



ASIC

Australian Securities & Investments Commission

Licensing for Financial Service Intermediaries

An address by Ian Johnston, Executive Director, Financial Services Reform, ASIC, to the IBNA Conference, 12 September 2002, Darwin.

Good morning and thank you for the opportunity to speak with you today.

My topic is licensing, but I also propose to address financial services reform more generally: not so much from a technical aspect, but rather addressing how and why this framework of regulation was arrived at, what our expectations of industry are, our experience with licencing to date and also touch on some topical FSRA issues for the General Insurance industry.

Let's start by revisiting how FSRA came about. In 1996 the Australian Government established an Inquiry into the Australian Financial System to review the significant changes to the regulatory framework since the Campbell Committee Inquiry in 1981. The "Wallis" Inquiry, as it became known, was to review these developments, consider the factors likely to drive further change, and to make recommendations for possible further improvements to the regulatory arrangements¹.

The Treasurer provided the following mission statement:

"The Inquiry is charged with providing a stocktake of the results arising from the financial deregulation of the Australian financial system since the early 1980s. The forces driving further change will be analysed, in particular, technological development. Recommendations will be made on the nature of the regulatory arrangements that will best

¹ FSI Report Overview, page vii

ensure an efficient, responsive, competitive and flexible financial system to underpin stronger economic performance, consistent with financial stability, prudence, integrity and fairness.”²

This era of accelerated change experienced since the early 80’s stemmed from rapid technological innovation and an evolving business environment together with longer-term changes in customer needs and profiles, which are gradual but powerful influences on financial sector developments. We are progressively seeing a greater array of industry participants, products, distribution channels, competition emerging from new providers of financial services and increasing globalisation of financial markets.³

The Wallis Committee reported in March 1997, and some of the key recommendations, for our purposes today, included:

- Corporations Law, market integrity and consumer protection should be combined in a single agency. This resulted in the establishment of the Australian Securities and Investments Commission (ASIC) in 1998, which combined the roles of the old ASC, Insurance and Superannuation Commission and Australian Payments System Council. Amongst other responsibilities the new ASIC was to be responsible for the administration of all consumer protection laws for financial services.
- Disclosure requirements should be consistent and comparable
- Profile statements should be introduced for more effective disclosure, including about offers of retail financial products.
- A single licensing regime should be introduced for financial sales advice and dealing
- A single set of requirements should be introduced for financial sales and advice which include:
 - * Minimum standards of competency and ethical behaviour
 - * Requirements for the disclosure of fees and adviser’s capacity
 - * Rules on handling client property and money, and
 - * Financial resources or insurance available in cases of fraud or incompetence;
- Responsibilities for agents and employees.

² FSI Report Overview, page vii

³ FSI Report Overview, page 3

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- Regulation of collective investments and public offer superannuation should be harmonised
- (ASIC) should have broad enforcement powers and
- Regulatory agencies should have operational autonomy.

The Inquiry recommended that the framework based on four institutional regulators be replaced by three agencies established on functional lines: the RBA, APRA, with responsibility for financial safety and prudential regulation generally and of course ASIC, with responsibility for market integrity, consumer protection and corporations.

ASIC's role concerns the relationship between institutions and individual consumers. ASIC aims to look after consumers ensuring they receive proper disclosure, are dealt with fairly by qualified people, continue to receive useful information about their investment or product and can access proper complaints-handling procedures. Our statutory mandate of corporate regulation includes regulating the conduct of directors and other office bearers, reviewing disclosure to the market through annual reports and regulating other company activities such as insolvent trading. ASIC also regulates conduct, disclosure, complaints handling and other consumer protection issues arising from the provision of financial product advice.

I have taken time today to revisit Wallis because the original ethos behind Wallis and indeed the drivers behind the FSRA sometimes get forgotten. It might be argued that FSRA has moved beyond those early objectives, but they have nonetheless driven the form of the legislation.

ASIC regulates the financial sector under governance by Commonwealth Treasury. For those of you that have been in the industry for some time, it may be apparent that the regulatory emphasis has moved away from black letter enforcement to setting high industry standards and leaving it to industry to comply with the legislative requirements.

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Take for example the current regulatory framework: it is effectively three tiered. At the top sits the legislation, passed by Parliament, which has four general objectives:

1. Licencing: providing a barrier to entry
2. Disclosure
3. Competency
4. Know your client

The legislation as drafted is Principles based – as mentioned, the government have moved away from black letter law. The second tier is ASIC Policy and Guidance, which is also principles based, notwithstanding that we considered prescriptive guidance in some areas in the first instance.

The final tier is standards. Industry buy-in at this level is necessary to ensure appropriate codes of practice are developed and a best practice framework is set. We are seeing this currently with the PDS regime: when drafting the PDS Policy Statement, ASIC initially proposed a prescriptive policy, but pulled away from this so that the policy statement sets overall principles with detail to be determined by industry. IFSA have taken up this challenge and are working to develop industry guidelines for disclosure.

The risk, if industry does not develop standards and best practice measures, and indeed comply with those standards, is that the Government will see fit to address this gap with more prescriptive legislation. This means industry loses the flexibility that the current principles based regulation affords. The legislation is designed to enable you, as financial services providers, to keep pace with international and domestic developments in the Financial Services Sector and offer a level playing field between you and your competitors.

It goes without saying that we need a well-resourced regulator to be able to approach the job in a way that focuses on industry self-compliance: in particular we ascribe to the theory that good regulation requires well-resourced enforcement – otherwise if things go increasingly wrong we will be required to pull away from principle based regulation and the Government will return to black letter law.

We support the flexibility offered by the current regulatory arrangement and therefore naturally encourage you to comply for the sake of both your industry and the future of your individual

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businesses. In this regard, compliance includes minimum compliance with the law and development of, and adherence to, industry best practice: otherwise, as well as additional layers of regulation, there will be additional costs of regulation, which will be borne by industry.

From a global perspective, Australia is leading edge in implementing a twin-peaks regulatory regime – prudential and conduct regulation split between two regulators - and many countries are watching with interest to see whether this regime delivers what is expected of it. Likewise, FSRA is a first in implementing a single licensing and disclosure regime, and many of our fellow regulators abroad are viewing this process and legislation as a favourable precedent. This places a responsibility on ASIC to be a leader in regulation across all sectors.

Most of our regulated population, and the consumers we are working to protect, want effective, responsive and consultative regulation that maintains Australia's relevance in a global market and manages public expectations. We know that you will be watching our performance on financial services reform closely, particularly as to how we deliver on our longstanding commitment to honest and competent advice and disclosure.

Consumers are more actively participating in the financial services marketplace. Retail participation in investment markets remains high although lacking depth and diversification. Consumers are exercising their rights and expect high and possibly unrealistic standards of protection, especially in superannuation. In this regard, we are working to help consumers make more informed decisions.

What all this is really saying is that, in order to regulate effectively, ASIC needs to keep across industry issues and be in a position to appreciate and respond to industry concerns. In recognition of this ingredient for good regulation, we adopted a consultative approach to implement FSRA. We consulted heavily with various financial services industries as to the practicality of the policy proposals.

Our regulatory approach is sometimes criticised by industry as being too tough, or too impractical. The example that comes to mind is our Policy Statement 146. Wallis said that we needed competency requirements; FSRA enacts these but it is up to ASIC to set the standards. We then were faced with three options: we could implement no standards, wherein we would have had an industry rife with rogue operators, probably unfairly bringing

disrepute to industries that have worked hard to build credibility and professionalism. We could have required Authorised Representatives to sit exams every two years, imposing burdensome obstacles on industry: or we could craft the training requirements around the existing requirements. We chose the last option as the most pragmatic and reasonable option to maintain a standard of competency and ensure consumers were offered a level of protection.

FSRA is the final stage of Wallis reform implementation, and the most significant reform experienced by the financial services sector.

The Act affects the general insurance, life insurance, superannuation, and deposit taking industries as well as investment advisors, dealers, responsible entities and market makers.

In essence, the FSRA provides a single regulatory regime for financial products and services, financial markets and clearing and settlement facilities.

I covered the objectives and origins of FSRA earlier when referring to Wallis – in more detail, the FSRA objectives are to promote firstly, confident and informed decision making by consumers of financial products and services while facilitating efficiency, flexibility and innovation in the provision of those products and services. It is also intended to promote fairness, honesty and professionalism by those who provide financial services and create a fair, orderly and transparent market for financial products. The final objective is to reduce systemic risk and provide fair and effective services by clearing and settlement facilities.

Considering the Wallis recommendations and the final FSRA objectives, it is interesting to opine on whether the initial objectives of CLERP 6 are the same as the final objectives of FSRA. Some have argued there has been a change of focus, while others believe that since its genesis in Wallis, the legislation has had consistent aims.

The initial CLERP 6 consultation paper focused on "a more efficient and flexible regime for financial markets and products achieved through an integrated regulatory framework for financial products. This to provide consistent regulation of functionally similar markets and products." The aim was to remove the piecemeal, varied and sometimes duplicative regulatory and licensing regimes in favour of a single regime, and to increase cost

efficiencies and enhance disclosure to financial sector consumers. The critical recommendation of Wallis was to move from sector based regulation to the Twin Peaks (ASIC/APRA) model discussed earlier.

Whilst there is a consistency of theme from Wallis to FSRA, the initial Wallis drivers of converging markets, greater competitive neutrality and increased confidence in the integrity and safety of the system arguably lost ground to an increased consumer protection focus.

With the Financial Services Advisory Committee (FSAC) to report on whether the Wallis recommendations are achieving what they set out to achieve and the Parliamentary Joint Committee on Corporations and Financial Services also conducting hearings regarding the regulations and ASIC policy statements made under FSRA, we await with interest the views on how FSI and FSRA marry up. It will be interesting also to keep abreast of industry's judgment of whether FSRA delivers the key benefits promised.

The FSRA objectives drive a number of outcomes: Firstly, harmonisation of regulation of all financial products including managed investments, superannuation, general and life insurance, securities, futures and derivatives, foreign exchange and deposit accounts;

Secondly, provision of a single licensing framework for financial sales, advice and dealings for financial services and uniform licenses for the authorisation of market operators and clearing and settlement facilities. This means three new types of licence will be created by the FSRA, the most common of which will be the Australian financial services licence (AFSL).

The final outcome is the provision of a consistent and comparable disclosure regime across all financial products.

FSRA Licensing

All this is (hopefully) old news to the majority of you but it is important that you understand the extent of the reforms because FSRA **will** affect most, if not all, of you because you provide a financial service.

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Providing a "financial service" includes giving advice on financial products, dealing in financial products or engaging in conduct prescribed by regulations. The majority of financial products are caught, including Life and General Insurance, Securities, Futures, Superannuation and Managed Investments products, however the Act lists a number of specific inclusions and exclusions, and exempts certain persons from having to hold a licence.

Let me just remind you of the key obligations of licensees under FSRA. They are to:

- Act efficiently, honestly & fairly
- Comply with licence conditions: Remember that there are licence conditions both in regulations and the ASIC licence, and that the licence will not reflect the conditions in the regulations
- Comply with financial services laws: "financial services laws" is a wide concept
- Ensure your representatives comply with financial services laws. Compliance applies to actions of licensee and on behalf of the licensee
- Unless APRA regulated – have adequate financial, human, IT resources
- Maintain competency to provide the services
- Ensure your representatives are adequately trained and competent
- Where your services are to retail clients – have a complying dispute resolution system
- Unless APRA regulated – have adequate risk management systems
- Have satisfactory compensation arrangements

ASIC's role is not to draft the legislation (Treasury does this) but to implement the legislation. We are conscious of the changing nature of the Australian financial sector, and in particular the extent to which globalisation and increased cross-border activity by product issuers and service providers has an impact on our markets. It is not realistic to expect that legislation can be drafted in a way that will be capable of incorporating this change. Regulatory flexibility will inevitably be needed to provide clarity and certainty, to prevent unintended consequences, and to promote the objectives of the law.

The challenge for the regulator in the exercise of its discretion is to implement the legislation by ensuring that there is sufficient certainty for market participants as to how the

proposed changes will be implemented and/or enforced, whilst maintaining sufficient flexibility to facilitate innovation and promote business. In meeting this challenge with FSRA, we have developed policy and guidance to assist industry with applying the legislative provisions to their individual circumstances.

FSRA policy has been developed in consultation with industry members and industry bodies. The end result of this process has been a number of FSR specific policy statements and guides covering all manner of subjects including Disclosure Principles, Licensee Requirements, Advice and Dealing, Dispute Resolution and our use of discretionary powers. All of these publications are available on our website (www.asic.gov.au) and through commercial publications, and I therefore don't propose to canvas these in detail today.

I will however touch briefly on a number of issues that are, in some cases topical and in others, controversial. Naturally, new issues arise in the period immediately following commencement of legislation – especially legislation such as FSRA, which imposes widespread industry changes. With seven months under our belt, a number of issues have yet to be resolved and new ones have emerged. Some of these specifically affect the GI industry:

Hot issues for the General Insurance Industry

Mutual Aid and Discretionary Trust arrangements

With the current issues regarding availability and affordability of insurance, we have seen an increase in the popularity of mutual aid schemes or discretionary trust arrangements as an alternative insurance or risk management solution for businesses – particularly where professional indemnity and public liability, attracting high cost premiums, are concerned.

These organisations often manage financial risk by offering to provide cover for members similar to the first tier of insurance usually purchased. In essence, member's resources are pooled to provide coverage to the membership, but claims are paid at the discretion of the scheme and only if funds are available. It is also common for these schemes to obtain re-insurance cover similar to that obtained by an insurer.

Due to the discretionary nature of claims payments these 'products' are not viewed as being insurance in nature and therefore have escaped prudential supervision to date. The collapse of UMP (United Medical Protection) and its catastrophic consequences for the medical fraternity has highlighted the need for these arrangements to be suitably regulated. I note that Treasury and APRA have met with MDOs (Medical Defence Organisations) to discuss reforms regarding medical indemnity and options to bring these arrangements within APRA's general insurance framework.

If you are a member of a mutual aid scheme or discretionary trust, or propose to enter into or operate an arrangement of this type, please note that you will be captured by FSRA as these arrangements 'manage financial risk' and therefore must comply with the relevant legislative obligations regarding disclosure and licensing.

Binder arrangements

There has been some debate as to what financial services activities are covered under a binder. In section 761A of the FSRA, a binder means "an authorisation given to a person by a financial services licensee who is an insurer to do either or both of the following: enter into contracts that are risk insurance products on behalf of the insurer as insurer; or deal with and settle claims, on behalf of the insurer". We have sought legal advice on the meaning of "enter into contracts" and early indications are that this does not cover the activity of providing advice, but will cover dealing activities.

Professional Indemnity

There are a number of insurance brokers whose professional indemnity insurance has not been lodged with ASIC, or has been provided on terms outside of the legislative requirements set out in IABA (Insurance Agents and Brokers Act). ASIC is planning to undertake a review of those brokers whose PI details are incomplete or flawed and you probably don't need to be reminded that no PI means no business!!

Treasury has issued its draft Issues and Options paper on Compensation For Loss in the Financial Sector and have asked for comments by 8 November. This paper seeks to explore the need for compensation arrangements as well as what are that appropriate compensation mechanisms for consumers moving forward. However, until the

Compensation Arrangements Policy is finalised your existing IABA PI requirements remain unchanged.

Finally - a controversial favourite: the one and only PS146.

PS146

You will recall that policy statement 146 was issued in late November 2001 and sets out minimum training standards for people who provide financial product advice to retail clients. You will have noticed also that the final policy statement remains committed to the general approach of Interim Policy Statement 146. Financial products included in Tier 2 broadly include consumer credit insurance, basic deposit products, non-cash payment facilities, as well as general insurance products except for personal sickness and accident.

We have attempted to simplify compliance dates, by dividing the various compliance dates into three main groups depending on the type of financial products on which advice to retail clients is provided. You will need to refer to the Table of compliance dates in the Policy statement, but to give a broad idea: Advisers such as financial planners who advise on securities, MIS, public offer super etc were required to have met the training standards by the 30th June 2002 – no extension to this date was given.

Licensees who provide financial product advice must ensure that all natural persons who provide financial product advice on their behalf (including the licensee, if it is a natural person) meet the training standards, by the correct compliance date. These dates may be before or after the licensee has transitioned.

How does PS 146 apply to trainees/office staff/adviser assistants? We will not require that certain staff providing certain kinds of financial product advice meet the training requirements set out in PS 146. These representatives are customer service representatives and para-planners, where these representatives meet certain requirements. I will focus on customer service representatives, noting that para-planners aren't common in your industry.

Customer service representatives who are only providing financial product advice derived from a script do not have to meet the training standards. If advice is required outside the script – this must be referred to a party who meets the training standards. Naturally

customer service operators must be monitored to ensure they are only operating within the scripted limits.

Pre-1995 training:

Advisers who have completed training that is listed on the ASIC Training Register (before 1 January 1995) will generally need to demonstrate that their knowledge and skills are complete and current, particularly in the areas of regulation, compliance and disclosure. This means producing evidence of relevant continuing training or undertaking approved supplementary or gap training.

A number of pre-1995 training courses were submitted by Industry this year for approval to be added to the ASIC Training Register. A number of these have been approved by NFITAB.

Non-compliance with training requirements

After the applicable compliance date, an adviser who does not meet the training standards must not provide advice to retail clients in any area or on any product. I've noted that this deadline was not extended – an Information Release to this effect was issued in June and also addressed queries we had received about particular circumstances as at the compliance date - such as what happens when you are awaiting exam results on the due date – in this case, a licensee will not be in breach if the advisor continues to operate under their Proper Authority.

It is the responsibility of the licensee to ensure advisors comply with the training requirements of PS146 and therefore provide sign-off to an adviser that they have met the requirements. ASIC does not confirm in any form that an adviser has complied with the training standards of PS146 – this responsibility rests with the licensee as part of its obligations under FSRA.

The body responsible for approving training courses is not ASIC – this is done by NFITAB.

And a final note on PS146: Our experience with FSRA to date indicates that people are not reading the policy statement before making enquiries of ASIC about training type issues. If you are required to deal with 146 issues, I encourage you to read the Policy

statement, refer to the Q and A's on our website (as your question may already have been asked and answered) and to generally avail yourselves of the guidance we have issued to make the transition to FSRA easier for yourselves.

FSRA: ASIC Expectations

Our goal is to facilitate the smoothest possible transition to FSRA – both from our perspective and for industry. To achieve this, ASIC has a level of expectation of industry.

- Surveillance/enforcement from Day 1

We are taking our usual approach to deliberate non-compliance and systemic non-compliance, that is, we consider breaches like this as serious and will use our whole regulatory tool box to address these breaches, including enforcement.

For those people who are genuinely trying to comply we will take this into account, particularly if there has been some legal uncertainty. We fully expect industry to report breaches. We expect to be notified of non-compliance and reasons why, and also of what action has been undertaken to address the breach.

- Relief applications

We expect to receive numerous applications for relief, due to the breadth of circumstances the legislation captures. From Day 1, relief applications have been, and will continue to be, assessed by appropriate staff, and we will monitor the applications we receive to establish trends. The trends may indicate that we can adjust our policies to reduce the applicants need to apply for relief.

- Licensing implementation

We expect that you will read the guidance and information we have issued on our website, before you go into our electronic licensing system to apply for an AFSL. Reading the information and FAQs from our website will prevent you making basic mistakes with your application, which will simply result in you having to re-apply.

In addition, we have updated FIDO so that it includes information relevant for consumers in relation to the impact FSRA will have on them and their relationship with their advisers, particularly in relation to the new disclosure requirements.

- Challenges/issues

And finally, we would like your understanding. A new law always comes with new terms and new questions. While we have provided some guidance in relation to the interpretation of certain terms. Whilst we are unable to provide specific legal advice to industry, we are responding to call for more assistance and are making changes to ensure we are in a position to offer more help to applicants. Implementation of FSRA has already demanded, and will no doubt continue to demand, high levels of ASIC resources in order to see the transition through.

We are committed to ensuring our staff are sufficiently trained and have the requisite knowledge and capabilities to deal with the ongoing fluctuation of licence applications and other issues.

Lets talk specifically now on licensing.

In the seven months since commencement we have received applications from a mix of financial planners, general insurance brokers and wholesale distributors. Of these applications, the majority have been new applicants, requiring full assessment.

We attributed the low approval rate in the early months to two key factors: one being a lack of understanding on the part of applicants, and the other factor being our own assessment procedures. Our priority is reducing the length of time it takes to issue a licence and we are seeing improvements in this regard.

It appears that applicant's misunderstandings arose most commonly in relation to specific transitioning issues. I thought it would be helpful to take you through some of those misunderstandings, which are preventing people from transitioning across smoothly.

* Many applicants do not appear to understand the difference between streamlined assessment and composite assessment

If you:

- hold a pre-FSR licence or insurance broker registration and
- you want to be authorised to provide *the same* financial services and products you're currently authorised to provide, then

you may be entitled to an AFS licence under the **legislative streamlining** process, and generally won't need proofs.

For more on legislative streamlining, see *Licensing and disclosure: Making the transition to the FSR regime — An ASIC guide* (Oct 2001) and more recently, the April 2002 publication on *Making the transition to an AFS Licence: pre FSR licences and insurance broker registrations*.

- If you are not entitled to legislative streamlining we will assess your application against the statutory criteria in the Corporations Act (**ASIC licensing process**). Under this process, you will need to give us all required proofs, including criminal history or bankruptcy checks and resumes for nominated responsible officers.

If you hold a pre-FSR licence or insurance broker registration and you want to be authorised to provide more financial services and products than you are currently authorised to provide, then you may be able to use a **composite process** that combines elements of legislative streamlining and the full ASIC licensing process.

In this case, you lodge one application, which incorporates an application covering those products and services for which you are entitled to legislative streamlining, together with an application for a variation to extend the scope of your AFS licence to cover any other services and products that you intend to provide.

* ***Be clear about what authorisations you need***

Some applicants have selected *more or different* financial products than they were authorised to provide under their existing licence or registration, but tried to use the streamlined process.

Be aware that some definitions have changed under FSRA. For example, the definition of "securities" under FSRA is narrower than before, which has

resulted in some applicants unwittingly selecting a broader range of products than they were currently authorised to provide.

The old definition of securities included debentures and interests in managed investment schemes as well as shares, but the new FSRA definition only includes shares. So some securities dealers who hold restricted dealers licences to deal in securities (for example, debentures or managed investments) incorrectly selected “securities” ie shares in their application but they aren’t currently authorised to deal in or advise on shares.

Likewise, some securities licensees selected “insurance, miscellaneous and banking products” in their application but were not licensed to do so in the past. These dealers should have submitted *composite* applications, rather than trying to streamline completely.

Existing dealers licence holders who select “deal” only and not “deal” and “advise” won’t be able to continue to advise. The definition of “advice and deal” has been split and if you are conducting both activities, you must apply for *both* authorisations in your AFS licence application. See *Licensing: The scope of the licensing regime: Financial product advice and dealing: an ASIC guide*, Nov 2001.

Some applicants don’t understand what the authorisation to give “general advice” actually means. In some cases, the choice of “general advice” doesn’t add up in the context of the applicant’s business. For more about “general advice”, see:

- s766B of the *Corporations Act* and
- *Licensing: The scope of the licensing regime: Financial product advice and dealing: an ASIC guide*, Nov 2001.

If you select “general advice” without understanding what it means, you may delay assessment of your application while we ask you to give further information on the nature of your business.

- * We strongly recommend you study Policy Statement 164 on Organisational capacities, and ensure that you take steps to measure up to its requirements on systems, education and experience before you apply. You should also study Policy Statement 167 dealing with discretionary powers and licensing to work out whether you need a security bond.
- * Understand the difference between representatives and authorised representatives remembering that they are two separate things. Broadly, a representative is an employee or director of the licensee. An "Authorised representative" is, again, broadly, a person, external to the organisation, who is authorised to provide a financial service or services on the licensee's behalf.
- * If you have retail clients, it is expected that you will have a greater focus on consumer protection. As such, it has an impact on the authorisations you may receive on your licence and also on the proofs you may be asked to provide.
- * Only insurance multi-agents can apply for a qualified licence. A qualified licence only authorises providing advice and/or dealing for general insurance products, investment life insurance products and/or life risk insurance products. You must also provide the proofs asked for in your application (see our *AFS Licensing Kit*, Section 1).

When you have completed your application, check you've answered all the necessary questions both completely and accurately - incorrect applications will be returned (without the fee in some instances).

I am hoping that by giving a run-down on common misunderstandings to look out for, transition will be easier for you. Obviously we are not comfortable with the licence application success rate and have considered what measures we can take to improve it.

You may be aware that we have provided quite a lot of guidance to industry to date, such as articles highlighting common mistakes and giving technical advice, producing kit addendums as issues have come to our attention, addressing issues in industry liaison forums, and providing Q and A and FSRA Project office facilities to address queries.

Feedback from industry however is that this is not enough, and in response to this we are focusing on increasing the level of assistance to industry through additional measures, both internally and, where we can influence, externally – obviously whilst staying within the bounds of our regulatory ambit. This is a project that we are taking very seriously with a view to improving ASIC's responsiveness and guidance to industry, and increasing the transition rate – to avoid serious implications down the line for both ASIC and industry. The insurance broking industry has already benefited from specialised assistance with the issue of two Class Orders: Class Order 02/435, which ensures that the scope of an insurance broker's regulated activities includes dealing in, and advising on, insurance products of the kind in respect of which the person was registered under IABA, allowing streamlining under FSRA, and 02/734 which provides a timing concession regarding Insurance Broker Registration Renewals.

It has also come to our attention that a number of players are delaying their transition to FSRA because they are either not prepared and need to put in place compliance and risk management systems prior to making application, or are confused by policy and legal uncertainty – or are just plain intimidated by the assessment process and detail of the licensing kits.

Licensing tips

ASIC is taking steps to smooth the transition, but what can you do to help yourselves?

Aside from encouraging you to transition in one hit, we cannot emphasise enough the benefits to you of planning and applying early. Understand your business - identify each financial service and product that forms part of your business before you apply.

If you are uncertain as to aspects of the application process – use the facilities that have been put in place to assist you – policy, guidance, kits, Q and A's, FSRA Project office email. You should also approach your industry association and if necessary seek legal advice. Do not come to ASIC for advice on the authorisations you require – we cannot tell you this. The onus is on you to be compliant at the end of the transition period.

FSRA will no doubt bring about changes in the industry: while there is no reason to assume growth won't continue to be strong in the Financial Services Sector, we may see rationalisation or mergers across some industries to lower administration costs.

Those providers having to outsource some of their administrative responsibilities may incur additional expense.

Having said that, the overall implications of FSRA will vary across industries: some industries, for the large part, have participants already trained to the necessary competency standards and have in place adequate compliance systems. Others will need to take additional steps in order to comply. Australia has a very good and overall a compliant financial services market. FSRA improves that by setting high standards across the sector whereas up until now different standards have applied to various operators. I appreciate that FSRA maybe seen as adding yet another hurdle to what already seems at times to be an overly onerous regulatory regime – but the requirements are there to meet the key objectives of increased consumer protection and fairness, honesty and professionalism by those who provide financial services.