	19
Offshore Institutional investors	17
<b>TOTAL</b>	<b>100</b>

1. Excludes fund of hedge funds.

2. Estimates based on where individual managers predominantly source their AUM.

3. Includes funds from dealer groups and platforms.

Source: Basis Point Consulting, December 2010

## Retail and High Net Worth Individuals

Australian wealth has been one of the fastest growing in the world over the past decade. Average wealth per Australian adult has risen by 211 per cent from 2000 to 2010.<sup>5</sup>

Retail investors are a significant source of inflows into hedge fund and fund of hedge fund products. Australia's largest hedge fund manager and largest international fund of hedge funds, accounting for a combined A\$23 billion in assets, source the majority of their allocations from HNWI and retail investors.

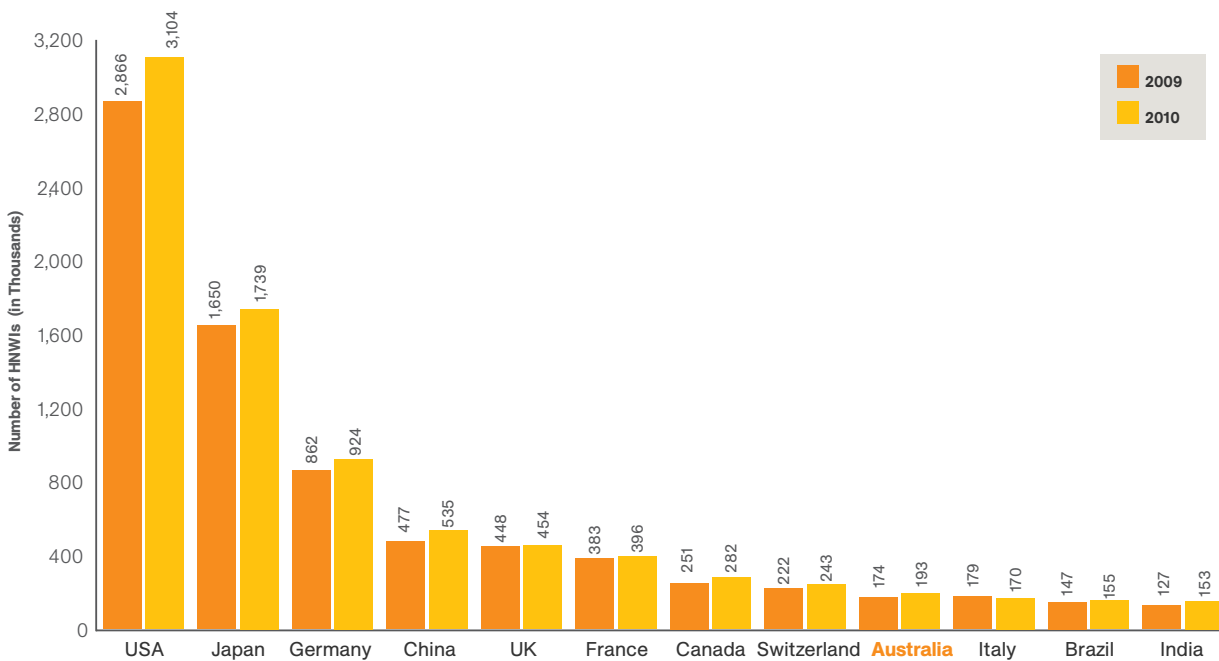
These investors are either 'self-directed' or advised by financial planners, with investments typically made via master trusts or wrap platforms. These platforms are essentially administrative structures offered by financial institutions to provide investors with a single access point to multiple managed funds.

### High Net Worth Individuals

Australia's HNWI population has become the ninth largest in the world in 2010 and third largest in the Asia-Pacific region, in terms of the number of HNWI according to the Merrill Lynch Capgemini, World Wealth Report 2011.<sup>6</sup>

The number of HNWI in Australia, defined as persons with greater than US\$1 million in investable assets, grew 11.1 per cent to reach 193,000. Australia gained one place in the rankings to become the ninth largest population of HNWI, overtaking Italy in 2010. Despite its relatively small population, Australia has more affluent individuals than Italy (170,000), Brazil (155,000) and India (153,000).

### HIGH NET WORTH INDIVIDUAL POPULATION BY COUNTRY



1. High net worth individuals (HNWI) are defined as those having investable assets of US\$1 million or more, excluding primary residence, collectables and consumer durables.

Sources: Merrill Lynch and Capgemini, World Wealth Report 2011, Figure 3; Austrade

The Asia-Pacific now ranks as the second largest region for HNWI in the world, rising by 9.7 per cent in 2010 to 3.3 million and surpassing Europe's HNWI of 3.1 million for the first time. The Asia-Pacific's HNWI financial wealth climbed 12.1 per cent to US\$10.8 trillion, exceeding the US\$10.2 trillion held by HNWI in Europe, where the wealth increase was 7.2 per cent in 2010.

5. Credit Suisse Research Institute, Global Wealth Report, 2010. 'Wealth' defined as the value of financial assets and non-financial assets (mainly real estate), minus household debt.

6. Merrill Lynch and Capgemini, World Wealth Report, 2011.

## Self-Managed Superannuation Funds

Self-Managed Superannuation Funds (SMSFs) are a superannuation fund managed by the members themselves as trustees of the fund. Each SMSF can have up to four members, where all members are required to be trustees. There are 439,397 SMSFs with combined assets of A\$420.6 billion as at December 2010.<sup>7</sup> SMSFs are the fastest growing classification within the superannuation industry, with AUM having grown by 141 per cent over the five years to June 2010 and the number of SMSFs increasing 47.7 per cent, or by 138,208 entities. Over 50 per cent of these funds have allocated to direct Australian equities or managed funds, with a relatively large 23.1 per cent currently allocated to cash.<sup>8</sup>

## Family Offices

An Australian family office is generally a private company that manages investments and trusts for a wealthy family and their extended members. Most family offices are relatively new in Australia, and have often only been created by the first generation in the last 10 to 20 years. There are some older family offices, such as the Fairfax, Albert and Myer families, where fifth, sixth and seventh generations are beneficiaries of the family office structure.

The top 250 family offices in Australia accounted for about A\$202 billion in funds as at June 2011, an increase of 12 per cent from 2010. The largest 20 offices account for A\$79.5 billion and the largest 100 offices A\$150.3 billion.<sup>9</sup> The range is from A\$200 million to A\$10.3 billion. Many of the family office groups have established sub family offices as the next generation have taken control of their own futures. For the purposes of this analysis, the more diverse family groups have been consolidated. There are a significant number of smaller families in the A\$30 million to A\$200 million range that do not have the economies of scale to establish stand-alone family offices. These families typically either use multi-family offices such as the Myer Family Office, (which represents around 60-70 families apart from the Myer Family), or other service providers such as Mutual Trust.

The top 100 family offices are well structured with investment teams, advisory boards and corporate governance structures, including independent board members. Family offices tend to be unconstrained investors who follow themes and are well positioned to take up new opportunities. The level of asset consultant penetration is very low with less than 5 per cent of the top 100 family offices using an asset consultant. Australian and New Zealand family offices have increased their alternatives allocations over the last 12 months with hedge funds receiving the largest allocations. Most allocations have been to US dollar denominated funds to take advantage of the strong Australian dollar.<sup>10</sup>

Globally, it is estimated that family offices allocated as much as one-third of their portfolios to hedge funds in 2010. A key objective of family offices is to diversify a traditional portfolio or to provide uncorrelated returns.<sup>11</sup>

## Listed Hedge Fund Investments

The Australian Securities Exchange (ASX) offers a Listed Managed Investment (LMI) program that has attracted 13 'absolute return funds'. These 13 funds had a market capitalisation of A\$673 million as at 31 December 2010,<sup>12</sup> with IPO funds raised predominantly from retail investors.

7. Australian Prudential Regulation Authority, *Quarterly Superannuation Performance*, December 2010, KeyStats (issued 10 March 2011).

8. Russell Investments in conjunction with the Superannuation Professionals Association of Australia (SPAA) survey, *Intimate with Self-Managed Superannuation*, 2011.

9. The Table Club 2011, [www.thetableclub.com](http://www.thetableclub.com), BRW Rich List 2011, 25 May 2011.

10. Ibid.

11. Infovest21, *Survey of 30 global family offices*, cited in Australian Hedge Newsletter, July 2010.

12. Australian Securities Exchange, *Listed Managed Investments Monthly Update*, December 2010.

## Institutional Investors

Australia's funds management industry totalled A\$1.8 trillion<sup>13</sup> in FUM as at December 2010. One widely used study ranks Australia as the fourth largest industry in the world and largest in the Asia-Pacific.<sup>14</sup>

A large and fast growing component of this asset pool is Australia's institutional superannuation funds, with assets totalling A\$854.7 billion as at December 2010. Australia has a mandatory retirement or superannuation savings regime which requires 9 per cent of income to be deposited in superannuation accounts which, generally speaking, can only be accessed on their preservation age. The Government has foreshadowed its intention to introduce legislation to gradually increase the compulsory level of superannuation savings to 12 per cent by 2019-20.<sup>15</sup>

### DISTRIBUTION OF SUPERANNUATION FUNDS BY FUND TYPE

By fund type	Assets (A\$ Billion)		Number of entities	
	Dec 2009	Dec 2010	Dec 2009	Dec 2010
Corporate	59.9	60.3	171	150
Industry	218.8	246.7	65	63
Public sector	172.7	185.9	39	39
Retail	345.7	361.8	154	144
Sub total	797.0	854.7	429	396
Pooled superannuation trusts	78.7	82.0	81	77
Small APRA funds	2.0	2.0	3,878	3,522
Single-member ADFs	0.1	0.1	106	93
Self-managed super funds <sup>1</sup>	382.2	420.6	412,560	439,397
Balance of life office statutory funds	40.6	38.7	–	–
<b>TOTAL<sup>2</sup></b>	<b>1,221.9</b>	<b>1,316.0</b>	<b>417,054</b>	<b>443,485</b>

1. Estimated data on self-managed superannuation funds are provided by the Australian Taxation Office (ATO).

2. Total assets does not include pooled superannuation trusts.

Sources: APRA, *Quarterly Superannuation Performance, December 2010, KeyStats (issued 10 March 2011)*; Austrade

According to a 2010 Alternative Investment Management Association (AIMA) Australia and University of NSW survey of large Australian superannuation funds, these investors have on average allocated 3 per cent of their assets to hedge funds and fund of hedge funds. The survey forecasts that the percentage allocation would rise to 3.6 per cent by 2012.

The funds surveyed had combined AUM of A\$100 billion and represent approximately 12 per cent of the A\$854.7 billion held by Australia's 396 institutional superannuation funds.

13. See Austrade's Data Alert, *Australia's Managed Funds Assets now at A\$1.8 Trillion*, 10 March 2011 <http://www.austrade.gov.au/ArticleDocuments/2792/Data-Alert-110310-Australia-Managed-Funds-Update.pdf.aspx>.

14. Investment Company Institute, *Worldwide Mutual Fund Assets and Flows*, Fourth Quarter 2010.

15. Joint Media Release, The Treasurer with The Minister for Financial Services, Superannuation and Corporate Law and Minister for Human Services, *Stronger, fairer, simpler superannuation banking the benefits of the boom*, 2 May 2010, <http://ministers.treasury.gov.au/DisplayDocs.aspx?doc=pressreleases/2010/027.htm&pageID=003&min=wms&Year=2010&DocType=0>.

78 per cent of allocations were to US based hedge funds and fund of hedge funds while 20 per cent were to Australian managers and 2 per cent to UK/Europe. 38 per cent of superannuation funds used fund of hedge funds, down from 60 per cent in a 2008 survey.

Extrapolating the 3 per cent allocation to the total institutional superannuation market of A\$854.7 billion suggests that allocations from this investor base to hedge funds and fund of hedge funds could potentially be as high as A\$25.6 billion.

One major institutional investor is the Future Fund, an Australian Government fund that began investing in mid-2007. The fund has A\$74.6 billion in assets (as at 31 March 2011), making it one of the largest institutional investors in the region.

The Australian Government's Future Fund has 16 per cent of its assets, amounting to A\$11.9 billion allocated to seventeen external alternative fund managers. Alternatives are defined by the Future Fund as 'skill based absolute return strategies and other risk premia providing diversity of return streams'.<sup>16</sup>

The increased institutional allocations to global hedge funds are reflected by the recent opening or expansion of Australian offices by international hedge fund and alternatives asset management firms. They include Blackstone Alternative Asset Management, Angelo Gordon & Co, Caxton Associates, CQS and Hermes Funds Management.<sup>17</sup>

## Service Providers

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### Fund Incubators

Another expanding sector of the industry is the fund incubator and 'house of boutiques' firm. Australia has 14 such entities – see Appendix A for a list of fund incubators.

These incubators have enabled selected start-up and small-medium sized managers to overcome the globally common challenge of gaining critical mass in business infrastructure and AUM within a reasonable timeframe.

Some notable successes have been achieved with incubators. For example, Regal and H3 Global (both ranked in the top 10 hedge fund manager table) were incubated by Ascalon Capital Managers.

In addition, the \$57 billion QIC and \$34 billion BT Investment Management both deploy a business model based on a 'house of boutiques structure' that 'provides the specialisation, responsiveness and client-alignment of a boutique with the backing, risk management and robust systems of a large investment manager'.<sup>18</sup>

### Fund Distributors and Third Party Marketers

Australia's hedge funds industry is also seeing the rise of fund distribution and third party marketing services, particularly those aimed at global alternatives, including hedge fund and absolute return managers.

Attracted by Australia's superannuation fund savings pool, an increasing number of global managers are offering or seeking to offer their products to domestic investors.

Some global managers choose to use distribution partners, either via joint ventures with domestic investment institutions, using specialist funds distribution firms or employing third party marketing firms.

These service providers are winning inflows for their global clients via direct mandates from superannuation funds, being included in a domestic institution's multi-manager platform, or distribution under a 'white label' structure.

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<sup>16</sup>. The Australian Government's Future Fund, *Portfolio update*, at 31 March 2011.

<sup>17</sup>. Basis Point Consulting.

<sup>18</sup>. Queensland Investment Corporation, *media release*, 8 September 2009.

## Other Service Providers

The growing and diverse Australian hedge funds industry is spurring a rise in the number of service providers and global hedge funds establishing offices in Australia.

In the past 18 months, several firms have opened offices or appointed senior representatives. They include Berkshire Capital Securities (M&A Advisory); Numerix (provider of cross-asset analytics); and Axioma (provider of portfolio optimising and risk modelling tools).<sup>19</sup>

There is a good representation of domestic and foreign based prime brokers that have established sales and/or operations teams in Australia.

There are over fifteen businesses established in Australia dedicated to providing asset consulting or research to the hedge funds or alternative investments industry. In the past few years, at least four boutique consultancies have established offices in Australia. A number of international research and advisory firms also service the Australian market from offshore, including Aksia, Albourne Partners and Cliffwater. Some Australian institutional clients now use multiple consultants in this field.

The Australian market is also supported by the leading ratings and fund research houses globally.

Several foreign fund administrators have recently entered the Australian market through establishing greenfield operations or through local acquisition, including Unity Administration, Apex Fund Services and TMF Group. In addition, there are a further ten firms providing administration and custodial services to the local industry.

There are also a number of experienced firms supporting the industry through Responsible Entity services, Accounting and Advisory and Legal services.

Following in Appendix A provides a list of local service providers including asset consultants, custodians, fund administrators, fund incubators, fund distributors, prime brokers, rating agencies, trustees and responsible entity providers, and legal and accounting professions.

## Industry Associations and Advocates

The hedge funds industry is represented by an active Alternative Investment Management Association (AIMA) chapter in Australia.

The Australian Hedge Funds Operations Forum regularly organises meetings for managers to discuss regulatory and industry issues.

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<sup>19</sup>. Basis Point Consulting.

# OVERVIEW:

## Regulation and taxation of hedge funds in Australia

**By Nikki Bentley, Partner, Henry Davis York  
Honorary Legal Counsel for AIMA Australia**

An overview of the legal and regulatory requirements that apply to hedge funds in Australia as well as recent Australian taxation developments follows below.

### Hedge fund locations and structures

In Australia there is currently no regulation specific to hedge funds. Along with other forms of collective investment, hedge funds are primarily regulated by the *Corporations Act 2001*. Both hedge funds and their managers which are domiciled in Australia, as well as those domiciled offshore and offered into Australia, need to meet the regulatory requirements of the *Corporations Act*.

The Australian regulatory requirements applying to hedge funds depend largely on the type of the entity used. Unit trusts (called managed investment schemes) are the predominant investment vehicle in Australia.

### Regulatory requirements for hedge funds structured as trusts

Managed investment schemes typically involve a company being appointed to act as trustee (known as a responsible entity), although that company may delegate the investment management function. Hedge fund trustees and managers are subject to the Australian financial services (AFS) licensing regime and need to either hold a licence or fall within one of the relevant exemptions. The licensing requirement can be triggered not only by acting as investment manager but also by offshore entities marketing to Australian investors. Where the investment manager is authorised in certain foreign jurisdictions (including the US, UK, Singapore and Hong Kong), the Australian regulator, the Australian Securities and Investments Commission (ASIC) has provided some AFS licensing relief. If the manager is able to rely on this relief, it will be limited to acting for 'wholesale' (i.e. sophisticated or professional investor) clients only.

Hedge funds are generally required to register as managed investment schemes with ASIC unless they are offered only to wholesale clients. For registered schemes, the *Corporations Act* and ASIC impose various requirements, including in relation to the scheme's trust deed (called a constitution), compliance and governance arrangements. Registration has advantages from a distribution perspective within Australia since institutional investors such as superannuation funds can prefer to invest in funds which are subject to the compliance and integrity requirements associated with registration.

From a disclosure perspective, hedge funds offered to retail clients (i.e. clients which do not qualify as 'wholesale') must prepare a product disclosure statement (PDS) in connection with the offering. The *Corporations Act* and ASIC prescribe various content requirements for PDSs and, subject to a due diligence defence, there is potential criminal and civil liability for the issuer and other persons if the PDS is defective. For funds offered to wholesale clients only, while a PDS is not required, it is usual industry practice to issue an information memorandum or private placement memorandum. While there is less prescribed regulation for wholesale disclosure documents, the *Corporations Act* does impose conduct related sanctions in respect of misleading or deceptive conduct. There is further regulation covering marketing materials issued in connection with a fund.

Finally, the investment activities of hedge fund managers are regulated by the conduct provisions of the *Corporations Act*. The *Corporations Act* imposes prohibitions on insider trading, naked short selling and engaging in misleading and deceptive conduct. There is also a range of administrative obligations imposed on hedge funds due to the AFS licensing scheme registration regime and anti-money laundering and counter-terrorism financing requirements, including an obligation to produce audited financial statements for the manager and the fund and requirements as to how to accept and deal with retail investor moneys.

## Recent Australian taxation developments

Hedge funds are predominantly structured as trusts. Income generated by trusts is generally taxable in the hands of the investors as at the end of the financial year, provided all of the income is distributed by the trustee.

Recently introduced measures enable an eligible Australian trust to make an election to treat gains on eligible assets (i.e. shares, units and land) as capital gains for tax purposes. Capital gains (other than gains from taxable Australian property) will not be taxed in Australia for offshore investors and may be subject to concessional tax rates for Australian investors. However, given the limited class of eligible assets, hedge funds should carefully consider whether this election is beneficial.

Australia's anti-tax deferral (attribution) regime has also undergone recent reform with the abolition of the foreign investment fund (FIF) rules and proposed modernisation of the controlled foreign company (CFC) provisions. This will be of interest to investors investing in offshore funds. The FIF rules are to be replaced with foreign accumulation funds (FAF) rules but these rules are not expected to apply to the majority of investments in offshore funds. The FAF rules are an anti-avoidance measure and will apply to investments in a foreign entity, where the entity invests predominantly in debt investments (loans, bonds etc.) and does not substantially distribute all of its profits and gains annually.

# Useful Links

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## Primary Regulators

› Australian Prudential Regulation Authority	<a href="http://www.apra.gov.au">www.apra.gov.au</a>
› Australian Securities and Investments Commission	<a href="http://www.asic.gov.au">www.asic.gov.au</a>
› Reserve Bank of Australia	<a href="http://www.rba.gov.au">www.rba.gov.au</a>

## Australian Government

› Australian Accounting Standards Board	<a href="http://www.aasb.gov.au">www.aasb.gov.au</a>
› Australian Bureau of Statistics	<a href="http://www.abs.gov.au">www.abs.gov.au</a>
› Australian Competition and Consumer Commission	<a href="http://www.accc.gov.au">www.accc.gov.au</a>
› Australian Taxation Office	<a href="http://www.ato.gov.au">www.ato.gov.au</a>
› Australian Trade Commission	<a href="http://www.austrade.gov.au">www.austrade.gov.au</a>
› Australian Transaction Reports and Analysis Centre	<a href="http://www.austrac.gov.au">www.austrac.gov.au</a>
› Federal Treasury	<a href="http://www.treasury.gov.au">www.treasury.gov.au</a>
› Foreign Investment Review Board	<a href="http://www.firb.gov.au">www.firb.gov.au</a>
› Future Fund	<a href="http://www.futurefund.gov.au">www.futurefund.gov.au</a>
› MoneySmart	<a href="http://www.moneysmart.gov.au">www.moneysmart.gov.au</a>

## Other

› Abacus (credit union and building society industry body)	<a href="http://www.abacus.org.au">www.abacus.org.au</a>
› Alternative Investment Management Association	<a href="http://www.aima-australia.org">www.aima-australia.org</a>
› Association of Superannuation Funds of Australia	<a href="http://www.superannuation.asn.au">www.superannuation.asn.au</a>
› Australian Bankers Association	<a href="http://www.bankers.asn.au">www.bankers.asn.au</a>
› Australian Equipment Lessors Association	<a href="http://www.aela.asn.au">www.aela.asn.au</a>
› Australian Finance Conference	<a href="http://www.afc.asn.au">www.afc.asn.au</a>
› Australian Financial Markets Association	<a href="http://www.afma.com.au">www.afma.com.au</a>
› Australian Institute of Superannuation Trustees	<a href="http://www.aist.asn.au">www.aist.asn.au</a>
› Australian Payments Clearing Association	<a href="http://www.apca.com.au">www.apca.com.au</a>
› Australian Securities Exchange	<a href="http://www.asx.com.au">www.asx.com.au</a>
› Australian Securities Lending Association	<a href="http://www.asla.com.au">www.asla.com.au</a>
› Australian Securitisation Forum	<a href="http://www.securitisation.com.au">www.securitisation.com.au</a>
› Australian Private Equity & Venture Capital Association	<a href="http://www.avcal.com.au">www.avcal.com.au</a>
› Financial Planning Association	<a href="http://www.fpa.asn.au">www.fpa.asn.au</a>
› Financial Services Council	<a href="http://www.ifsa.com.au">www.ifsa.com.au</a>
› Financial Services Institute of Australasia	<a href="http://www.finsia.com">www.finsia.com</a>
› Fund Executives Association Ltd	<a href="http://www.feal.asn.au">www.feal.asn.au</a>

# Appendix A – A list of Service Providers

## Accounting and Tax

BDO

Deloitte

Ernst & Young

Grant Thornton

HLB Mann Judd

KPMG

Lumina

Moore Stephens

PricewaterhouseCoopers

## Administrators and Custodians

Apex Fund Services

BNP Paribas Securities Services

Citico Fund Services

HSBC Securities Services

JP Morgan Worldwide Securities Services

Kingsway Taitz Fund Administration

MacKenzie Coultas

Mainstream BPO

RBC Dexia

State Street Global Services

TMF Group

White Outsourcing

Unity Administration

## Advisory/Compliance/Operational Services

Certainty Compliance

The Freshwater Partnership

Harbridge Investment Partnerships

HFO

Orchard Harbour

## Asset Consultants and Research Providers

Andrew Goddard Consulting

Axioma

Berkshire Capital Securities

Cambridge Associates

Caravel Consulting Services

CPG Research & Advisory

Frontier Investment Consulting

Ibbotson Associates

iPAC

JANA Investment Advisers

Mercer Investment Consulting

Numerix

Queen Street Partners

Round Tower Solutions

Russell Investments

Sovereign Investment Research

St. Davids Rd Advisory

Towers Watson

358 Australia

## Fund Distributors

Ambassador Funds Management Services

Apostle Asset Management

ASF Balmoral

Brookvine

Clearway Capital Solutions

Diversus Investment Advisers

EQT Funds Management

Instreet<sup>22</sup>

Ironbark Asset Management

Premium China Funds Management

Plus Capital Investment Management

Principal Advisory Services

Shed Enterprises

Triple A Partners Australia

VanMac Group

20. Funding and Alliances unit.

21. Via US-based M.D. Sass-Macquarie Financial Strategies, L.P.

### **Fund Incubators**

Australian Unity Investments

Ascalon Capital Managers

Bennelong Funds Management

Brookvine

Challenger Financial Services

Colonial First State<sup>20</sup>

Diversa Group

Grant Samuel Funds Management

Macquarie Bank<sup>21</sup>

Magellan Financial Group

nabInvest

Pengana Capital

Pinnacle Investment Management

Treasury Group

### **Legal**

Allens Arthur Robinson

Allen & Overy

Baker & McKenzie

Blake Dawson

Clayton Utz

Clifford Chance

Corrs Chambers Westgarth

DLA Piper Australia

Freehills

Gilbert + Tobin Lawyers

Henry Davis York

Maddocks

Mallesons Stephen Jacques

Middletons

Minter Ellison Lawyers

Norton Rose

### **Prime Brokers**

ABN Amro Clearing Sydney

Bank of America/Merrill Lynch

Citigroup Global Markets

Credit Suisse

Deutsche Bank

MF Global

Morgan Stanley

Newedge

UBS

RBS Equities

### **Rating Agencies**

Lonsec

Mercer

Morningstar

Standard & Poor's

van Eyk

Zenith Investment Partners

### **Trustees and Responsible Entity Providers**

Equity Trustees

Fundhost

One Investment Group

Perpetual

The Trust Company

Total Fund Services

Valuestream Investment Management

22. Offers structured products.







**Australian Government**  
**Australian Trade Commission**



**Australia**  
UNLIMITED