

## Existing and proposed measures to facilitate innovative fintech startups

STATUS QUO: We apply the existing framework, provide informal assistance and consider applications on a case-by-case basis

### MODULAR FINANCIAL SERVICES LICENSING

EXISTING

Seek an Australian financial services (AFS) licence by reference to service, client and product (you can choose)

#### Kind of service (examples)

- Financing advice
- Dealing
- Making a market
- Issuing a product



#### Kind of client

- Wholesale client
- Retail client



#### Kind of product (examples)

- Product class(es) (e.g. securities)
- Specific product (e.g. named managed investment scheme)

EXAMPLE: Two innovative businesses licensed since March 2015 who deal with wholesale clients only

### MODULAR CONSUMER CREDIT LICENSING

EXISTING

Seek an Australian credit licence by reference to kind of service (you can choose)

#### Kind of service (examples)

- Providing consumer credit
- Providing credit services



#### Kind of client

- Retail client

### OPERATE AS A REPRESENTATIVE OF A LICENSEE

EXISTING

- Provide financial services as an authorised representative of an AFS licensee (except as a product issuer)
- Provide consumer credit services as a representative of a credit licensee
- We do not have a preference about whether a business becomes a licensee or representative

EXAMPLE: We know of numerous fintech startups that are representatives of licensees

### ASIC APPLIES DISCRETION TO ORGANISATIONAL COMPETENCE OF LICENCE APPLICANTS

EXISTING

- We allow applicants to demonstrate why they have management with necessary skills and experience ('Option 5 of RG 105')

EXAMPLE: 15 potentially innovative businesses licensed since March 2015 where we have applied our general discretion

### ASIC'S INFORMAL ASSISTANCE TO FINTECH STARTUPS

EXISTING

- Since the start of ASIC's Innovation Hub in March 2015, we have provided informal assistance to 67 fintech startups
- During this time we have received 36 licence applications from innovative businesses (including 8 who received informal assistance). We have granted 16 new licences

### WAIVERS OR NO-ACTION LETTERS FROM ASIC

EXISTING

- We can consider applications for waivers from the law or no-action letters
- We can and have issued class or individual waivers relevant to innovative businesses

EXAMPLES: We have issued class waivers:

- to facilitate the use of generic calculators and risk tools
- to enable electronic disclosure as a default
- to allow low-value non-cash payment facilities to be provided without a licence

We have issued individual waivers from aspects of the managed investment scheme laws for marketplace lenders with retail investors.

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### ASIC PROPOSES ADDITIONAL GUIDANCE ON ORGANISATIONAL COMPETENCY

We propose to provide additional clarity on how we assess submissions about a responsible manager's knowledge and skills under Option 5 of RG 105 (i.e. whether licence applicants meet their organisational competence requirements).

### ASIC PROPOSES ADDITIONAL FLEXIBILITY FOR SMALL, HEAVILY AUTOMATED BUSINESSES

We propose to allow small, heavily automated businesses to appoint third parties who provide sign-off as responsible managers. Elements of this proposal include:

- sign-off must be lodged with ASIC at regular intervals
- only available to licensees who provide advice or dealing services to limited clients
- at least one responsible manager who makes significant day-to-day decisions must be nominated

### ASIC CONSULTS ON ADDITIONAL CLASS WAIVER FOR LIMITED SERVICE TESTING ('REGULATORY SANDBOX EXEMPTION')

We propose an industry-wide licensing waiver for limited financial services provided to a small number of retail clients. Elements of this proposed waiver include:

- the waiver would apply to advice and dealing services only for a period of 6 months
- the testing business must have a recognised sponsor ('sandbox sponsor')
- the service is limited up to 100 retail clients
- the waiver would allow up to \$10,000 investment per retail client in listed securities, deposits and simple managed investment schemes
- the service may have an unlimited number of wholesale clients, subject to a total investment cap of \$5 million
- the testing business must comply with a modified set of conduct and disclosure obligations
- the testing business must be a member of an external dispute resolution scheme
- the testing business must have adequate compensation arrangements
- the testing business must not be an existing licensee

***Businesses will still be able to request individual waivers for the testing of other services***