

# **THE MASTER BUILDERS FIDELITY FUND**

## **COMPLIANCE PLAN**

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## **Overview**

This compliance plan (“the plan”) has been developed in order for the Master Builders Fidelity Fund (“the fund”) to comply with the requirements of the *Building Act 1972*, *Building (Approval criteria) Determination 2002* and *Building (Prudential standards) Determination 2002*.

The purpose of the plan is to describe how the fund will ensure compliance with the:

- (a) Building Act 1972;
- (b) Trust Deed;
- (c) Accounting and industry standards relevant to the fund; and
- (d) Internal standards.

This plan has been developed by staff of the Master Builders Association of the ACT on behalf of the Trustees. The Trustees will continually review, amend and ratify the plan as required in order to reflect the improvements made in the operational procedures of the Fund.

## **Scope**

In developing the plan the Trustees have:

- (a) Undertaken a structured and systematic review to consider the obligations under the law and the deed;
- (b) Identified the risks of non-compliance; and
- (c) Established measures designed to address these risks.

The plan is a descriptive document detailing:

- (a) The fund’s obligations;
- (b) Key processes, systems and structures the fund will apply to meet the obligations;
- (c) The risks of non-compliance; and
- (d) Measures the fund will apply to monitor and address the risks and non-compliance.

## **Commitment**

The Trustees aim to achieve a compliance culture where each member of management and staff owns compliance, and will report and address breaches. The plan is an integral part of the operation of the fund and all management and staff will be fully informed in how to understand and use the plan and related documents, such as the Master Builders Fidelity Fund Procedures Manual. The Fund Manager is the designated officer with responsibility for maintaining and monitoring use of the plan.

## **Structure**

The Trustees have identified the users of the plan as:

- (a) Management;
- (b) Staff;
- (c) Auditor;
- (d) Regulatory authorities.

It is vital that all users of the plan understand their role in its effective implementation. The plan has been structured to allow this by identifying the:

- (a) Legal responsibilities the fund must comply with;
- (b) Procedures used to meet the obligations, including who is responsible for carrying out the procedures; how compliance will be monitored; and, who is responsible for monitoring and addressing non-compliance; and
- (c) Format and frequency of reporting compliance and non-compliance.

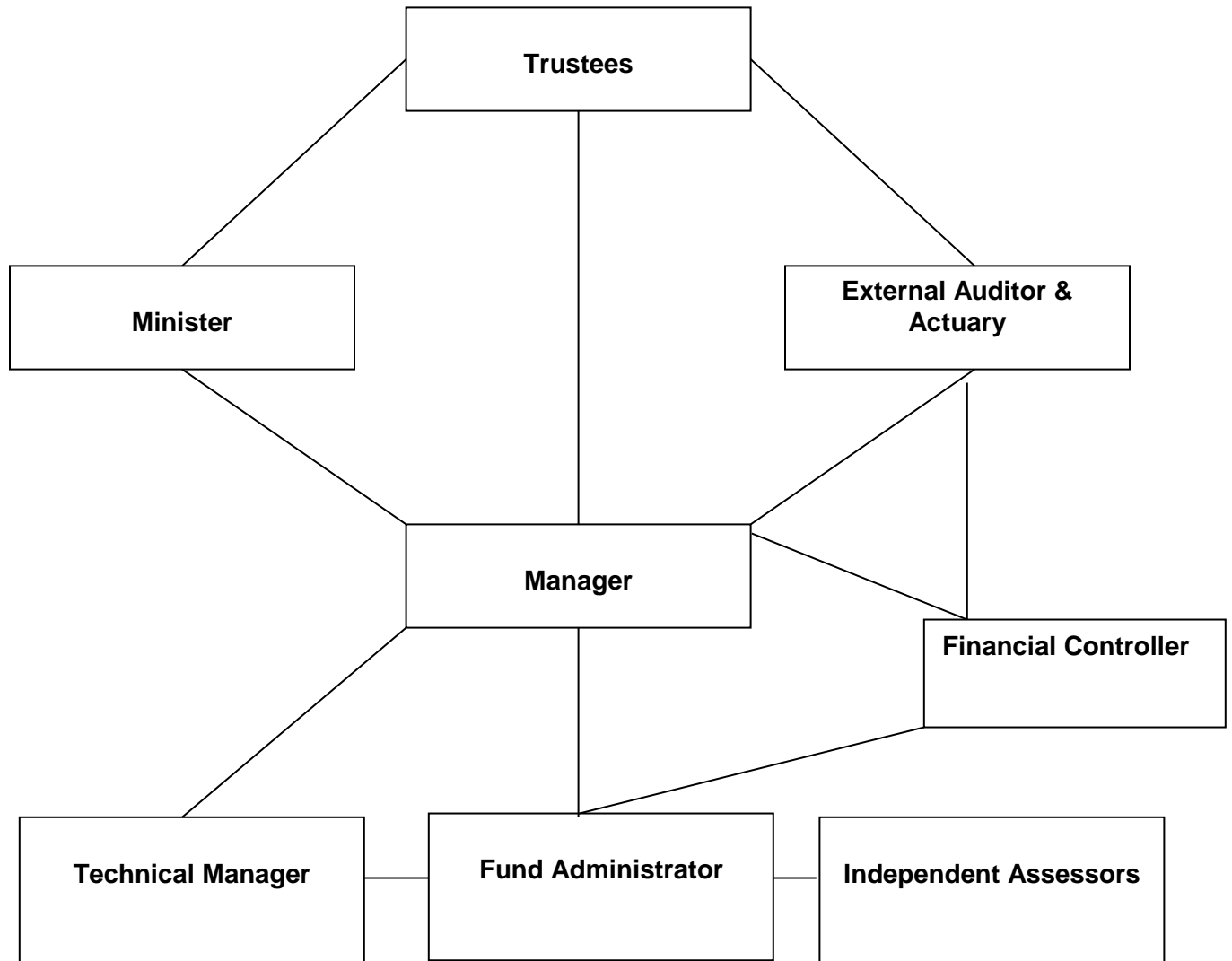
## **The Fund**

The Trustees recognise that some of the users of the plan will not be involved in the operation of the fund and will need to understand what the fund does in order to comprehend the risks facing the fund.

The fund is a fidelity fund scheme established to provide residential building statutory warranty cover for residential building work undertaken in the ACT.

To provide adequate cover the fund must retain sufficient capital reserves. In managing these reserves the fund has established an investment strategy to provide maximum growth with minimum risk. This is achieved by holding all funds in deposits with Sch 2.2(a)(ii). This investment strategy will be reviewed when the prescribed capital requirements have been met.

## Compliance Framework - Structure



## **Compliance Framework - Trustees**

The Trustees have the responsibility for ensuring the compliance plan meets the requirements of the law on an on-going basis.

They are responsible for:

- (a) Dealing with breaches of the plan, including follow-up action following recommendations;
- (b) Ensuring they are aware of all significant transactions involving the fund's assets;
- (c) Ensuring the fund is not trading while insolvent;
- (d) Assessing if the actions of the fund are in accordance with the trust deed, the law and the best interests of the stakeholders; and
- (e) Considering compliance matters at meetings of the Trustees.

### Duties

- Understand the law, trust deed and compliance plan;
- Review the Manager's report at each meeting of the Trustees;
- Review and investigate compliance breaches – determining the reasons for the breach; making recommendations of action to be taken to correct any future breaches; and monitoring that the recommended action is taken;
- Ensure reporting to the Minister – immediately they have been notified of a material breach; within 60 days of the end of the financial year; and within 14 days of approval of amendments to the plan;
- Determining the financial reports they require;
- Reviewing financial reports at meetings of the Trustees to ensure the fund is solvent;
- Assessing investments are in accordance with the investment strategy; and
- Amending the investment strategy as required.

### Meetings

Every meeting of the Trustees must include reporting and assessment of compliance matters. To ensure the Trustees address all compliance issues meeting agendas will include the following:

- (a) Manager's report;
- (b) Breach reports and recommended corrective action;
- (c) Proposed amendments to the compliance plan, procedures and agreements;
- (d) Proposed amendments to the Building Act 1972, industry, accounting or internal standards; and
- (e) Other matters.

## **Compliance Framework - Manager**

The Fund has two staff members:

- (a) Technical Manager;
- (b) Fund Administrator

The Trustees have delegated the role of compliance to the Fund Manager. This ensures the Manager's position has direct access to the Trustees and the necessary authority to implement and monitor procedures.

The Manager is responsible for maintaining and monitoring the plan. This means:

- (a) Ensuring adequate internal systems have been developed and implemented;
- (b) Reviewing and assessing compliance;
- (c) Reporting on compliance matters to the Trustees and the external auditor and Minister when relevant;
- (d) Acting on the recommendations of the Trustees; and
- (e) Promoting a compliance culture within the fund and to external service providers.

### Qualifications

The Manager will be selected by the Trustees for their significant experience and knowledge of the industry and *the Building Act 1972*.

### Duties

- Remain up-to-date with regulatory and industry standards;
- Assess the impact of any changes in the standards on the plan;
- Report changes and the impact of those changes at meetings of the Trustees;
- Notify all staff of any changes, ensuring they receive a copy of the updated plan and understand the changes;
- Review the procedures manual as developed by staff of the Master Builders Association of the ACT to ensure the described systems and processes are valid;
- Amend existing procedures assessed as inadequate;
- Develop systems and processes not already addressed in the manual where such procedures are assessed as required;
- Train staff to ensure they are familiar with the procedures and are competent in applying them;
- Review and assess compliance with procedures by ensuring checklists are developed and used;
- Assess breaches by determining the effect of the breach on the operation of the fund;
- Ensure staff and external service providers report each month of compliance using the approved reporting format;
- Report compliance and breaches at each meeting of the Trustees in the approved reporting format;
- Report material breaches to the Minister within two working days of the meeting of the Trustees;

## **Compliance Framework - Manager (continued)**

### Duties (continued)

- Report all breaches to the Minister within 60 days of the end of the financial year;
- Amend the plan in accordance with the recommendations of the Trustees within two weeks of receiving the recommendation; and
- Lodge the amended plan with the Minister within 14 days of amending the plan.

### Delegation

From time to time the Manager will be absent from his/her position. The position will be filled by a temporary staff member whenever the Manager is absent for longer than a week. The Compliance Officer has the authority to delegate their duties to this temporary staff member.

### Records

Records of compliance matters must be:

- (a) In the required format;
- (b) Stored for ten years; and
- (c) Backed-up electronically in accordance with procedures being daily for computer data and stored in the off-site security storage area.

**Compliance Framework – Reporting**

The Manager must report to the Trustees:

- (a) Immediately a material breach is identified;
- (b) At each meeting as to what extent the fund complies with the compliance plan; and
- (c) At the end of the financial year as to whether the compliance plan is adequate and any breaches that have occurred during the year.

To assist the Manager in meeting the reporting requirements staff of the fund must prepare a monthly compliance report, in the prescribed format, and compliance breaches must be reported using the prescribed format.

Compliance Report

**Name**.....

**Position**.....

**Period**.....

I confirm that the requirements of the above compliance plan have been complied with throughout the period. In particular:

- (a) All procedures stated in the compliance plan section have been complied with;
- (b) All breaches of procedures have been reported to the Trustees;
- (c) I am not aware of any other potential breaches of procedures that have not already been reported;
- (d) All changes to procedures have been reported to the Trustees;
- (e) I am not aware of any matter that may need to be disclosed to the Minister; and
- (f) Records exist to demonstrate compliance with the above.

**Signature**.....

**Date**.....

**NOTE – Evidence to support any exceptions to the above statements should be attached to this report.**

**Compliance Framework – Reporting (continued)**

Compliance Breach Report

**Report Date**.....

**Name**.....

**Position**.....

**Date breach was detected**.....

**Compliance Plan Section**.....

**Significance of breach (Very significant/Significant/Minor)**.....

**Is the breach considered an isolated event or systematic**.....

**Details of circumstances giving rise to the breach** (Attach supporting documentation, if required, to fully explain effects of the breach and why the breach occurred).....  
.....  
.....  
.....

**Details of remedial action taken or recommendations to minimise effects of the breach**.....  
.....  
.....  
.....

**Recommendation to report to the Minister**.....

**Timing of rectification**.....

**Potential cost**.....

**How it will be actioned/Why it will not be actioned**.....  
.....

**Signature**.....  
(Manager)

**Date**.....

**Compliance Framework – Reporting (continued)**

Compliance Breach Report

**Comments of Trustees**.....  
.....  
.....  
.....

**Action required**.....  
.....  
.....  
.....

**Officer responsible for ensuring action is carried out**.....

**Date for completing implementation of the Trustees recommendations**.....

**Signature**.....  
(Chairman)  
To be signed when the Chairman is satisfied all issues raised have been resolved.

**Date**.....

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### **Compliance Framework - Audit**

Due to the small size of the fund there is no internal audit function. However, an external audit will be performed every three months during the first year of operation, and annually thereafter. The role of the auditor is to audit the annual accounts of the fund and provide an auditor's certificate:

- (a) Confirming the capital adequacy of the fund;
- (b) Certifying that the accounts accurately and correctly reflect the true financial position of the fund; and
- (c) Any other matters as determined, in writing, by the Minister.

### **Compliance Framework – Actuarial**

The role of the fund's actuary is to:

- (a) Ensure that the fund is solvent;
- (b) Value the fund's liabilities; and
- (c) Determine the adequacy of contributions.

The actuary must perform these services at least once every financial year and report in relation to the financial year.

### **Compliance Framework – Materiality**

Risks are categorised as high, medium or low, according to the effect on the fund of a compliance breach. Each breach will also be assessed by the Manager to determine whether the breach will have a material adverse effect on the fund. This requires the Manager to quantify the dollar value of the breach. Material breaches will be those that are quantified with a dollar value that represents greater than 5% of the value of the fund's assets.

### **Reviewing and Amending the Plan**

To ensure the plan continues to provide an adequate framework for the protection of the fund's assets the Trustees will assess the adequacy of the plan annually.

Staff will report all proposed changes in the operating systems and processes to the Compliance Officer in the approved format. These reports will be included in the Compliance Officer's compliance report presented at each meeting of the Trustees. The Trustees will then be informed to assess the adequacy of the plan.

The law allows the plan to be amended by the Trustees. Once the Trustees have approved the amended plan the Compliance Officer has the responsibility of lodging a copy of the amended plan with the Minister within 14 days of its approval by the Trustees.

## Compliance Procedures – Summary

Function	Responsible Officer	Reporting Frequency	Risk Category	Details of Procedures (page reference)
Office Assets	Administrator	Monthly	Low	12
Reporting	Administrator	Monthly, quarterly, annually	Medium	13
Income	Administrator	Monthly	High	14
Expenses	Administrator	Monthly	High	15
Applications	Administrator	Weekly	High	16
Certificates	Administrator	Monthly	High	17
Financial Records	Administrator	Quarterly	High	18
Management Documentation	Administrator	Quarterly	High	19
Borrowings	Manager	Quarterly	Low	20
Complaints	Manager	Monthly	Low	21
Recruitment	Manager	Quarterly	Medium	22
Claims	Manager	Monthly	High	23
Service Providers	Manager	Quarterly	High	24
Capital Adequacy	Manager	Quarterly	High	25

## Compliance Procedures – Office Assets

**Assets:** Office furniture and equipment  
**Responsible Officer:** Administrator  
**Frequency of Reporting:** Monthly  
**Risk Category:** Low

Function	Risks	Procedures	Monitoring
Ensure the fund assets are clearly identified as fund assets, are protected and maintained, and are held separately from the assets of any other entity or individual.	<p>Office furniture and equipment is lost through theft or damage.</p> <p>Office furniture and equipment is misused.</p>	<p>Only assets essential to the operation of the fund will be acquired. Acquisition will be in accordance with expense procedures.</p> <p>All furniture and equipment will be clearly marked as the property of the fund.</p> <p>A register of assets will be maintained. A stocktake of assets will be performed annually. Attractive and portable assets will be accounted for daily and stored securely. Any discrepancies will be reported to the manager.</p> <p>Assets will be maintained in good working order. Maintenance agreements will be entered into when appropriate.</p> <p>Office space will be secure with access controlled through the use of access codes and keys.</p> <p>The fund will obtain adequate insurance cover against the loss of furniture and equipment. The Trustees will review the adequacy of the cover annually, prior to the expiration of the policy.</p>	<p>The manager will investigate all discrepancies in asset stocktakes. Discrepancies will be reported to the Trustees in the Compliance Officer's monthly compliance report.</p> <p>External audit will confirm the existence and carrying value of assets.</p>

## Compliance Procedures – Reporting

<b>Reporting:</b>	Annual reports, compliance breaches, claims
<b>Responsible Officer:</b>	Administrator
<b>Frequency of Reporting:</b>	Monthly, quarterly or annually
<b>Risk Category:</b>	Medium

Function	Risks	Procedures	Monitoring
To prepare and report annual reports, compliance breaches and claims within the timeframe prescribed by the law	<p>Reporting of incorrect information.</p> <p>Reporting outside the prescribed timeframe.</p>	<p>Financial accounts to be prepared prior to the reporting deadline.</p> <p>Audits to be arranged prior to the reporting deadline.</p> <p>Actuarial investigations to be arranged prior to the reporting deadline.</p> <p>Annual accounts, audit certificate, actuarial certificate and Trustees' declaration to be lodged with the Minister within 60 days of the end of the financial year.</p> <p>Trustees' decisions in relation to claims to be recorded in the minutes of meetings.</p> <p>Reports to be prepared for the commissioner of fair trading in relation to each claim on the fund.</p> <p>Compliance breaches to be reported immediately if assessed as material, otherwise annually.</p>	<p>Manager to prepare a reporting diary. This diary to be monitored weekly to ensure compliance.</p> <p>Review of the adequacy of reporting by the external auditor.</p>

## Compliance Procedures – Income

<b>Income:</b>	Contribution levies, assessment fees, claims excess, interest
<b>Responsible Officer:</b>	Administrator
<b>Frequency of Reporting:</b>	Monthly
<b>Risk Category:</b>	High

Function	Risks	Procedures	Monitoring
Calculate and collect all income due to the fund.	Income is not calculated correctly.	Contributions and fees are calculated in accordance with rates approved by the Trustees.	Access to make changes to the software will be restricted by password to the manager. The manager will not disclose their password.
	Not all income is collected.	Software systems automatically calculate contributions on the basis of the value of the work, and assessment fees on the basis of the amount agreed with the independent assessor.	
	Income collected is not banked in the fund's bank account.	Income and fees will be reconciled monthly to sales reports produced by the accounting system.	The manager will review monthly income reconciliations.
		Fidelity certificates are not issued until all contributions and fees have been paid.	The manager will review the end-of-month bank reconciliation. Unusual reconciling items will be investigated.
		Claims will not be settled until the excess has been paid.	
		Interest will be accrued monthly on the basis of interest rates. Interest income will be reconciled annually to reports from the financial institution.	Income will be reviewed by the external auditor.
		Banking will be performed daily.	Contributions will be reviewed by the actuary.
		The bank account will be reconciled weekly and at the end of the month.	

## Compliance Procedures – Expenses

<b>Expenses:</b>	Operating expenses, assessment fees, claims, expense reimbursements
<b>Responsible Officer:</b>	Administrator
<b>Frequency of Reporting:</b>	Monthly
<b>Risk Category:</b>	High

Function	Risks	Procedures	Monitoring
Payment of all expenses and fees of the fund.	Expenses paid are not valid expenses of the fund.	All purchases are approved before a commitment to purchase is made.	The manager will approve all purchase orders.
	Expenses are overpaid.	Invoices are agreed to purchase orders/agreements, and are reviewed prior to payment. Payment will only be made on receipt of a tax invoice.	The cheque signatories will include at least one Trustee, who must always sign.
		Allowable expense reimbursements are outlined in the Trust Deed. The only allowable reimbursements are for expenses incurred in the proper performance of duties in relation to the fund.	The manager will review monthly financial reports.
		Payments will be by cheque. Cheques and supporting documentation are provided to the cheque signatories.	Monthly financial reports will be reported at meetings of the Trustees.
		Two cheque signatories are required on each cheque.	Expenses will be reviewed by the external auditor.
		Monthly financial reports will include expense accruals for expenses incurred but not invoiced during the month.	

## Compliance Procedures – Applications

<b>Applications:</b>	Assessment of applications from licensed builders
<b>Responsible Officer:</b>	Administrator
<b>Frequency of Reporting:</b>	Weekly
<b>Risk Category:</b>	High

Function	Risks	Procedures	Monitoring
Assessment of applications from licensed builders.	Approval of applications not assessed by an independent assessor.	Application forms will be date stamped upon receipt and logged into the database.  All applications will be assessed by the appointed independent assessor who will assess the application in accordance with procedures that have been approved by the Trustees.	The manager will review and authorise all applications before they are sent to the independent assessor.
	Approval of applications contrary to the recommendation of an independent assessor.		The manager will report recommendations in relation to applications to the Trustees in the approved format.
	Approval of an applicant who may become insolvent.	The independent assessors will report their recommendation within 7 days of receiving the application for assessment.  All applications will be approved or rejected by the Trustees. The decision will be made on the basis of recommendations from the independent assessor, the manager, and their own knowledge. Trustees will not be involved in the assessment of applications in which they have an interest. They must declare such interests to the other Trustees.	The Trustees will have all decisions and the reason for the decision ratified in the minutes of meetings.

## Compliance Procedures – Certificates

**Certificates:** Fidelity certificates  
**Responsible Officer:** Administrator  
**Frequency of Reporting:** Monthly  
**Risk Category:** High

Function	Risks	Procedures	Monitoring
Issuing fidelity certificates to approved applicants.	Issue of a certificate to an applicant who has not been approved by the fund.	Certificates will be issued only for jobs where the value of the job is within the applicant's approval limit and approval period, and within the standard price for such a job.	<p>The manager will authorise the issue of all fidelity certificates.</p> <p>Quarterly financial reports will be reported at meetings of the Trustees.</p>
	Issue of a certificate to an applicant where the certificate details are outside the applicant's approval scope.	<p>Certificates will be issued only for jobs where the job is within the applicant's approved job limit and the type of job.</p> <p>Certificates will be produced by the software and will include all information required by the law and the trust deed.</p> <p>Fidelity certificates are not issued until all contributions and fees have been paid.</p>	

## Compliance Procedures – Financial Records

**Financial Records:** Accounting records, GST records  
**Responsible Officer:** Administrator  
**Frequency of Reporting:** Monthly  
**Risk Category:** High

Function	Risks	Procedures	Monitoring
Correctly record and explain transactions, financial position and performance to enable the production and audit of true and fair financial statements in a timely manner.	<p>Incorrect or insufficient records leading to a qualified audit report and/or incorrect decisions.</p> <p>Inaccurate and late GST reporting.</p>	<p>All transactions are reviewed and authorised by the manager.</p> <p>All transactions are stored electronically and retained for seven years.</p> <p>All records to be backed-up in accordance with procedures.</p> <p>Annual reports are prepared in accordance with relevant accounting standards.</p> <p>GST reports prepared in accordance with GST law.</p>	<p>Quarterly financial reports will be reported at meetings of the Trustees.</p> <p>External audit will certify that the accounts accurately and correctly reflect the true financial position of the fund.</p> <p>Actuary will confirm the fund's solvency and liabilities.</p>

## Compliance Procedures – Management Documentation

<b>Management Documentation:</b>	Minutes, Compliance Plan, Contingency Plan, Information in relation to Trustees, fidelity certificates, and claims
<b>Responsible Officer:</b>	Administrator
<b>Frequency of Reporting:</b>	Monthly
<b>Risk Category:</b>	Low

Function	Risks	Procedures	Monitoring
To collect and retain all documents relevant to the management of the fund.	Loss of management information.	<p>All decisions of the Trustees to be ratified in the minutes of meetings. Minutes to be prepared for each meeting of the Trustees.</p> <p>Files to be created and maintained for each Trustee.</p> <p>Files to be created and maintained for each applicant, including certificates issued.</p> <p>Files to be created and maintained for each claim.</p> <p>Copies of the Compliance Plan to be kept, including up-dates and advice to the Minister.</p> <p>Copies of the Contingency Plan to be kept, including up-dates and advice to the Minister.</p> <p>Records to be kept in electronic or paper form and retained for at least ten years.</p> <p>All records to be backed-up in accordance with procedures.</p>	<p>Minutes of the previous meeting to be presented at all meetings of the Trustees.</p> <p>Compliance Officer's compliance report to be presented at each meeting of the Trustees.</p> <p>Trustees to report claims to the Commissioner of Fair Trading at the end of each financial year.</p> <p>Annual review of the adequacy of the Compliance Plan.</p> <p>Annual review of the adequacy of the Contingency Plan.</p>

## Compliance Procedures – Borrowings

**Borrowings:** Start-up capital, payment of a claim  
**Responsible Officer:** Manager  
**Frequency of Reporting:** Monthly  
**Risk Category:** Low

Function	Risks	Procedures	Monitoring
<p>The borrowing of money to ensure the fund meets its start-up capital requirements and is able to meet the payment of a claim.</p>	<p>Money is borrowed without the approval of the Minister.</p> <p>Money is borrowed for an unauthorised purpose.</p>	<p>Borrowing of money must be in accordance with the law and the trust deed.</p> <p>Ministerial approval will be obtained in relation to any borrowing.</p> <p>Loan agreements will be used for all borrowings.</p> <p>The Trustees will authorise all borrowings and sign the loan agreement. Borrowings will only be authorised for start-up capital, payment of a claim, if it can be repaid within 90 days, and if the amount borrowed does not exceed 10% of the fund's assets.</p>	<p>Quarterly financial reports will be reported at meetings of the Trustees.</p> <p>External audit will confirm the existence and value loans.</p> <p>Actuary will confirm the fund's solvency, at least annually.</p>

## Compliance Procedures – Complaints

**Complaints:** From clients and from owners  
**Responsible Officer:** Manager  
**Frequency of Reporting:** Monthly  
**Risk Category:** Low

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<b>Function</b>	<b>Risks</b>	<b>Procedures</b>	<b>Monitoring</b>
Handle complaints from builders, owners and other parties in a manner consistent with the law and the trust deed.	Complaints are not adequately addressed and escalate to litigation.	<p>All complaints are referred to the manager who logs the details in the complaints log. The manager is responsible for investigating and responding to complaints.</p> <p>Complaints will be acknowledged in writing within two days of receipt and will be responded to within one month of receipt. If the matter is not finalised within one month, the response will detail what has been done to date.</p>	All complaints will be reported to at meetings of the Trustees.

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## Compliance Procedures – Recruitment

**Recruitment:** Trustees, staff  
**Responsible Officer:** Manager  
**Frequency of Reporting:** Quarterly  
**Risk Category:** Medium

Function	Risks	Procedures	Monitoring
<p>Appoint competent trustees and staff. Provide training for them to be able to perform their duties and to be familiar with the requirements of the compliance plan. Monitor their performance.</p>	<p>Break down in procedures due staff not having the skills to perform their duties.</p> <p>Loss of knowledge when key staff leave the employment of the fund.</p>	<p>Appointment of trustees and staff who have the required skills and experience to comply with the requirements of the law.</p> <p>Obtain Ministerial approval for all Trustees.</p> <p>The development and use of position descriptions in order to assess the suitability of staff.</p> <p>Employment contracts with staff.</p> <p>Annual reviews of staff to determine competency, training needs, and the adequacy of salary compared with market salaries.</p> <p>The maintenance of a succession plan for all key staff. Plan to be reviewed annually by the Trustees.</p> <p>The maintenance of professional indemnity insurance to the value of \$5 million for each Trustee.</p> <p>The manager is to update the compliance plan for any changes to regulatory and industry standards. All staff to be given a copy of the updated plan and to be trained in the changes.</p>	<p>The manager to maintain a register of reviews and updates to the procedures manual and the compliance plan.</p> <p>The manager to maintain a record of the trustees, their details and Ministerial approval.</p>

## Compliance Procedures – Claims

**Claims:** Claims from owners pursuant to a fidelity certificate  
**Responsible Officer:** Manager  
**Frequency of Reporting:** Monthly  
**Risk Category:** High

Function	Risks	Procedures	Monitoring
Payment of claims to an owner pursuant to a fidelity certificate.	<p>Payment of a claim for a residential building not covered by a fidelity certificate.</p> <p>Incorrect assessment of a claim leading to payment of a non-valid claim.</p> <p>Payment of an incorrect amount in relation to a valid claim.</p>	<p>Inquiries will be assessed as to whether it is a claim against the fund. Assessment will be as to whether the building is covered by a fidelity certificate, the claim is within the statutory warranty period, and whether any other means of recovery are available to the owner.</p> <p>Owners with valid inquiries will be required to complete a claim form.</p> <p>The claim form will be date stamped when received.</p> <p>Each claim will be assessed by the claims assessor appointed by the fund.</p> <p>Claims will be met through rectification by qualified builders/tradespersons authorised to do so by the fund, or through the payment of the amount covered by the fidelity certificate.</p>	<p>Manager to report claims to the Trustees at each meeting of the Trustees.</p> <p>Trustees to report claims to the Commissioner of Fair Trading at the end of each financial year.</p> <p>Manager to authorise all payments in accordance with expense procedures.</p>

## Compliance Procedures – Service Providers

<b>Service Providers:</b>	Operational services, independent assessment, claims assessment, auditor, actuary
<b>Responsible Officer:</b>	Manager
<b>Frequency of Reporting:</b>	Quarterly
<b>Risk Category:</b>	High

Function	Risks	Procedures	Monitoring
Appoint and monitor service providers to ensure quality of service.	Break down in procedures due to poor service from an external service provider.	<p>Appointment of service providers qualified to provide the service. Obtain details of qualifications.</p> <p>Contracts with service providers that have been developed by the fund's lawyers and approved by the Trustees.</p> <p>Confidentiality agreements with service providers. Require the service providers to have confidentiality agreements with their staff.</p> <p>Development of service level agreement targets, including reporting and time frame requirements.</p> <p>The quarterly measurement of the performance of service providers against service level agreement targets.</p>	<p>Trustees to approve the appointment of all service providers. Decisions to be ratified in meeting minutes.</p> <p>Trustees to approve and sign all contracts.</p> <p>Breaches of confidentiality agreements to be reported by the manager to the Trustees at the first meeting after the breach is detected.</p> <p>Manager to report the performance of service providers in the Compliance Officer's report to the Trustees on a quarterly basis.</p>

## Compliance Procedures – Capital Adequacy

**Capital Adequacy:** Financial reserves  
**Responsible Officer:** Manager  
**Frequency of Reporting:** Monthly  
**Risk Category:** High

Function	Risks	Procedures	Monitoring
<p>Ensure the fund's financial assets are clearly identified as fund assets, are protected and maintained, and are held separately from the assets of any other entity or individual.</p>	<p>Financial reserves are lost through misappropriation or mismanagement.</p>	<p>All income transactions will be in accordance with income procedures. All payment transactions will be in accordance with expense procedures. This will ensure the protection of the fund's financial assets during the daily operation of the fund.</p> <p>Investment of the fund's financial assets in accordance with the investment strategy. The investment strategy will be in accordance with the law. Assets will be held and located in Australia, and investments will be in the form of real property, cash, secured loans, and fully paid securities of listed entities registered in Australia.</p> <p>Changes to the investment policy will be approved by the Trustees and will be in accordance with the law and the deed.</p> <p>The fund will obtain adequate insurance cover against loss from the negligent administration or fraud of officers or agents of the fund. The Trustees will review the adequacy of the cover annually, prior to the expiration of the policy.</p>	<p>Quarterly financial reports will be reported at meetings of the Trustees.</p> <p>Quarterly, the manager will obtain confirmation from the financial institution of the value of the investment.</p> <p>External audit will confirm the existence, value and adequacy of financial reserves.</p> <p>Actuary will confirm the fund's solvency, at least annually.</p>

**MASTER BUILDERS FIDELITY  
FUND SCHEME**

**CONTINGENCY PLAN**

**Submission Date: 12 June 2002**

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# Introduction

## Overview

This contingency plan (“the plan”) has been developed in order for the Master Builders Fidelity Fund (“the fund”) to comply with the requirements of the *Building (Approval criteria) Determination 2002* and the *Building (Prudential standards) Determination 2002*.

The plan documents the manner in which the Trustees will address any major administrative difficulty to ensure the fund can continue to operate with as little disruption and loss as possible.

The Trustees will ensure that, as far as possible, the necessary structures are in place to enable the plan to be implemented and put into operation if required.

The plan has been drafted by staff of the Master Builders Association of the ACT on behalf of the Trustees. The Trustees will review, amend and ratify the plan when the fund begins operation.

## Operating Structure

Various unforeseen and uncontrollable events may occur that can disrupt the operation of the fund by affecting the fund’s operating structure either in its entirety or part thereof.

The fund’s administrative structure is comprised of:

- (a) Office space;
- (b) Office equipment;
- (c) Specialised software programs;
- (d) Information, both in hard and soft format;
- (e) Staff skills;
- (f) Trustee skills; and
- (g) Consultant skills.

## Design

The plan is designed as a series of procedures to ensure:

- (a) The protection of data and skills; and
- (b) Access to sufficient financial reserves.

# The Plan

## **Data Protection**

The fund staff and consultants will collect and hold confidential information from applicants, including financial records. The Trustees recognise the importance of implementing procedures to ensure the protection of this information from:

- (a) Disclosure;
- (b) Misuse; and
- (c) Unplanned destruction.

## Confidentiality Agreements

All Trustees, staff and consultants will be required to sign confidentiality agreements. These agreements will be legally binding documents. The Trustees will initiate legal action for any breaches of the agreements.

The fund's lawyers will be requested to prepare confidentiality agreements when the fund receives ACT Government approval to begin operation.

The fund will use consultants for the independent assessment of applicants and for the assessment of claims. It is expected that such consultants will be companies rather than individuals. It will be a requirement that the consultants have in place confidentiality agreements with staff who will have access to the information.

## Privacy Policy

The fund has developed and implemented a privacy policy. The fund Manager has been delegated by the Trustees to act as the fund's privacy officer and is required to ensure the privacy policy is adhered to and policed.

The Master Builders Fidelity Fund is committed to upholding the National Privacy Principles contained in the Privacy Act 1988. Our manager is responsible for ensuring that our privacy policies are adhered to.

The Master Builders Fidelity Fund collects and stores information about applicants and owners to:

- ◆ Maintain the Fidelity Fund
- ◆ Comply with business, accounting and legislative standards

We are committed to maintaining the privacy of applicants and owners.

The Master Builders Fidelity Fund will use personal information to:

- ◆ Administer and manage the Fidelity Fund
- ◆ Provide information to Government and regulatory authorities as required to by law

### Privacy Policy (continued)

The Master Builders Fidelity Fund will disclose the information received from applicants to external service providers for the purposes of assessment:

- ◆ Financial assessors
- ◆ Claim assessors

These companies are strictly prohibited from using this information for any other purpose. We do not supply our database information for any purpose.

Applicants and owners have the right to access their personal information, subject to some exceptions allowed by law. For privacy and security reasons we ask that requests be put in writing. A fee is not normally charged for providing information. However, we reserve the right to charge for any extraordinary costs incurred in providing the information held in our records.

Any questions in relation to Privacy, please contact us by phone or in writing to the Master Builders Fidelity Fund Manager.

### Back-Up

Financial records of the fund must be retained for seven years after the end of the financial year to which the records relate. Whereas, other administrative records must be retained for ten years after the date of the document:

- (a) Minutes of a meeting of the trustees at which any matter relating to the fund is considered;
- (b) A record of a decision made by the Trustees in relation to any matter affecting the fund;
- (c) The document evidencing the change of a Trustee;
- (d) Any document which evidences the operations of the fund;
- (e) The Compliance Plan of the fund;
- (f) The Contingency Plan of the fund;
- (g) A copy of each Fidelity Fund Certificate issued;
- (h) A copy of all documents relating to the payment of a claim; and
- (i) Any other document that the Minister may, in writing, determine.

Such information can be stored in both soft and hard forms and must be protected through back-up and off-site storage of back-ups.

Software records, including but not limited to the database, the accounting system, and related word and spreadsheet files, are backed-up to a back-up medium at the end of each working day. Five back-up mediums will be required for each week:

- (a) Monday (labeled as Monday);
- (b) Tuesday (labeled as Tuesday);
- (c) Wednesday (labeled as Wednesday);
- (d) Thursday (labeled as Thursday); and
- (e) Friday (labeled with the week ending date).

### Back-Up

The Monday to Thursday tapes will be re-used for the next week's back-up. The week ending tape must be stored at the off-site security site for at least ten years after the date of the back-up.

Daily back-up tapes must be removed from the fund's office and stored [REDACTED]

Specialised software packages will be developed for the fund. A copy of these packages will be stored in the off-site security storage unit.

Paper-based files will be created for each applicant. These files will contain hard copies of all documents relating to that applicant, including, but not limited to applications, correspondence and file notes. These files will be stored in the fund's office in an appropriate order in a lockable storage unit. A list of all files will be created and maintained.

Duplicate copies of all files will be created and maintained. These duplicate files will be stored in the secure off-site storage unit. Monthly, the duplicate files will be updated.

Within the first month of operation the fund will obtain the following to ensure the prescribed back-up procedures are possible:

- (a) Rent of secure off-site storage unit;
- (b) Computer hardware for back-up of "soft" data;
- (c) Computer consumables on which to store back-ups;
- (d) Secure storage units for paper-based files; and
- (e) Sufficient stationery supplies for the creation and updating of paper-based files.

The service providers used by the fund will also hold data. It will be a contractual requirement that service providers have back-up procedures in place. The Trustees must approve these back-up procedures to ensure their adequacy.

### **Skills Protection**

The fund will rely on the skills of the Trustees, staff and service providers for efficient operation. The Trustees recognise the importance of protecting and retaining these skills.

### Trustees

The Trustees will be appointed to ensure the fund's management possess the necessary broad skills base. Replacement Trustees will be sourced and appointed with the resignation/removal of any existing Trustee. Replacement Trustees will have skills to compliment and augment the existing Trustees. All replacement Trustees must be approved by the Minister.

### Staff

The fund will be staffed by:

- (a) Manager (initially, a part-time position); and
- (b) Administrator.

Staff will be provided by the Master Builders Association of the ACT. Initially, the Manager will be an existing staff member with significant experience and knowledge of the industry and the Building Act. The Administrator will be specifically appointed on the basis of their administrative and accounting skills. Salaries will be set at competitive market rates to encourage staff retention.

In the event of staff loss, the fund will have access to other staff of the Master Builders Association of the ACT. This is a temporary measure until the appointment of replacement staff. The necessary skills are available among the staff of the Master Builders Association of the ACT who have been involved in the establishment of the fund.

### Service Providers

The fund will use the services of service providers for assessment of applications and claims. Contracts will be in place with the service providers to ensure the availability of their services. The fund will also appoint two service providers to provide application assessment, and two service providers to provide claim assessment.

The proposed application assessment service providers are the accounting firms [REDACTED]. The fund's lawyers will be requested to prepare contracts when the fund receives ACT Government approval to begin operation.

To date no claims assessment service providers have been proposed. Such service providers will be established within the first six months of operation.

### **Office Space**

To minimise controllable adverse incidents the fund will operate from secure office space. The office space will:

- (a) Be in a non-remote location with access to services;
- (b) Be manned at all times during business hours;
- (c) Be designed so public access areas are separate from the working and data storage areas;
- (d) Have controlled after hours access through the use of security alarm codes and keys. Access codes and keys will only be issued to the fund staff and cleaning personnel; and
- (e) Fire control monitoring by a reputable provider.

The fund plans to rent office space from the Master Builders Association of the ACT, where suitable areas available.

### **Office Equipment**

The fund will acquire office equipment and services to allow the efficient operation of the fund. This includes, but is not limited to:

- (a) Desks and chairs;
- (b) Storage units;
- (c) Facsimile machine;
- (d) Telephones and telephone services;
- (e) Computers;
- (f) Appropriate software;
- (g) Printer;
- (h) Photocopier;
- (i) Electricity; and
- (j) Email and internet connections.

The fund will maintain a register of all fund assets and ensure that assets are:

- (a) Protected from theft, damage and misuse; and
- (b) Maintained in good working order, including entering maintenance agreements where required.

### **Insurance**

Insurance policies will be put in place to cover all assets of the fund, both physical and financial. A contents policy for the physical assets of the fund will ensure the fund has access to funds to allow the replacement of damaged, destroyed or lost assets. An indemnity policy will protect the funds of the assets from legal action taken against the fund for the actions of the trustees and staff of the fund.

### **Financial Reserves**

The Trustees have prepared estimated financial figures for the first twelve months of the fund's operation. On the basis of these estimates the Trustees are confident that there will be funds in excess of the required capital reserves. This will enable the timely replacement of office space and assets if required.

## **Monitoring**

The Trustees will review the adequacy of the plan, quarterly in the first year of operation, and annually thereafter. Amendments to the plan will be ratified in the minutes of a meeting of the Trustees. The amended plan will be provided to the Minister within 14 days of its approval by the Trustees.

The Trustees will also monitor compliance with the plan by Trustees, staff and service providers. This monitoring will be through:

- (a) Reporting of material breaches of procedures by the manager; and
- (b) Reporting of system failures by the external auditor.

## **Breaches of Procedures**

The fund has developed a Procedures Manual to provide a framework in which the Fund operates, to ensure efficiency and accountability. This framework prescribes the procedures that must be followed by the fund staff, management and service providers. Any significant and material departures from these procedures will be investigated and reported to the Trustees by the fund Manager. The Trustees will be required to ensure appropriate action is taken to rectify the breach and to ensure that such breaches do not occur in the future.

## **External Audit**

It is a requirement of the governing legislation that the fund appoint an independent auditor who is approved by the Australian Prudential Regulation Authority under Section 46 of the *Insurance Act 1973 (Cth)* as a person who may audit the accounts of entities carrying on insurance business. This auditor must perform an audit of the fund every three months in the first year of operation, and annually thereafter.

The proposed auditor is RSM Bird Cameron, as it has been established the firm is suitably qualified and experienced. The Trustees will begin the process to appoint the auditor when the fund receives ACT Government approval to begin operation.