



ASIC

Australian Securities & Investments Commission

REPORT 466

ASIC's work to reduce red tape

January 2016

About this report

This report follows Report 391 *ASIC's deregulatory initiatives* (REP 391), which was released in May 2014. It reports progress on our deregulatory initiatives, potential new compliance cost savings identified in responses to REP 391 and initiatives identified through our internal processes.

This report also explains how we have integrated deregulation and reducing compliance costs into our work.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Disclaimer

This report does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

Examples in this report are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview

Key points

In the two years from September 2013 to September 2015, we have reported deregulatory savings of more than \$470 million per year.

We continue to take a multifaceted and flexible approach to ensuring that businesses and individuals we regulate can meet their obligations with a minimum of red tape.

This report outlines our everyday work reducing red tape, our progress on deregulatory initiatives and new measures we are pursuing.

Compliance cost savings

- 1 In the two years from September 2013 to September 2015, we have reported deregulatory savings of more than \$470 million per year.
- 2 These savings are from a range of initiatives to cut red tape, including ASIC waivers from the law.

About this report

- 3 This report follows from Report 391 *ASIC's deregulatory initiatives* (REP 391). It provides further information on our everyday deregulation work and the progress of our proposals in REP 391, and responds to new deregulatory ideas received in response to that report. It also updates our plans for future deregulatory work.
- 4 We continue to maintain red tape reduction and regulatory reform as a priority and will report on it in future—for example, through the Regulator Performance Framework and in our annual reports.

Our approach to reducing red tape

- 5 We continue to take a multifaceted approach to reducing red tape, consistent with the Government's regulatory reform agenda—reviewing existing regulations to improve and streamline them, cutting regulation where appropriate, eliminating unintended consequences of regulation, and ensuring efficient and effective operation of regulation and regulators.

- 6 Our statutory mandate obliges us to perform our functions and exercise ASIC's powers in the interests of reducing business costs. This means we aim to achieve legislative regulatory priorities with minimum cost to and burden on the businesses we regulate. We also aim to ensure that the regulatory framework can facilitate new and innovative businesses.
- 7 We administer complex and wide-reaching laws and we attempt to do this in the least onerous way possible. Nevertheless, we are constrained in what we can do to reduce the regulatory burden of statutory obligations.
- 8 To the extent we can, we use ASIC's powers and structure our operations to reduce red tape. The clear guiding principle for our deregulatory work is that compliance cost savings should outweigh regulatory risk, resulting in a small regulatory detriment at most.
- 9 We continue to cut red tape by:
- granting waivers (relief) from the law, where appropriate, which allows the law to apply flexibly and facilitate innovation;
 - advocating for and facilitating international recognition of our laws, which makes cross-border operations easier for business;
 - providing clear and detailed guidance to make it simpler for businesses and individuals to understand their obligations;
 - improving systems, such as our forms, website and lodgement facilities, to enable faster and better public interactions with the regulator; and
 - advocating for and making changes to the law, by identifying, consulting on and using ASIC's powers to modify or provide exemptions from the law, or by recommending changes to the Government that will have a deregulatory benefit.

Responses to REP 391

- 10 We released REP 391 in May 2014 to outline our deregulatory work, seek input on a set of proposals for regulatory reform and invite new deregulatory ideas. We received 36 submissions on REP 391. Non-confidential submissions have been published on our [webpage for REP 391](#).
- 11 These submissions included feedback on our ongoing deregulatory work and our proposed new initiatives. The submissions also included new suggestions to reduce red tape.
- 12 We have prioritised these suggestions based on compliance cost savings, potential regulatory detriment and complexity of the suggested changes, consistent with our overarching principle that there should be a small

regulatory detriment at most and that this should be outweighed by the red-tape reduction.

- 13 Although we received a number of specific suggestions, we did not hear that there were particular areas or particular regulations that were responsible for imposing overwhelming volumes of unnecessary red tape.
- 14 This reinforces our view that it is the accumulation of obligations that creates a red-tape 'burden', rather than any one area of regulation. As such, we continue to work on incrementally reducing unnecessary red tape.

B Our everyday work reducing red tape

Key points

Reducing red tape for the businesses and individuals we regulate is an important part of our everyday work.

This includes granting relief from the law and finding ways to continuously improve our processes.

We have worked to further embed reducing red tape, regulatory reform and deregulation into our everyday work. This means a greater focus on potential costs and benefits of our policies, efforts to reduce the burden of the administration of regulation, and advising the Government where we identify regulation that is not fit for purpose or imposes an unnecessary burden.

Individual waivers and relief

- 15 A significant part of our deregulatory work involves using our discretion to vary or set aside certain requirements of the law where there is a net regulatory benefit to doing so, or where we can facilitate business or cut red tape without harming other stakeholders. Our relief enables the law to apply more flexibly and facilitates innovations in products, services and transactions.
- 16 In 2014–15, we received more than 2,100 applications for relief. Of these, only 147 were refused. Reports on our relief are published regularly, highlighting examples of where we have granted or refused relief, including particular themes: see Report 449 *Overview of decisions on relief applications (February to May 2015)* (REP 449), our most recent report.

Compliance cost saving estimates

- 17 As outlined in Regulatory Guide 51 *Applications for relief* (RG 51), estimated compliance cost saving information is important to informing our decision making. We ask applicants, when applying for relief, to provide ASIC with dollar estimates on the cost of compliance if relief were not granted, as well as the potential costs and benefits if relief is granted. Not including this information in the application may result in a delay in deciding on or a refusal of the application: see RG 51.59.

Providing additional information to support your relief application

- 18 We are streamlining the process for granting relief to ensure that applications are assessed as quickly and efficiently as possible. That means that if we ask

for additional information from you and you do not respond, we will give other applications priority and may even refuse your application if the information is not provided within a specified time period.

Regulator Performance Framework

- 19 In June 2015 we published our evidence metrics for the Government's Regulator Performance Framework, which is designed to identify, measure and reduce, over time, the burden on regulated entities that arises from the way we administer regulation.
- 20 For example, we will report on our transparency, how we work with other regulators and our communication with regulated entities.
- 21 This framework focuses on one aspect of our performance—the extent to which we minimise regulatory burden in the course of fulfilling our other activities. We are also enhancing reporting of our performance more broadly under the *Public Governance Performance and Accountability Act 2013*. Our new performance framework is set out in *ASIC's corporate plan: 2015–16 to 2018–19*. We will begin this reporting in our 2015–16 annual report.

Continuous improvement and innovation

A culture of good regulatory reform

- 22 We follow the *Australian Government Guide to Regulation*, which aims to help policymakers think about regulation and to inform the consultation and policymaking processes. We pay particular attention to the 10 principles for Australian Government policymakers. We have a good history of complying with best practice regulation requirements, because these principles are embedded in our internal policy processes.
- 23 We have worked at ingraining deregulatory thinking in the organisation through internal communications and strong Commission direction. Our communications plan includes regular speeches, an intranet presence and a dedicated mailbox for grassroots deregulation ideas.

Engagement with the regulated population

- 24 We seek input from and listen to our regulated population in day-to-day policymaking by consulting on all significant guidance, rules and relief. We also engage with them specifically on deregulation through our reports on this work.

- 25 A good example of our regular engagement is our work on employee share schemes. When we first provided this relief it was focused on less complex schemes, where employees were offered shares or options over shares in their listed company employers. We reviewed our relief and guidance in light of market developments and changes to the tax environment.
- 26 We concluded that we needed to make changes to meet our goal of facilitating employee incentive schemes where they are intended to enable employees to participate in the financial success of the company, including extending the application of our relief beyond just shares.
- 27 Following consultation, we expanded the types of products that can be offered, the categories of people who can participate and the structures that can be used when offering employee incentive schemes. We estimate this will result in compliance cost savings of more than \$3 million per year, from a reduced need to prepare disclosure documents, comply with auditing obligations, and comply with more detailed administrative requirements (such as having to provide ASIC with copies of anonymised offer documents).

Ongoing monitoring and measuring

- 28 Along with our monitoring of the impact of our work on our regulated population through the Regulator Performance Framework (see paragraphs 19–21), we also continue to identify deregulatory cost savings and provide regular reporting to Government.
- 29 There is also a mechanism to review regulations we create; the ‘sunsetting’ process of many of our legal instruments ensures they are reviewed periodically and can be removed or changed if required: see paragraphs 59–60.

Recognising new and innovative businesses

- 30 As well as our work granting individual relief for unique transactions and businesses, we have established an Innovation Hub to provide innovative start-ups operating in the financial system with assistance during the licence-application phase and during their first year of being licensed. This will ease the compliance burden for those businesses that are in the early stages of interactions with the regulatory framework administered by ASIC.
- 31 We also continue to look for ways to make the regulatory framework operate more efficiently for businesses, particularly in light of the ongoing structural changes in the industry. For example, we have worked with Treasury to reform market licensing to support the type of more flexible (tiered) arrangements seen in other major jurisdictions. A more flexible market licensing framework will be essential to accommodate developments in markets, such as crowd-sourced equity funding, peer-to-peer lending and over-the-counter (OTC) platforms. The Corporations Amendment (Crowd-

sourced Funding) Bill 2015 is currently before Parliament. This will provide exemptions from certain financial market obligations, giving the ability to offer more tailored regulation of financial markets and clearing and settlement facilities.

Responding to new obligations

- 32 When new obligations are created, they can sometimes impose an unanticipated regulatory burden. Where we can, we consult with affected participants to find ways to ease this burden.
- 33 For example, Part 5.12 of the ASIC Market Integrity Rules (ASX Market) 2010 and ASIC Market Integrity Rules (Chi-X Market) 2010 imposed the 'short sale tagging obligation'. This obligation applies to a market participant that places a short order for (or reports a short sale of) s1020B products on the relevant market. This obligation was due to commence on 28 July 2014.
- 34 We repealed the short sale tagging obligation before it commenced. Market participants are now able to continue with end-of-day reporting under the current law. We estimate this would result in approximately \$13 million in compliance cost savings.
- 35 Similarly, there was uncertainty about whether term deposits that require a notice period of 31 days meet the definition of 'basic deposit product' under the *Corporations Act 2001* (Corporations Act). If they are not basic deposit products, they would be subject to more rigorous regulatory requirements.
- 36 We gave conditional relief to enable 31-day notice term deposits of up to five years to be treated as basic deposit products under the Corporations Act.
- 37 We estimate this will result in annual compliance cost savings of around \$77 million per year.

Your feedback

- 38 We consider that there are always ways we can do things better and make complying easier for the people and businesses we regulate, so we welcome further feedback.
- 39 We are particularly interested in hearing whether the way we administer the law (rather than the law itself) imposes an unnecessary compliance burden. Specific and detailed feedback is the most useful to us, and any estimates of the time burden or compliance costs would be welcome.
- 40 If you have further suggestions for regulatory reform, cutting red tape or reducing regulatory burden, please email us at deregulation@asic.gov.au.

C Progress on our deregulatory initiatives

Key points

We outlined a number of planned or in-progress deregulatory initiatives as part of REP 391.

Most of these deregulatory initiatives were supported in submissions to the report. This section provides an update on the progress of those initiatives.

Forms

- 41 In REP 391, we listed a number of forms (i.e. forms we use to collect information from our regulated population, that are either prescribed in legislation or by ASIC) that we proposed to remove, consolidate or simplify. These proposals were generally welcomed in submissions, and a number of new suggestions in submissions also related to consolidating, pre-filling or improving forms.
- 42 In some cases, submissions suggested that the information gathered by particular forms that we had identified for removal was used by other stakeholders. We will not proceed with removing these forms at this time.
- 43 For the remaining forms, we are removing or amending these as time and resourcing permits. In October 2014, we removed from our website Form 142 *Cover sheet for friendly society disclosure* and Form 907 *Presentation of triennial statement by an auditor*. Removing these forms will reduce the total volume of forms available, and therefore limit possible confusion and complexity in identifying relevant forms.
- 44 We have been working to increase the use of online services for notifications of changes to company details, which is the most commonly lodged paper form. From 31 October 2015, the company annual statement pack no longer directs companies to lodge forms by mail to change company details—the pack now advises office holders to notify changes using the online version of Form 484 *Changes to company details*—and on 24 November 2015 we removed the ‘paper’ copy of the Form 484 from our website to limit circulation.
- 45 We have moved Form FS76 *Limited Australian financial services licence—annual compliance certificate* online. This form is now pre-filled from Form FS70 *Australian financial services licensee profit and loss statement and balance sheet* and prompts limited Australian financial services (AFS) licensees to complete it. This change will make it easier for limited AFS

- licensees to meet their obligations, and reduce the incidence of erroneous lodgements.
- 46 We also made changes to the Product Disclosure Statement (PDS) in-use notice forms—Form FS88 *PDS in use* and Form FS90 *Notice that a product in a PDS has ceased to be available*—which will reduce the time taken to complete these forms from two hours to one-and-a-half hours (Form FS88) and one hour to 45 minutes (Form FS90).
- 47 In July 2015, we completed roll-out of a market entity compliance system (MECS), an online portal for market participants and operators. This portal makes it easier for market participants to electronically manage their relationship with ASIC (including applications and notifications) and helps them comply with their regulatory obligations. Benefits include the ability for entities to submit online forms (some pre-filled), save drafts and retrieve them at a later stage, respond to notices, receive reminders about regulatory obligations, and have control over their registered users of the system.
- 48 We are revising Form 507 *Report as to affairs*, which is completed by directors of companies entering external administration. The redesign is being undertaken to ensure the form is user friendly, visually appealing and easy to read, understand and complete, while still enabling accurate and sufficient information to be collected.
- 49 Due to the substantial resources (including information technology (IT) resources) required for form changes, there is still much to do in updating our forms. Nevertheless, we continue to work towards removing, updating and consolidating forms as outlined in REP 391.

Digital disclosure

Further facilitating digital disclosure

- 50 In July 2015, we updated Regulatory Guide 221 *Facilitating digital financial services disclosure* (RG 221) and released accompanying legislative instruments. The new guidance and instruments make it easier for businesses to communicate with their clients digitally, resulting in savings on printing and postage costs. The legislative instruments also remove barriers to more innovative digital disclosure documents.
- 51 As suggested in the submissions to REP 391, we are working with Treasury to consider similar reforms in credit and insurance. This would require changes to the *Electronic Transactions Act 1999*, credit legislation and insurance legislation, which would result in further cost savings for providers while preserving choice for consumers.

Investor self-assessment pilot

- 52 In November 2014, we announced a joint industry project to develop innovative digital financial product disclosure to boost investors' understanding of financial products.
- 53 We are working with product providers AMP and Vanguard to develop and user-test a short online key facts sheet and a self-assessment tool to guide investor understanding. Preliminary results of the project are forthcoming.

Communication

- 54 We have now published *ASIC's corporate plan: 2015–16 to 2018–19*. Our corporate plan communicates our thoughts on how our long-term strategic priorities and challenges are shaping our strategy and responses over this period.
- 55 Sharing our priorities and challenges in this way and being clear about our intended focus means that businesses and individuals we regulate will be in the best position to respond.
- 56 We also launched the [updated ASIC website](http://www.asic.gov.au) (www.asic.gov.au), improving its look, feel and usability to enable easier and more efficient stakeholder use of the website and information on it.
- 57 We continue to refine our communications—for example, trialling presenting our regular market supervision report in a short video format to convey information to our stakeholders in a more efficient and effective way: see Report 450 *Market integrity report: 1 January to 31 June 2015* (REP 450).
- 58 Better communication with those we regulate reduces the regulatory burden for those entities by making it quicker and easier for them to understand their obligations and our expectations.

Sunsetting

- 59 We are continuing to review, update and remake the large number of legislative instruments due to expire or 'sunset' under the *Legislative Instruments Act 2003* in the next three years. As we remake instruments, we are focused on removing unnecessary detail and conditions, and making the instruments more user friendly. We will continue to follow these principles as instruments sunset over time.
- 60 In 2014–15 financial year, we published six consultation papers seeking the views of affected stakeholders on our proposals to remake 24 class orders and repeal 62. By repealing redundant class orders, we reduce the volume of legislative instruments and limit possible confusion and complexity for those seeking to understand their obligations.

Auditor resignation

- 61 On 18 June 2015, we released updated Regulatory Guide 26 *Resignation, removal and replacement of auditors* (RG 26) setting out that we will now generally consent to the resignation of an auditor at any time, subject to some conditions. Previously, we only consented to the resignation of an auditor of a public company to take place at an annual general meeting unless there were exceptional circumstances.
- 62 This will give greater flexibility in the timing of changes of auditors. Further details can be found in RG 26.

Simpler substantial holding notices

- 63 The exact wording in the substantial holdings forms (Form 603 *Notice of initial substantial holder*, Form 604 *Notice of change of interests of substantial holder* and Form 605 *Notice of ceasing to be a substantial holder*) is mandated in Sch 2 to the Corporations Regulations 2001 (Corporations Regulations). In REP 391, we proposed that the regulations be amended to allow ASIC to determine the forms. This would allow ASIC to work with the market to design forms that provide information necessary for the market in a way that is simpler to understand and easier for the company filling out the forms to complete.
- 64 We received positive feedback on our proposal. In light of this, we have discussed with the Government the possibility that Forms 603, 604 and 605 might be removed from Schs 1 and 2 to the Corporations Regulations to enable ASIC to prescribe new forms for reporting substantial holdings. We have commenced soft consultations on the contents of the forms.
- 65 In conjunction with any update to the form, we would also consider measures to tailor, streamline and clarify the required content of substantial holding disclosure. Our aim would be to reduce the overall burden of making these disclosures while maintaining the market's access to important information concerning substantial holdings in listed entities.

Market integrity rules

- 66 On 4 May 2015, we repealed a number of obligations under the ASIC market integrity rules for the ASX, ASX 24, Chi-X, IMB, NSXA and SIM VSE markets and for competition on exchange markets to reduce the compliance burden on market participants.
- 67 These obligations, which were based on rules in place before ASIC assumed responsibility for market supervision in 2010, imposed an unnecessary cost

on business. For further details, see our Media Release (15-097MR) *ASIC repeals select market integrity rules* (4 May 2015).

- 68 We continue to work towards harmonising the ASIC market integrity rules to create a single unified rulebook for all market operators, market participants and exchange traded products.

Financial reporting relief for wholly owned entities

- 69 All submissions were in support of our proposal to incorporate the relief in Class Order [CO 98/1418] *Wholly-owned entities* into the Corporations Act, although it was noted that the policy would need to be carefully transitioned to ensure that the change did not impose unnecessary regulatory burden.
- 70 To reduce complexity, we have recommended changes to legislation to relieve wholly owned entities from financial reporting requirements.

Continuous disclosure by unlisted entities

- 71 We proposed amendments to allow material information required under the continuous disclosure regime for unlisted disclosing entities to be published on websites, rather than lodged with ASIC.
- 72 Feedback on this proposal was mixed. Although submissions generally supported the proposal, there was some concern that this would compromise our ability to monitor continuous disclosure.
- 73 Our current practice enables companies to disclose on websites because we consider that this is often more accessible for those seeking the information and simpler for companies. We consider that reflecting this in legislation would be appropriate. We have recommended amendments to s675 of the Corporations Act to replace the requirement for an unlisted disclosing entity to lodge continuous disclosures with ASIC with a requirement to instead publish disclosures on the entity's website.

Proposed minor or technical law reform

- 74 In REP 391, we invited feedback on a number of minor legislative changes, which we proposed to raise with Treasury and the Government. These changes would either have a small reduction in compliance costs or reduce complexity in the law.
- 75 We received general support on our proposals. We have raised the majority of these changes and further technical amendments with the Government and

are working with Treasury to develop and implement any changes. For example, our proposal to modify the s428 and 429 requirements for responsible entities and custodial or depository service providers to use 'in receivership' in public documents—and for officers to report when only the assets of a particular scheme or client are affected—is part of the Treasury Legislation Amendment (Repeal Day 2015) Bill 2015, which is currently being considered by Parliament.

- 76 We expect many of these minor and technical changes will be implemented over time as priorities permit.

Other initiatives

- 77 Most of our proposals were supported in submissions; however, where these initiatives were not supported, concerns were raised or compliance cost savings were not as likely, we have decided not to proceed with further action or we are considering our next steps. This enables us to direct our resources to areas where we can achieve the biggest compliance cost savings with the least regulatory detriment.

Registration for managed investments schemes

- 78 In REP 391 we raised the possibility of automatic registration for managed investment schemes, combined with a stop-order power and a directions power. Feedback on this initiative was mixed, with some submissions supporting the proposal, and others offering only qualified support for either the registration component or the stop-order power and the directions power.
- 79 We will further consider this proposal as part of any response we may make to the Government's proposed review of aspects of regulation of managed investment schemes, which was set out in the Government's response to the report of the Financial System Inquiry. This review is scheduled to occur after 2016.

Market stabilisation

- 80 In REP 391, we asked whether there was a need for legislative amendment to allow market stabilisation activities—that is, actions to achieve a more orderly secondary market for securities—in appropriate circumstances. Feedback on this proposal was mixed, with some submissions supportive and others concerned that this would remove the, at this stage, necessary oversight. As submissions also pointed out, market stabilisation activity is rare, and we have a current method of allowing this in appropriate circumstances. As a result, we do not intend recommending legislative change.

D Responding to new deregulatory suggestions submitted in response to REP 391

Key points

Submissions on REP 391 raised deregulation suggestions that generally fell into three broad categories: policy recommendations, IT solutions, and administrative or process changes.

We are progressing many of these suggestions.

Prioritising suggestions

- 81 The majority of suggestions we received fell under three broad categories:
- policy recommendations;
 - IT solutions; and
 - administrative and process changes.
- 82 We are progressing many of the suggestions made in submissions. We prioritised the suggestions in submissions received by ranking them on policy merit, potential compliance cost savings and ease of changes.
- 83 Ease of changes included consideration of whether law changes would be required and also covered resourcing, particularly for those suggestions that would require system or IT changes. We are targeting those suggestions that have the highest priority, and will continue to work through lower priority suggestions as resources permit.
- 84 As part of the prioritisation process, a number of suggestions were eliminated from consideration as part of this project. These suggestions fall into two broad categories:
- suggestions that, while worthwhile on policy grounds, would not have a deregulatory impact—for example, a suggestion to reduce phoenix activity through requesting more information in ASIC forms; and
 - suggestions that, while potentially deregulatory, would be inconsistent with our regulatory goals—for example, a suggestion to amend disclosure requirements for electronic trading.

Policy recommendations

- 85 The majority of suggestions in submissions proposed policy changes. These are generally policy changes that would require law reform. We are implementing some changes, where ASIC has the power to do so, and have

made law reform recommendations on others. We also assessed that some of the proposed areas for change had strong policy grounds for retention in their current form.

86 For example, we received a number of suggestions relating to requirements for the provision of credit, including the responsible lending obligations. Again, while we acknowledge that these requirements impose compliance costs, the consumer protection benefit of these requirements outweighs the regulatory burden. We have, however, recommended Treasury consider amending credit disclosure rules to better facilitate digital disclosure, consistent with ASIC's changes to financial services disclosure delivery: see paragraphs 50–51.

Recommendations

87 Following feedback on REP 391, we suggested the following changes to the law.

Rationalising Ch 7 of the Corporations Act

88 Since the enactment of the *Financial Services Reform Act 2001*, which inserted the current Ch 7 into the Corporations Act, Ch 7 has been modified by 11 substantive amending acts and 62 amending regulations. It has also been subject to modification under numerous ASIC class orders and legislative instruments. These modifications are often used to clarify or modify the Corporations Act to provide certainty about what the law requires or to provide relief.

89 As a result, Ch 7 has become complex and unwieldy. Several submissions noted the complexity of the Corporations Act as imposing significant unnecessary red tape. We have suggested a review of Ch 7 as a possible deregulatory initiative.

Legacy product rationalisation

90 Submissions suggested that a process be developed to rationalise legacy products. We agree that this would enable more efficient and up-to-date financial products and services to be provided to consumers, and avoid ongoing operational risk and cost associated with maintaining legacy products and systems. We have suggested implementing a process for legacy product rationalisation that balances the interests of consumers and product and service providers.

91 The Financial System Inquiry also recommended a mechanism to facilitate the rationalisation of legacy products in the life insurance and managed

investments sectors.¹ The Government accepted the recommendation and is planning to introduce this mechanism after 2016.²

Streamlined annual reporting

- 92 Submissions raised concerns about the complexity and duplication of annual reporting requirements set out in legislation and the Australian accounting standards.
- 93 We have suggested a review of the various requirements with a view to eliminate duplication, simplify reporting (including remuneration reporting) and provide a more effective reporting framework for shareholders.

Group purchasing bodies

- 94 Submissions suggested that our relief for group purchasing bodies—set out in Class Order [CO 08/1] *Group purchasing bodies*—be simplified so that entities can more easily determine if our relief applies to them.
- 95 We have suggested consideration of how the licensing regime in Ch 7 could best apply to group purchasing bodies. We understand Treasury has commenced consultation on this topic.

Timeframes for holding original documents

- 96 Submissions raised concerns about the approach to the requirement to hold original documents under various provisions of the law, including timeframes for holding those documents. Requirements and timeframes can vary from obligation to obligation, including under legislation not administered by ASIC. Standardised requirements may remove compliance costs by allowing businesses to maintain more consistent compliance processes.
- 97 Acknowledging that changes would be required to a number of laws, including some outside our responsibility, we suggested a whole-of-government approach to the requirement to hold original documents, including timeframes.

Policy recommendations to ASIC

- 98 Some submissions suggested updates to regulatory guidance. For example, updating Regulatory Guide 172 *Australian market licences: Australian operators* (RG 172) was recommended.

¹ Financial System Inquiry, *Financial System Inquiry final report*, November 2014, Recommendation 43.

² Australian Government, *Improving Australia's financial system: Government response to the Financial System Inquiry*, October 2015.

- 99 We are expecting changes to the law (see paragraph 31) associated with crowd-sourced equity funding to enable exemptions from certain market licence obligations. Following these changes, we will undertake an update of this guidance.
- 100 Another suggestion was for changes to the ePayments Code. The Financial System Inquiry recommended mandating the ePayments Code and the Government agreed that ASIC will mandate baseline consumer protections in the ePayments Code, subject to the code being fit for purpose and technologically neutral. A process is underway to implement this recommendation.

IT solutions

- 101 These suggestions were primarily to upgrade our IT systems (including additional forms work) to make it easier for businesses and individuals to interact with ASIC. For example, suggestions included:
- back-end IT solutions to enable ASIC to use existing information, rather than requiring it to be submitted in different forms or formats;
 - the capability to make changes to multiple companies at any one time;
 - interactive, responsive forms;
 - greater use of electronic lodgement at ASIC; and
 - greater use of data matching.
- 102 Where we can, and where we have the resources, we are upgrading systems. A system for people to make complaints about ASIC was launched in September 2015 and we have begun replacing paper forms with online forms: see paragraphs 41–47. This work is ongoing.
- 103 More broadly, we are supportive of the principle behind these suggestions, which is to promote a more user-friendly and streamlined way of accessing, filling in and submitting forms, as well as greater use of data already gathered. However, we are limited in our capacity to make significant IT changes due to budgetary constraints.

Administrative and process changes

- 104 A further set of suggestions related to administrative or process changes.
- 105 These included suggestions such as ASIC producing shorter and more relevant consultation papers, changes to our invoicing systems and process, changing processes for licensing, and making improvements to our databases

and information management. Many of these closely link with the IT changes discussed at paragraphs 101–103.

- 106 Some changes are likely to be implemented over time and may not be immediately apparent. We will make these changes where they are not inconsistent with legislative requirements.
- 107 For example, we worked with Government to change the law to enable assessments of financial market operators to be targeted and undertaken using a risk-based model, as opposed to broad and annual assessments. We have commenced assessments under that model, which has resulted in narrower and more targeted lines of inquiry and reduced the burden to entities being assessed. We are also actively working to reduce the reporting burden on licensed entities.
- 108 We have also implemented reporting under the Government's Regulator Performance Framework: see paragraphs 19–21. This is intended to identify, measure and, over time, decrease the burden imposed by the administration of regulation. Our annual self-assessments will report against a number of evidence metrics, some of which will address the suggestions submitted to REP 391. For example, opportunities for sharing data and information with other regulators, consultation periods, and feedback on consultation.

Key terms

Term	Meaning in this document
AFS licence	An Australian financial services licence under s913B of the Corporations Act that authorises a person who carries on a financial services business to provide financial services Note: This is a definition contained in s761A of the Corporations Act.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act Note: This is a definition contained in s761A of the Corporations Act.
Ch 7	A chapter of the Corporations Act (in this example numbered 7), unless otherwise specified
[CO 08/1] (for example)	An ASIC class order (in this example numbered 08/1)
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
limited AFS licensee	An AFS licence that only includes authorisations to provide one or more limited financial services
market integrity rules	Rules made by ASIC, under s798G of the Corporations Act, for trading on domestic licensed markets
OTC	Over the counter
Product Disclosure Statement (PDS)	A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act Note: See s761A for the exact definition.
Regulator Performance Framework	An Australian Government framework that requires regulators to report on six shared key performance indicators and examine how they operate and the regulatory burden they create when administering regulation
REP 391 (for example)	An ASIC report (in this example numbered 391)
RG 51 (for example)	An ASIC regulatory guide (in this example numbered 51)
s428 (for example)	A section of the Corporations Act (in this example numbered 428), unless otherwise specified
Sch 1 (for example)	A schedule to the Corporations Regulations (in this example numbered 1), unless otherwise specified