

Licensing Liaison Meeting

October 2015



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Welcome

Warren Day, Senior Executive Leader of ASIC's Assessment & Intelligence team

- Introduction
- ASIC's approach to licensing and professional registration
- ASIC's Innovation Hub

ASIC's Licensing Team

James Nott, Senior Manager, Licensing Operations

Peng Lee, Senior Manager, Licensing Legal & Policy

- The Licensing team
 - Our service charter, role, structure and resources
- Licensing report and statistics

Licensing report and statistics

Financial Year - 30 June 2015

- ASIC had 3,711 applications under assessment comprising:
 - 53% (1954) AFS
 - 31% (1153) Credit
 - 16% (604) Professional registrations

Licensing report and statistics

Financial Year - 30 June 2015 (cont.)

- Of the AFS and credit applications that we finalised:
 - 48% (1,798) were approved
 - 28% (879) were approved in a different form
 - 6% (204) of applications were rejected for lodgement
 - 10% (353) were withdrawn
 - 0.5% (18) were refused

Licensing report and statistics

Financial Year - 30 June 2015 (cont.)

- Of the 604 professional registration applications we considered, we registered:
 - 58 liquidators (27 liquidators and 31 official liquidators)
 - 203 auditors (80 company auditors and 123 SMSF auditors)
- ASIC also cancelled 507 SMSF auditors (426 who failed to comply with their SMSF auditor competency examination by 30 June 2014 (refer: [14-335MR](#))).

AFS Licences (inc. Limited licences)

- Current AFS workload - 397 applications (222 are licence variations) under assessment.
- For the full financial year 2015:
 - Half of all applications (full & variation) decided in 28 days (lapsed days).
 - 70% of all applications decided in approximately 50 days.
 - 90% approximately 120 days but the mean overall for FY2015 was approximately 58 days.

AFS Licences – Limited licences

- **Key statistics**
 - 188 applications received (92 returned prior to assessment)
 - 74 licences granted
- **Why are so many being returned?**
 - Incomplete applications
 - Not completing the required training
 - Not complying with ASIC requirements (INFO 179)
 - Not following guidance of membership bodies
- **The time to act is now!**
 - Lodge by 1 March 2016

Credit licences

- Credit matters on hand

Age	FULL	VAR	TOTAL
< 30 Days	32	8	40
30 – 60 Days	31	5	36
61 – 90 Days	18	4	22
91 – 180 Days	16	6	22
180+ Days	24	3	27
Totals	121	26	147



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Liquidators

- Liquidator matters on hand

Age	Registered	Official	Total
<30 days	2	2	4
30-60	5	4	9
60-90	1		1
90-180	2	2	4
>180	1		1

19



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Auditors

- Auditor matters on hand

Age	SMSF	RCA	AAC	Total
< 30 Days	13	6	1	20
30-60 Days	14	9	2	25
60-90 Days	30	1	2	33
90-180 Days	50	3	2	55
180+ Days	4	3	0	7
Total	111	22	7	140



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Service providers – How you can help your clients

Approach

- Innovators – Talk to us. Do it early
- Detailed transaction/money flow diagrams really help us
- Don't ask for authorisations you don't require
- Give us time to assess before calling (i.e. 30 days)
- Don't tell us what you think we want to hear
- Whole-of-ASIC approach to licence and registration assessment

Assess information

- Licensing's Report (esp. hot topics – FX, digital advice, consumer leases)
- ASIC speeches and Media release

How you can help your clients (cont)

Know your client

- We will look deep and wide

Gatekeepers

- We expect you to properly vet your clients
- Don't become a Top 3 indicator of risk
- Health check – how long are your matters taking?

Process improvement – AFS Licensing & professional registration

- ASIC's Licensing Kit (RG 1, 2 & 3)
- Industry guides – Applications for specific business models (e.g. financial planner, fund manager)
- Aim: Provide the required information up-front
- Aligned with statutory decision making process
- Re-engineering our professional registration assessment processes

Legal & Policy

- Governments response to FSI recommendations
 - ASIC approval for change in control of licensee
 - Fit and proper test
 - New licence conditions re internal systems
 - New banning power

Legal & Policy

- Organisational Competence (RG 105)
 - Responsible managers and responsible officers
 - RMs for hire
 - Does the RM have capacity issues?
 - Key person RM licence condition

Legal & Policy

- Licensee's continuing obligations (RG 104)
 - s912A(1) obligations
 - Licensees for hire
 - Technological resources – offshore and cloud
 - Outsourcing assessment

ASIC Investment Banks Team

Peta Stead
Senior Lawyer



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OTC Derivatives – Observations

- What is the applicant's business
- Who is doing what
- Does everyone have the right authorisations/approvals to do what they intend to do
- Is it real and is it ready
- Are the people named prepared to be responsible



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Suggestions

- Don't tell us what you think ASIC wants to hear, tell us what is actually going to happen
- Don't over rely on templates or trendy terms
- Make sure when other entities are involved in material ways they are ready to provide the service and are correctly authorised
- If you say it, be prepared to show it
- Don't look for a magic formula, there isn't one
- Be open, be honest, be aware

Powers and publications

- Licence cancellations and suspensions
- Infringement notices
- Stop orders
- Reports
- Public warnings
- Media releases

ASIC Financial Advisers Team

Rilyn Mosbey
Analyst



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ASIC's Financial Advisers Team

Our role

- Regulation of financial advisers
- External dispute resolution oversight
- Consumer protection policy
- Specialist resource for other ASIC teams

ASIC's Financial Advisers Team

Team members

- Financial advisers
- Accountants
- Lawyers

Collaboration with ASIC's Licensing Team

How we work together

- Collaborative approach
- Share information
- Specialist input for an efficient licensing process

Recent collaboration

- Digital advice
- Conflicted business models ('one-stop-shops')

Digital Advice

Digital advice – ‘robo-advice’

- Growth industry overseas and now here
- Start-ups and big players

Digital Advice

Regulatory considerations

- Best interest duty and scaling
- Testing of algorithms
- Training and competency
- Adequacy of compensation arrangements

Digital Advice

Regulation and guidance

- Technology neutral
- No lesser standard for robo-advice
- Current guidance applies
- Considering additional guidance
- Innovation hub
- Robo-advice taskforce

Digital Advice

Licensees - training and competency

- Considering RG 146 for Responsible Managers
- Understanding of algorithms
- Clear digital communication

Licensees – responsibility

- Understand the models
- Regular and sufficient testing

Conflicted Business Models (One-Stop-Shops)

Focus

- SMSF facilitators / advisers are a focus
- Identification of inherent conflicts
- Adequate management of inherent conflicts

Conflicted Business Models (One-Stop-Shops)

It's ultimately about quality of advice

- Management of conflicts
- Monitoring and supervision
- Representative training and competency

Conflicted Business Models (One-Stop-Shops)

Managing conflicts

- What conflicts can be avoided?
- Appropriate disclosure
- Undue promotion of related party services

Monitoring and supervision

- Increase monitoring and supervision activities
- Consider oversight and regularity of file audits

Conflicted Business Models (One-Stop-Shops)

Adviser training and competency

- Specialist courses / qualifications for advice providers

Possible licence conditions

- Independent review after a certain period

ASIC Investment Managers & Superannuation Team

Maan Beydoun/Michelle Reid
Senior Specialist/Senior Manager



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Who we regulate

- Part of Investors and Financial Consumers cluster
- Responsible for the regulation of:
 - 460 responsible entities and 3,656 managed investment schemes;
 - 859 Custodial services providers;
 - 150 platform operators;
 - 156 Superannuation trustees and funds for conduct and disclosure requirements; and
 - Exempt operators, including 727 foreign financial service providers.

Our team

- National team with a presence in Brisbane, Hobart, Melbourne, Perth and Sydney
- Applications and advice
- Scheme supervision 1
 - financial assets (NSW), mortgages, infrastructure (NSW), property (NSW) and hedge funds
- Scheme supervision 2
 - contract-based, timeshare, financial assets, infrastructure and property
- Superannuation
- Platforms and custodians

Our work

- Policy
 - Inwards – setting priorities, policies, projects
 - Outwards – regulatory guides and class orders
- Applications and advice
 - Relief applications
 - Registration of managed investment schemes
- Legal and policy advice
- Proactive compliance projects
- Reactive compliance
- Law reform and regulatory development



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Interaction with Licensing

- Greatest interaction involving registered managed investment schemes
- Areas of key interaction:
 - Registration of managed investment schemes
 - Technical and policy assistance
 - Relief applications
 - Change of control notifications
 - Surveillance referrals

Marketplace lending

- What is MPL?
 - Online platform for borrowing and lending by individuals (retail and wholesale) and businesses
 - No uniformity (different business models)
- Regulation of MPL
 - Mostly as registered managed investment schemes if offering to retail investors

Marketplace lending

- Risks to Investors
 - Nature (not a bank deposit product)
 - Creditworthiness
 - Inherent conflicts
- What is ASIC doing?
 - Internal ASIC working group
 - Proposing guidance to MPL operators and how to assist understanding of risks
 - Periodically surveying platform operators
 - Moneysmart explanation on MPL, key risks and increasing awareness

ASIC's Deposit Takers, Credit & Insurance Team

Melanie Spong
Senior Specialist



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Payday Lending and Consumer Lease

- Do's and don'ts when applying for a licence
 - Read Info Sheet 113
 - Don't add wish list of credit products
 - Say how you will comply (don't just restate the law)
 - No passing off as if you are still a franchisee
 - Don't give ASIC inconsistent information
 - Don't rely on template compliance packages



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Payday Lending and Consumer Lease

- Don't gloss over past conduct
- Don't nominate RMs without experience at required level and with adequate control
- Don't offer products outside the spirit of the law
- Don't call us, we'll call you