



ASIC

Australian Securities & Investments Commission

REPORT 478

Overview of licensing and professional registration applications: July to December 2015

May 2016

About this report

This report outlines ASIC's decisions on applications for the period from 1 July to 31 December 2015 (relevant period) for:

- new Australian financial services (AFS) licences and licence variations;
- new Australian credit licences (credit licences) and licence variations;
- the registration of liquidators, official liquidators, company auditors and approved self-managed superannuation fund (SMSF) auditors; and
- financial markets, clearing and settlement (CS) facilities, and derivative trade repositories (trade repositories).

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.

Previous reports on ASIC licensing and professional registration applications

Report number	Report date
REP 448	24 September 2015
REP 433	20 May 2015

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Overview

ASIC's role

- 1 ASIC is an integrated corporate, markets, financial services and consumer credit regulator. Our regulatory strategic priorities are to promote investor and financial consumer trust and confidence; ensure fair, orderly and transparent markets; and provide efficient and accessible registration. ASIC regulates entities at every point from 'cradle to grave'—from their incorporation through to their winding up.
- 2 ASIC's various statutory licensing responsibilities are undertaken within two particular areas of ASIC. Applications for Australian financial services (AFS) licences, Australian credit licences (credit licences) and professional registration are assessed by our Licensing team (part of ASIC's Assessment and Intelligence group), while applications for Australian market licences, clearing and settlement (CS) facility licences and Australian derivative trade repository (ADTR) licences are assessed by our Financial Markets and Infrastructure (FMI) team.
- 3 For further background on ASIC's licensing and professional registration responsibilities, please refer to [Report 433](#) *Overview of licensing and professional registration applications: July to December 2014* (REP 433), issued May 2015, paragraphs 1–18.

Purpose and scope of this report

- 4 This is the third six-monthly report published by ASIC providing an overview of licensing and professional registration applications.
- 5 The regulatory outcomes that are discussed in this report relate to:
 - (a) *rejection*—applications that are rejected for lodgement because they are manifestly defective and do not meet the minimum standards relating to the information and content included in the application;
 - (b) *withdrawal*—applications that are withdrawn because during our assessment, based on the feedback and requisitions, the applicant considers they would prefer to withdraw rather than proceed;
 - (c) *modifications*—applications that result in the granting of a licence that is different from that applied for, or that has additional conditions imposed on it. For example, we might:
 - (i) impose a key person requirement, require a compliance consultant to be appointed, or tailor a special condition to limit the scope of the activity authorised under the licence; or

- (ii) approve a range of financial services or financial products that the applicant is allowed to offer that is narrower than that applied for; and
- (d) *refusals*—applications that are refused because we are not satisfied that the statutory requirements for granting a licence or registration have been met.

- 6 We note that, in addition to the regulatory outcomes associated with refusals or withdrawals, for every application that is approved there may be a combination of regulatory outcomes. This means that the number of regulatory outcomes for approved licences may be higher than the number of applications approved. For example, we may impose a key person condition, require the appointment of an additional responsible manager, and refuse one of the authorisations sought. In this case, while there is a single approved licence application, we consider that we have achieved three beneficial regulatory outcomes.
- 7 The regulatory outcomes apply equally to applications for a variation to an existing licence.
- 8 There is a narrower range of regulatory outcomes associated with the registration regime, given the reduced scope for tailoring registrations or the imposition of conditions on registrants compared with licensees.
- 9 This report sets out the regulatory outcomes achieved by ASIC—for the period from 1 July to 31 December 2015 (relevant period)—in relation to:
- (a) AFS licence applications;
 - (b) credit licence applications;
 - (c) liquidator registration applications;
 - (d) company auditor and approved self-managed superannuation fund (SMSF) auditor registration applications; and
 - (e) applications relating to financial markets, CS facilities, ADTR licences and the Companies Auditors and Liquidators Disciplinary Board (CALDB).¹
- 10 The purpose of this report is to provide greater transparency and understanding of ASIC’s licensing and professional registration activities. It presents statistics and comments on applications and outcomes for these licensing and registration assessments—notably, when outcomes are different to those applied for.
- 11 The information shows that, as a result of our assessment, we may impose additional conditions on and/or make adjustments to the original licence

¹ Enforcement outcomes and relief applications are not covered in this report. For more information on these two areas of activity, see the most recent of these reports: [Report 467](#) *Overview of decisions on relief applications (June to September 2015)* (REP 467) and [Report 476](#) *ASIC enforcement outcomes: July to December 2015* (REP 476).

application. In other instances, where we are not satisfied that the applicant is capable of offering the financial or credit services applied for in compliance with the legal obligations, the application may ultimately be refused.

- 12 This report also provides details about how, with the support of other ASIC teams, the Licensing team maintains standards by ensuring that applicants are only licensed to provide financial services and products, or credit activities, that they are competent to provide.
- 13 We will also use this report to highlight particular areas of focus and issues of potential concern. We will continue this dialogue in our discussions with applicants, their service providers and at public licensing-specific forums that we intend to convene on a periodic basis.
- 14 As a result of other avenues that ASIC has recently implemented for publicising current regulatory issues, we have decided to make the Licensing liaison meetings an annual event—with the next one scheduled for the fourth quarter of 2016.
- 15 Another of our recent initiatives includes the monthly wealth management update newsletter. The inaugural [Wealth and Funds Management newsletter](#) was published on our website at www.asic.gov.au on 1 March 2016 and covered a range of topics, including the advice that:
- (a) business models that influence clients to establish an SMSF for investment purposes are required to be licensed financial services businesses, even where the investment is property;² and
 - (b) ‘there is currently no facilitative compliance approach in place for FOFA [Future of Financial Advice]. We expect licensees and representatives to be complying with the law as it currently stands’.

Current areas of focus: Industry issues

Retail OTC derivatives

- 16 During the relevant period, 30 applications were lodged seeking authorisation to deal by ‘issuing’ over-the-counter (OTC) derivatives and/or foreign exchange (FX) contracts to retail clients. Of these, five also sought the make-a-market authorisation for OTC derivatives and/or FX contracts.
- 17 We are aware that some corporate groups are seeking AFS licences in order to give the public appearance that services provided by non-licensed entities in the group are regulated by ASIC. Often these entities will use foreign

² See also ASIC’s enforcement work in this area—for example, [Media Release 15-358MR](#) *ASIC obtains final orders against Park Trent* (30 November 2015).

incorporated unlicensed entities with similar names to an Australian licensee. Examples include FIBO Group Limited and Trading Point of Financial Instruments Limited.³

18 We understand that some participants may be interested in obtaining an AFS licence with OTC and FX licence authorisations by acquiring entities that already hold such authorisations. We are concerned that some of these persons are resorting to this option as a way of circumventing ASIC's assessment of their competency or appropriateness to hold a licence.

19 We would like to remind participants that having organisational competence and responsible managers and officers who are of good fame and character are continuing obligations for all AFS licensees. If we become aware of a change of control in circumstances that raise such concerns, we will consider taking appropriate action, including seeking a suspension or cancellation of the licence.

20 ASIC Commissioner Greg Tanzer also warned prospective purchasers of entities that hold AFS licences that:

Licensees will not be absolved of their obligations, including those relating to previous or ongoing breaches by a change in control or ownership. Any prospective new owners and managers should ensure they conduct adequate due diligence before acquiring a licence and assume responsibility of the licensees obligations.⁴

ASIC's Innovation Hub

21 We are committed to encouraging innovation that has the potential to benefit consumers. We are equally committed to ensuring that the regulation of new products and services is appropriate, effective and promotes investor and financial consumer trust and confidence.

22 For additional background on ASIC's Innovation Hub,⁵ see paragraphs 17–21 of [Report 448](#) *Overview of licensing and professional registration applications: January to June 2015* (REP 448).⁶

23 Since its commencement in April 2015 to the date of issue of this report, ASIC's Innovation Hub has met with over 100 external stakeholders including new fintech businesses and industry organisations. Eighty-four entities have received ASIC's informal assistance and, to date, we have granted 18 AFS and credit licences.

³ See [Media Release 15-233MR](#) *Two overseas entities agree to stop providing unlicensed FX services* (27 August 2015).

⁴ See [Media Release 15-293MR](#) *ASIC cancels retail derivative issuer's licence* (15 October 2015).

⁵ See [ASIC's Innovation Hub](#) on our website www.asic.gov.au.

⁶ See also [Media Release 15-211MR](#) *Innovation Hub: ASIC update* (5 August 2015).

- 24 We continue to operate an internal Innovation Hub taskforce designed to coordinate our work on new business models and provide informal assistance to fintech and regulatory technology entities.⁷
- 25 On 4 May 2016, ASIC announced that, building on our Innovation Hub work, we would publish a public consultation paper on a proposed ‘regulatory sandbox exemption’ from the requirement to hold an AFS licence, and other measures to promote fintech start-up businesses. These proposed measures include:
- (a) greater clarity and guidance on how we assess whether new businesses have the skills and experience required to be granted an AFS licence (especially where that business seeks to rely on Option 5 in [Regulatory Guide 105](#) *Licensing: Organisational Competence* (RG 105));
 - (b) additional flexibility around the skills and experience requirements—including whether some AFS licensees with restricted authorisations should be able to rely more on appropriate third parties to show they have the ‘organisational competence’ required to be granted a licence; and
 - (c) a class-wide AFS licensing waiver for new fintech businesses to run early-stage tests and trials (i.e. the ‘regulatory sandbox exemption’).
- 26 ASIC Commissioner John Price said:
- ASIC anticipates that the proposed regulatory sandbox exemption may bring better financial services to market quicker while being mindful of consumer protection concerns.

Marketplace lending

- 27 Marketplace lending (or peer-to-peer lending) matches people who have money to invest with people who are looking for a loan. These arrangements commonly involve the use of an online platform, such as a website. For additional background information, see paragraphs 22–27 of REP 448.
- 28 In the fintech market, marketplace lending has been one of the most active areas for licensing inquiries and applications. During the relevant period, we received 11 applications, and finalised our assessment of six applications, where the applicant sought authorisations to offer one or more activities associated with marketplace lending.
- 29 ASIC recently issued [Information Sheet 213](#) *Marketplace lending (peer-to-peer lending) products* (INFO 213), which describes the current regulatory regime and provides guidance on good practice strategies that marketplace

⁷ Regulatory technology entities comprise enterprises with business models that utilise technology to assist fintech enterprises in complying with their licensing and other statutory obligations.

lenders may consider adopting. In a media release, ASIC Commissioner John Price said:⁸

Adopting some of these good practices can help investors understand the product and risks and build community trust and confidence in marketplace lending more generally.

30 To assist investors and borrowers, we have also provided additional guidance on [peer-to-peer lending](#) on our MoneySmart website www.moneysmart.gov.au.

Digital advice

31 Digital advice (also known as ‘robo-advice’ or ‘automated advice’) is the provision of automated financial product advice using algorithms and technology and without the direct involvement of a human adviser. It can comprise general or personal advice, and range from advice that is narrow in scope (e.g. advice about portfolio construction) to comprehensive financial product advice.

32 In March 2016, ASIC published a consultation paper and draft guidance,⁹ with Commissioner Price saying:

ASIC is committed to helping industry take advantage of the opportunities offered by robo-advice while ensuring that investor and financial consumer trust and confidence is not compromised. We encourage industry and other stakeholders to take part in this consultation process.

33 During the relevant period, we granted two AFS licences to digital advice providers.

Crowd-sourced funding

34 The Government is progressing with the implementation of a statutory regime for crowd-sourced funding (CSF). From a licensing perspective, the regime will require persons offering a CSF platform to hold a CSF intermediary authorisation. These intermediaries will have duties and certain statutory ‘gatekeeper’ obligations.

35 We have commenced work on revising our licensing technology portal to enable applications seeking this AFS licence authorisation to apply when the legislation comes into force. We are also preparing guidance on the application process and on the ongoing statutory obligations for CSF intermediaries. We expect to consult on this guidance in the six-month period before the legislation comes into operation.

⁸ [Media Release 16-081MR](#) *ASIC issues guidance on marketplace lending* (21 March 2016).

⁹ [Consultation Paper 254](#) *Regulating digital financial advice* (CP 254), and Attachment to CP 254: Draft regulatory guide.

Compliance culture

36 Recently, ASIC has been talking a lot about culture—most recently, at our 2016 Annual Forum on *Culture shock*, and in a speech given by ASIC Deputy Chairman Peter Kell, where Mr Kell emphasised its importance:¹⁰

Culture, and its links to conduct and regulation, has become central to discussions of how business operates, particularly in the finance sector. Given the massive global costs of misconduct arising out of poor finance sector culture, this should not be surprising.

ASIC has been highlighting the importance of culture in financial firms. Our aim is to promote trust and confidence in the financial system, and poor culture clearly undermines that trust and confidence.

37 This report notes a number of cases where our Licensing team has detected serious issues reflecting a poor culture and attitude towards compliance. Instances include, for example, where an applicant provided ASIC with information in support of an AFS licence application that was false and/or misleading.

38 Our Licensing team will deal with such conduct immediately as part of the licence assessment process when it is detected. For example, we have a responsibility to determine how such conduct reflects on the applicant and its application. The provision of false or misleading information will affect our assessment of whether an applicant is of good fame and character, or a ‘fit and proper’ person, and whether we therefore have reason to believe that the applicant is unlikely to meet its licence obligations, including complying with the financial services or credit laws.

39 Even if a licence application is refused, we may still take further regulatory action, including criminal action against the applicant, its directors or controllers. If a licence is granted in circumstances where our assessment was based on materially misleading information, we will seek to have the licence cancelled under s915C(2) of the *Corporations Act 2001* (Corporations Act) or s55 of the *National Consumer Credit Protection Act 2009* (National Credit Act).¹¹

40 We may also commence enforcement action, including initiating criminal proceedings, if a person, in connection with an AFS or credit licence application, knowingly makes a statement that is false or misleading in a material particular, or omits to state any matter or thing knowing that because of that omission the application is misleading in a material respect.¹²

¹⁰ Opening remarks by Peter Kell, Deputy Chairman, ASIC, AFR Banking & Wealth Summit 2016 (Sofitel Wentworth, Sydney), 5 April 2016.

¹¹ Section 915C(2) of the Corporations Act provides that ASIC may cancel an AFS licence, subject to a hearing under s915C(4), if the application was false in a material particular or materially misleading, or there was an omission of material matter from the application. See also s55 of the National Credit Act.

¹² See s1308 of the Corporations Act and s225 of the National Credit Act.

- 41 Examples where ASIC has been concerned about the reliability of material provided in support of an application include where:
- (a) a responsible manager's status as a bankrupt person was not disclosed by the applicant;
 - (b) a responsible manager failed to confirm—in the 'statement of personal information' section of the licence application—that they had been the subject of disciplinary action (including action by a former licensee they had been an authorised representative for), or that they were being investigated (which might lead to disciplinary action);
 - (c) the applicant provided a fake business reference in relation to the nominated responsible manager's purported work history at a major financial institution;
 - (d) the applicant failed to advise ASIC of the resignation of a key person before the licence was granted; and
 - (e) ASIC was misled about the applicant's ongoing organisational competence, and its intended business operations, officers and controllers.

42 Where appropriate, such matters have been referred for administrative and enforcement action and are currently ongoing.

43 The provision of false or misleading information in support of a licence or professional registration application has the potential to significantly undermine confidence in the licensing and registration assessment process. We will continue to scrutinise the veracity of representations to ensure that such behaviour is appropriately dealt with.

Limited AFS licensing

44 The existing exemption under the Corporations Regulations 2001 (Corporations Regulations) permits 'recognised accountants' to provide a recommendation, in relation to an SMSF, to acquire or dispose of a superannuation product without holding an AFS licence: regs 7.1.29(5)(c)(ii) and 7.1.29A.

45 As part of the FOFA reforms, this exemption will cease to apply from 1 July 2016. To continue providing such services (with certain limited exemptions), the financial adviser will be required to either hold a 'limited AFS licence' or become an authorised representative of someone who holds the appropriate AFS licence authorisations.

46 By the end of the relevant period, in relation to the limited AFS licensing regime, we had received 249 applications, with 84 applications being approved, 124 applications withdrawn; and 41 applications pending.

47 As at the date of this report, we have received approximately a further 432 applications.

48 In August 2015, ASIC warned accountants not to leave it to the last minute to apply for a limited AFS licence but, while the number of applications has increased, we consider there may still be a number of recognised accountants who are intending and expecting to offer financial services after 30 June 2016 who have not yet applied for a limited licence or become an authorised representative of an appropriate AFS licensee.

Streamlining professional registration processes

Auditor registration

49 In November 2015, we updated our website and guidance to provide more clarity to auditors and audit companies on:

- (a) the different pathways to obtaining registration (depending on the qualifications and skills of the applicant);
- (b) the specific information they need to submit with their application for registration; and
- (c) what ASIC takes into account when assessing an application.

50 This improvement in our processes included updating the checklists and templates to ensure that applications contain all the required information before being submitted to ASIC. We were also able to return any incomplete applications to applicants so they could address any deficiencies before resubmitting them.

51 We also updated our processes to enable applicants to now submit all supporting documents to ASIC electronically.

52 These changes have made the application and assessment process more efficient as it has reduced the need to request further information from applicants after they have submitted their applications. We are starting to see the benefits of the updated processes, and have noticed a reduction in:

- (a) the number of days it takes to complete an assessment;
- (b) the number of requests for information that we are having to make; and
- (c) the number of days it takes to finalise our assessment.

Liquidator registration

53 A similar update to the website and process for liquidator registrations is also planned. It is anticipated that these changes will be implemented by the end of June 2016.

54 We also note that the Government recently passed the *Insolvency Law Reform Act 2016*. The Minister for Small Business and Assistant Treasurer the Hon Kelly O’Dwyer stated:

The measures in this Bill will make the process to become a registered insolvency practitioner more rigorous, while making it quicker and easier for the regulator to remove rogue practitioners from the industry.

Licensing policy and procedures

AFS Licensing Kit

55 We are continuing our work to revise our AFS Licensing Kit (Regulatory Guides 1, 2 and 3), with the aim of making the assessment more efficient and reducing the time it takes between lodgement and finalisation. The scope of this work will include:

- (a) ensuring that all the required relevant information (including relevant non-core proofs) is submitted with the application (rather than being left to requisition); and
- (b) requiring applicants to make submissions in support of their application that enable the Licensing team to form the view that ASIC has no reason to believe the applicant is likely to contravene the obligations that will apply if an AFS licence is granted.

Policy proposals

56 As mentioned in REP 433, we are progressing with our review of regulatory guides relating to AFS and credit licensing to ensure that we are providing adequate guidance on what information and documentation we require when assessing licence applications.

57 As part of this review, we will also consider whether any of the assumptions or principles we apply to our assessment need to be updated or enhanced (e.g. representations about the business activities and authorisations being sought; the need for a key person requirement; the role of a responsible manager, including in relation to competence and capacity; and the adequacy of arrangements for outsourced functions).

58 Another area worth highlighting relates to ASIC’s recent publication on cyber resilience. While this is not limited to licensees, it remains extremely relevant to all AFS and credit licensees. See paragraphs 157–179 of [Report 429](#) *Cyber resilience: Health check* (REP 429) for a discussion about ASIC’s expectations and guidance on cyber resilience for licensees.

ASIC's service charter: Our assessment objectives

- 59 We have published a service charter that sets out the most common interactions we have with the public and specifies how quickly we expect to respond to telephone calls, emails, or licence applications. We report results against the service charter each year.
- 60 The Licensing team aims to:
- (a) decide whether to grant or vary 70% of AFS or credit licence applications within 60 days of receiving a complete application; and
 - (b) decide 90% of complete applications within 120 days.
- 61 Before 1 July 2015, we calculated our completion time without including the time taken for applicants to respond to requests for information. From 1 July 2015, we have been calculating our completion time for licence applications on an elapsed time basis. This is consistent with how ASIC measures other activities.
- 62 We note some applications will take longer if they raise regulatory concerns, are complex or relate to new policy issues, or if we need additional information or to consult with other regulators. However, we note that because of reduced resources and the high number of applications received, we experienced an increase in the assessment time taken, even though not all applications raised regulatory or new policy concerns. For more information, see www.asic.gov.au/afslicensing.

Summary of outcomes for the relevant period

Licensed financial markets, CS facilities and trade repositories

- 63 There are currently 18 market licensees (12 domestic operators and six overseas operators), seven CS facility licensees (five domestic operators and two overseas operators) and two ADTR licensees.
- 64 There was no change to the number of market licensees or CS facility licensees but ASIC granted an ADTR licence to Chicago Mercantile Exchange Inc during the relevant period.

AFS and credit licensing and professional registration

- 65 In the relevant period, we considered 1,153 AFS and credit licensing and professional registration applications across the various application and registration types: 84% of these related to applications for either an AFS licence (i.e. new licences (351) and variations to existing AFS licences (302))

or a credit licence (i.e. new licences (243) and variations to existing credit licences (77)).

66 Table 1 shows the number of applications under consideration (i.e. those available for assessment) and the number that were approved during the relevant period. These are broken down by the period in which they were lodged (i.e. either before or during the relevant period).

Table 1: Licensing and professional registration applications available for assessment—1 July to 31 December 2015

Type of application	Received or initiated before Jul	Approved Jul–Dec*	Received or initiated Jul–Dec	Approved Jul–Dec**	Finalised (not approved) Jul–Dec [#]	Not finalised at 31 Dec
New AFS licence	165	90	351	78	141	207
Variation of AFS licence	188	81	302	89	82	238
New credit licence	98	47	243	66	92	136
Variation of credit licence	29	16	77	29	18	43
Registration as liquidator	7	4	18	12	0	9
Registration as official liquidator	6	5	20	15	1	5
Registration as company auditor	95	61	54	15	33	40
Registration as approved SMSF auditor	138	62	88	9	51	104
Total applications	726	366	1,153	313	418	782

* This column includes applications that were considered *before* the relevant period but were approved *during* the relevant period.

** This column includes applications that were both considered and approved during the relevant period.

[#] This column includes applications that were rejected, withdrawn or refused during the relevant period. For more details, see Table 4 and Table 5.

67 The combined number of AFS and credit licensing and professional registration applications available for assessment during the relevant period totalled 1,879, of which 679 (36%) were approved. The remaining applications were rejected, withdrawn or refused, or are still being assessed: see Table 2.

Table 2: Percentage approval of licensing and professional registration applications under consideration—1 July to 31 December 2015

Application type	Under consideration*	Approved
AFS licence (new licence and variations)	1,006	338 (34%)
Credit licence (new licence and variations)	447	158 (35%)
Registration	426	183 (43%)
Total applications	1,879	679 (36%)

* The total includes all applications under consideration during the relevant period, whether they were received before or during the relevant period.

- 68 The number of applications received and approved for new AFS and credit licences was lower than the first half of 2015. However, as noted in REP 448, during the first half of 2015 we dealt with 220 additional credit licence variations that were initiated by ASIC.¹³
- 69 The number of applications approved in the relevant period was lower than in the two preceding periods during which ASIC specifically collated this data (i.e. the first half of 2015 and second half of 2014). This was a result of:
- (a) a reduction in ASIC resources and staff able to assess these applications;
 - (b) additional novelty and complexity associated with various categories of licence applicants (including OTC and FX applicants and fintech start-ups); and
 - (c) a continuing focus on increasing the level of regulatory scrutiny across applications.
- 70 To ensure that entities are only licensed if they are able to offer financial or credit services in compliance with their licensing obligations, we may:
- (a) impose additional licence conditions;
 - (b) impose a requirement for additional or alternative responsible managers; and/or
 - (c) modify the standard licence authorisations to limit:
 - (i) the financial products that a licensee may offer; or
 - (ii) the financial services or credit activities that a licensee may undertake.
- 71 Of the 496 AFS licence and credit licence applications that were approved (including both new licences and licence variations), 348 (70%) were approved in a form different in scope to the licence authorisations sought by

¹³ This related to a change in the ASIC pro forma condition relating to professional indemnity insurance: see paragraph 57 of REP 448.

the applicant or the standard conditions. For AFS licence applications, approximately 72% were approved with changes to the form of the licence, while for credit licence applications this proportion was approximately 66%.

New AFS licences and licence variations

- 72 There were 1,006 applications under consideration during the relevant period. Of these, 338 were approved, 108 were rejected for lodgement, 111 were withdrawn, four were refused and the remaining 445 were undergoing assessment at the end of the relevant period. Of the 338 approved applications, 244 (72%) were approved with alterations to the original application: see Section B for details.

New credit licences and licence variations

- 73 There were 447 applications under consideration during the relevant period. Of these, 158 were approved, 14 were rejected for lodgement, 94 were withdrawn, two were refused and the remaining 179 were undergoing assessment at the end of the relevant period. Of the 158 approved applications, 104 (66%) were approved with alterations to the original application: see Section C for details.

Registration of liquidators and auditors

- 74 During the relevant period, we registered:
- (a) 16 liquidators;
 - (b) 20 official liquidators;
 - (c) 76 company auditors (an additional 23 applications for registration were withdrawn and 10 applications refused); and
 - (d) 71 approved SMSF auditors (an additional 49 applications were withdrawn and two applications refused).
- 75 We cancelled the registration of 62 SMSF auditors.
- 76 For more details, see Section D.

A Background

Key points

This section sets out a brief overview of the AFS licensing, credit licensing and registered professional population since inception.

Applications for a new licence, licence variation or professional registration are thoroughly assessed and the outcome will depend on this assessment. As such, an application may be approved, approved with changes, rejected, withdrawn or refused.

Regulated population: Licensing and registration

77 We have provided key statistics (as at 1 January 2016) on the selected areas shown in Table 3.

Table 3: ASIC's AFS and credit licensing and registration responsibilities

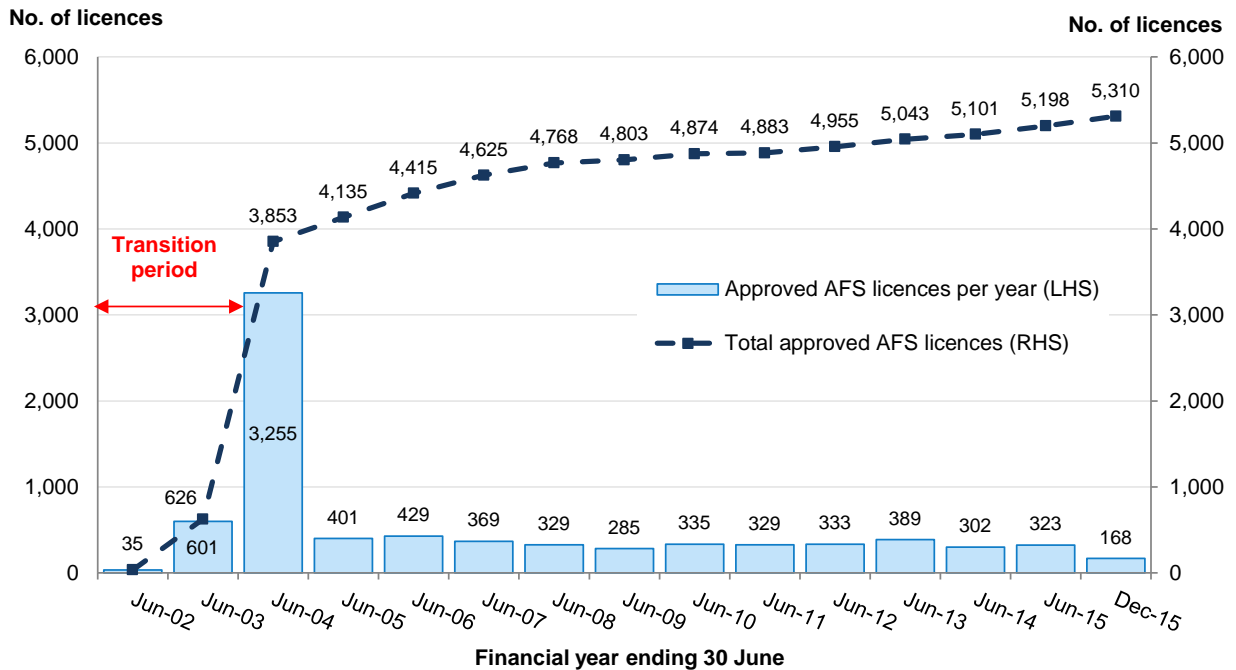
Activity	Date started with ASIC
Liquidator and company auditor registration*	<i>Corporations Act 1989</i> —Assented on 14 July 1989
AFS licensing	11 March 2002 (transition period ended 10 March 2004)
Credit licensing	1 July 2010
Approved SMSF auditor registration	1 January 2013

* ASIC's predecessor (the Australian Securities Commission) assumed responsibility for this under the *Corporations Act 1989*.

78 The graphs below show the regulated population for AFS licensees, credit licensees, liquidators and auditors.

79 The number of AFS licensees continued to grow steadily during the relevant period, at an average annual rate of approximately 2.4%, from the end of the AFS licensing transition period in March 2004 (a total of 3,795 applications were lodged in 2003–04) to 31 December 2015: see Figure 1.

Figure 1: Number of AFS licences approved per financial year and total number of approved AFS licences

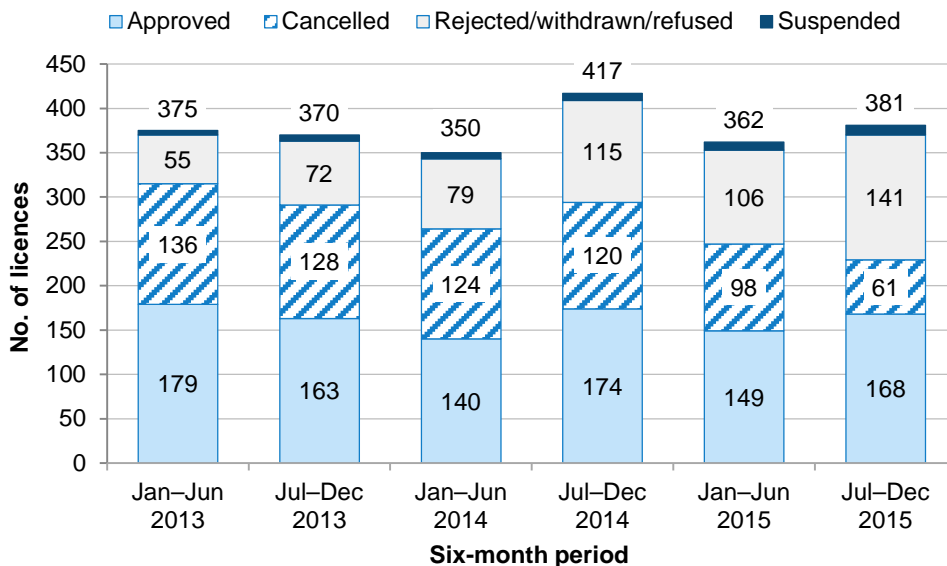


Note 1: See Table 6 in the appendix for the complete data used in this figure (accessible version).

Note 2: All columns show data for the financial year ending 30 June except for the final column which shows data for the first half of 2015–16 (ending 31 December 2015).

80 Over the past three years, AFS licence approvals have remained fairly stable, while cancellations are on a downward trend: see Figure 2.

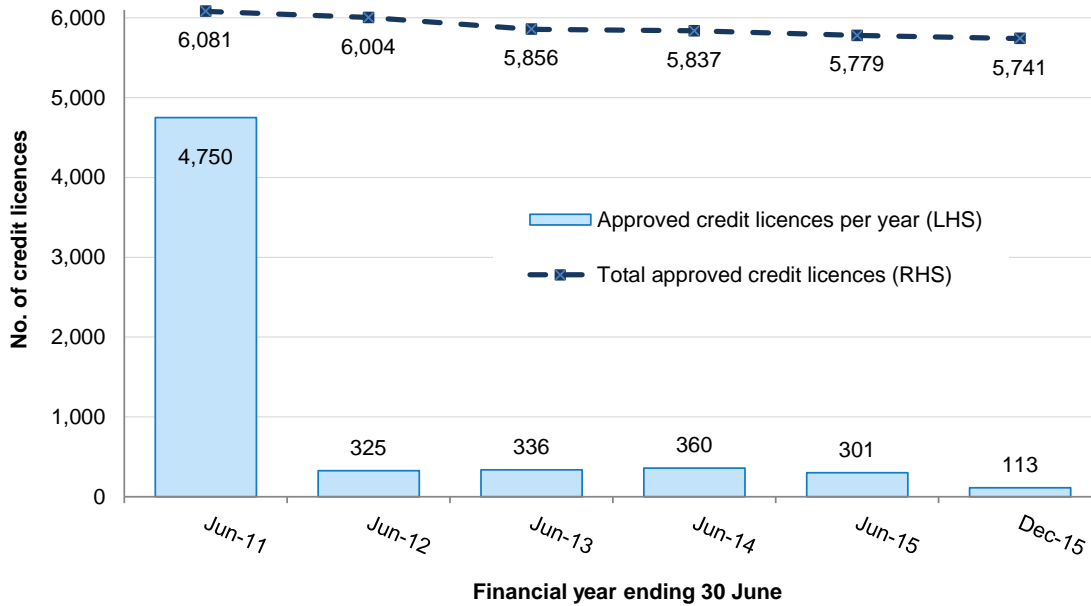
Figure 2: Number of AFS licence applications by status per half year from January 2013 to December 2015



Note: See Table 7 in the appendix for the complete data used in this figure (accessible version).

81 The number of credit licensees continued to fall in the relevant period (at an average annual rate of 1.1%), suggesting that consolidation in the industry is still occurring: see Figure 3.

Figure 3: Number of credit licences approved per financial year and total number of approved credit licences



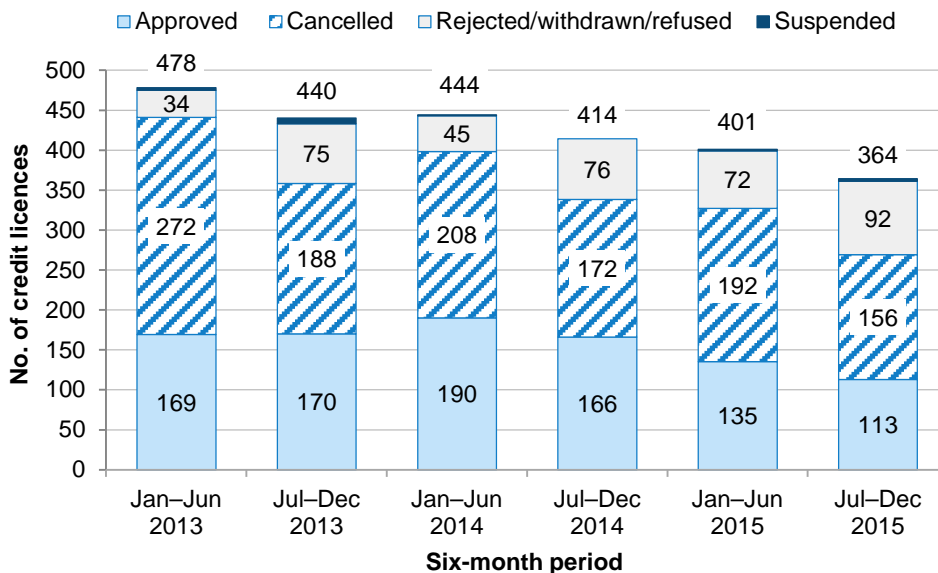
Note 1: See Table 8 in the appendix for the complete data used in this figure (accessible version).

Note 2: All columns show data for the financial year ending 30 June except for the final column which shows data for the first half of 2015–16 (ending 31 December 2015).

82

Figure 4 shows the general trend of the status of credit licence applications for each half year over the past three years.

Figure 4: Number of credit licence applications by status per half year from January 2013 to December 2015



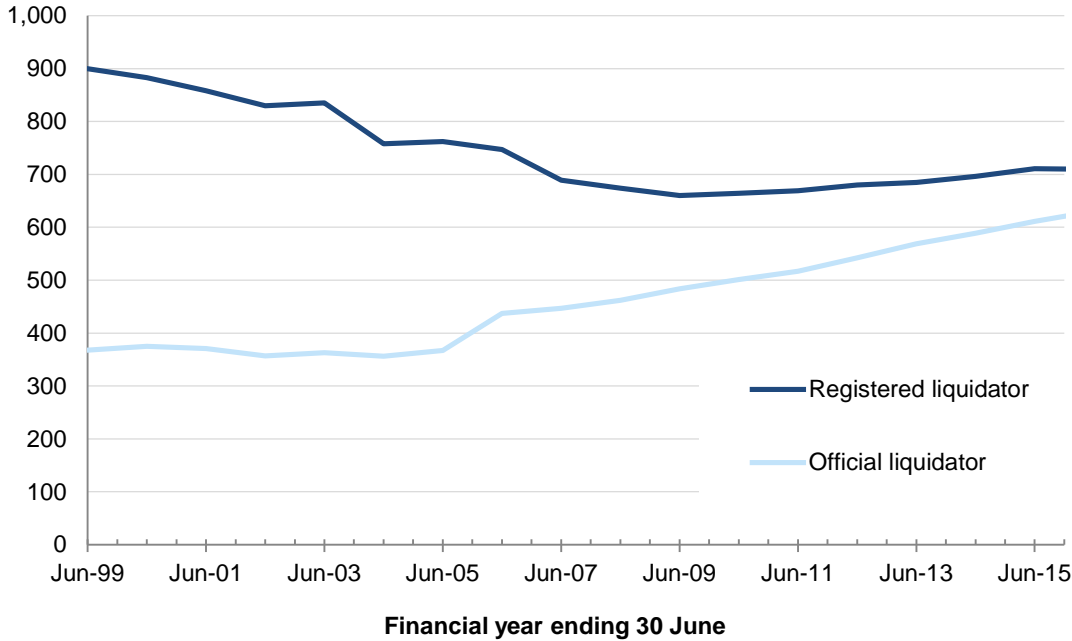
Note: See Table 9 in the appendix for the complete data used in this figure (accessible version).

83

The number of registered liquidators fell between 1999 and 2009, but seems to have been slowly picking up again since then. After a period of reasonable stability, the number of official liquidators started to increase following a

change in legislation in 2005, and has since been growing at a faster rate than the number of registered liquidators: see Figure 5.

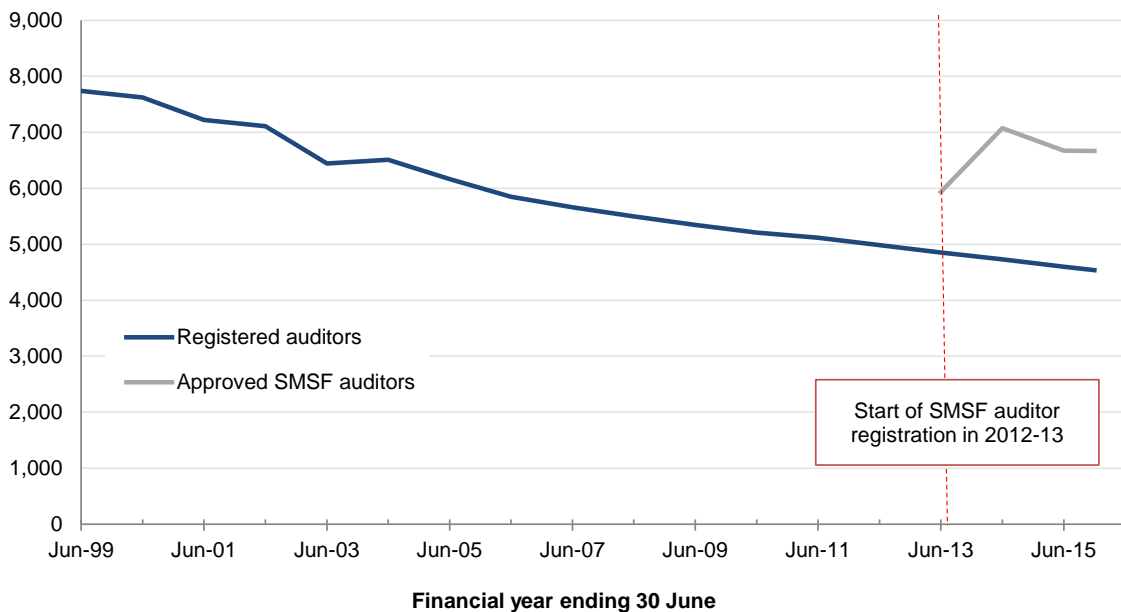
Figure 5: Number of registered and official liquidators to 31 December 2015



Note: See Table 10 in the appendix for the complete data used in this figure (accessible version).

84 The number of registered company auditors continued its decline in the relevant period, reflecting (among other things) a large number of cancellations at the auditor’s request. The number of approved SMSF auditors stabilised in the period after an initial (growth) spike in mid-2014: see Figure 6.

Figure 6: Number of registered company auditors and approved SMSF auditors to 31 December 2015



Note 1: See Table 11 in the appendix for the complete data used in this figure (accessible version).

Note 2: From 1 July 2013, SMSF auditors must be registered with ASIC.

How AFS and credit licensing and professional registration applications are determined

- 85 The Licensing team fulfils an important gatekeeping role for ASIC. The assessment of applications is not an automatic process; each application is subject to a detailed and rigorous assessment. We aim to keep applicants informed about the progress of their applications during our assessment. We often consult with other ASIC stakeholder and enforcement teams, or we may seek information externally (e.g. from other local or international regulators).
- 86 A detailed explanation about how AFS and credit licensing and professional registration applications are determined—including rejection, approval, withdrawal and refusal—is set out in our first report: see paragraphs 53–64 of REP 433.

B AFS licences

Key points

During the relevant period, we considered 1,006 AFS licence applications (comprising 653 received during the relevant period and 353 received before the relevant period), and finalised 56% (561) of these.

Of the 561 AFS licence applications finalised, we granted 168 new licences and 170 licence variations. Of the 338 AFS licence applications we approved (including variations), we imposed:

- a key person condition on 205 licences;
- an additional responsible manager requirement on 17 licences (six new licences and 11 variations); and
- modified authorisations on 106 licences.

We declined to accept three responsible managers nominated by the AFS licensee (three licence variations), as we were concerned they did not have the knowledge and skills to meet the organisational competence obligations, even though the licence applications were approved.

A total of 111 AFS licence applications were withdrawn before we made a formal determination. We refused four AFS licence applications. We believe the number of applications refused would have been much higher if applicants had not withdrawn their applications in response to our feedback rather than proceeding to a formal determination.

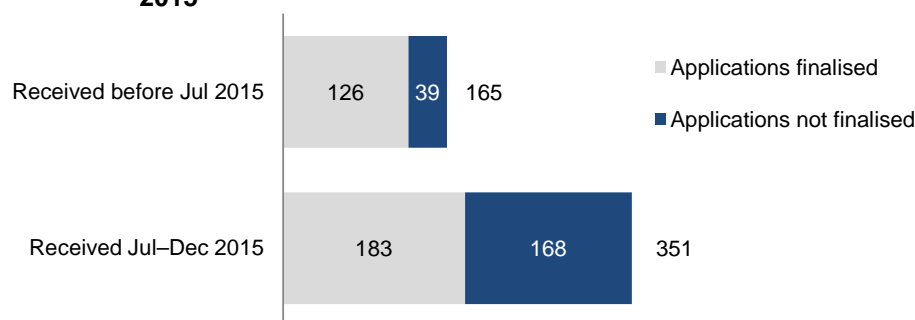
Eleven AFS licences were suspended and 61 AFS licences were cancelled.

Applications and regulatory outcomes

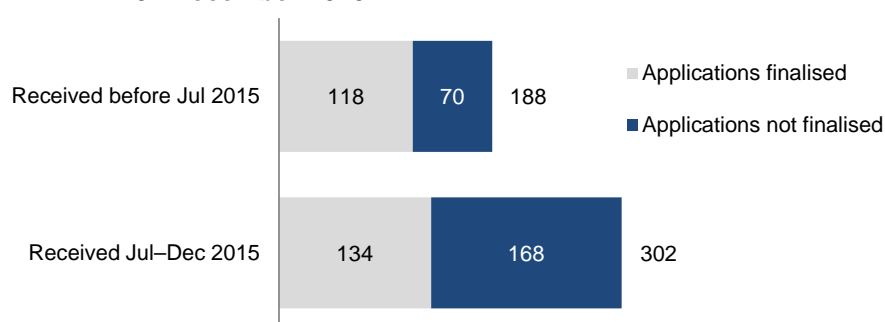
- 87 An application for an AFS licence may be rejected for lodgement, approved, withdrawn or refused. An application that is approved may also have additional regulatory outcomes. For further background information, see paragraphs 66–68 of REP 433.
- 88 Overall, the regulatory outcomes do not indicate any observable trends on which to report generally. Specific comments on sample applications assessed during the relevant period are discussed below.

Applications finalised

- 89 Figure 7 and Figure 8 summarise the number of new AFS licence and AFS licence variation applications that we finalised during the relevant period in comparison with those lodged.

Figure 7: Number of lodged and finalised new AFS licence applications—1 July to 31 December 2015

Note: See Table 12 in the appendix for the complete data used in this figure (accessible version).

Figure 8: Number of lodged and finalised AFS licence variation applications—1 July to 31 December 2015

Note: See Table 13 in the appendix for the complete data used in this figure (accessible version).

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Table 4 provides a breakdown of how the AFS applications we finalised during the relevant period were decided.

Table 4: How finalised AFS licence applications were decided—1 July to 31 December 2015

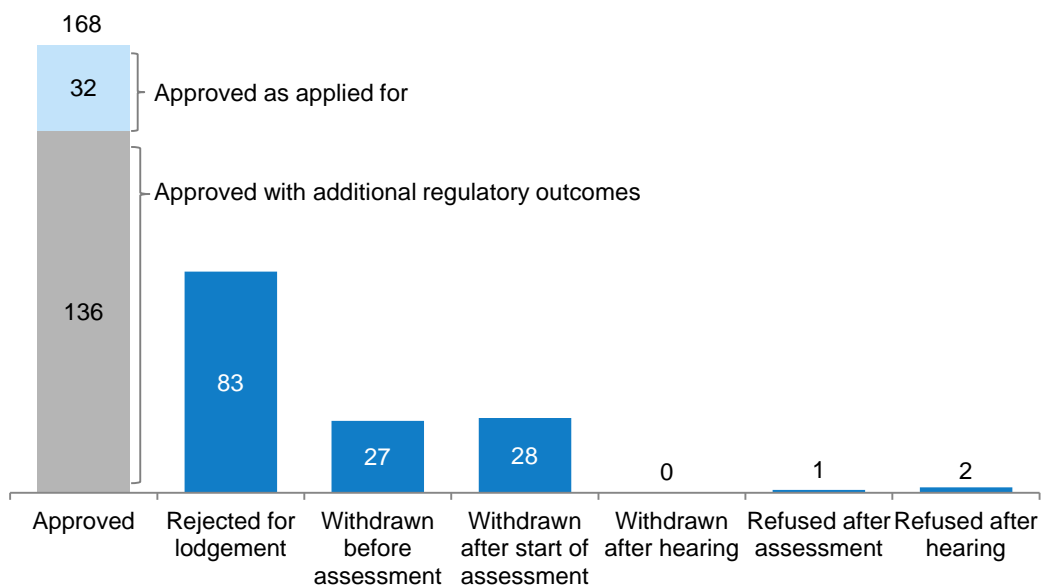
Status of applications finalised Jul–Dec 2015	New licence applications received before Jul 2015	New licence applications received Jul–Dec 2015	Licence variation applications received before Jul 2015	Licence variation applications received Jul–Dec 2015
Approved (with and without additional regulatory outcomes)	90	78	81	89
Rejected for lodgement (pre-lodgement)	6	77	5	20
Withdrawn before start of assessment (pre-lodgement)	2	25	10	17
Withdrawn after start of assessment (post-lodgement)	25	3	22	7
Withdrawn after hearing	0	0	0	0
Refused after assessment	1	0	0	1
Refused after hearing	2	0	0*	0*
Total applications finalised	126	183	118	134

* Only variation applications that are partially refused have recourse to a hearing by an ASIC delegate.

91 During the relevant period, we approved 94 (28%) applications in the manner that they were sought from a total 338 AFS licence applications (i.e. without requiring any additional regulatory outcomes).

92 Figure 9 shows the status of new AFS licence applications we finalised in the relevant period. The graph highlights how we dealt with applications expeditiously—that is, by rejecting them for lodgement because the applications omitted material content, or as a result of the applicant withdrawing its application before we had to make a formal determination because we clearly communicated the reasons that we had concerns, and the applicant understood that it was unlikely that the application would be approved.

Figure 9: Number of finalised new AFS licence applications by status—1 July to 31 December 2015



Note: See Table 14 in the appendix for the complete data used in this figure (accessible version).

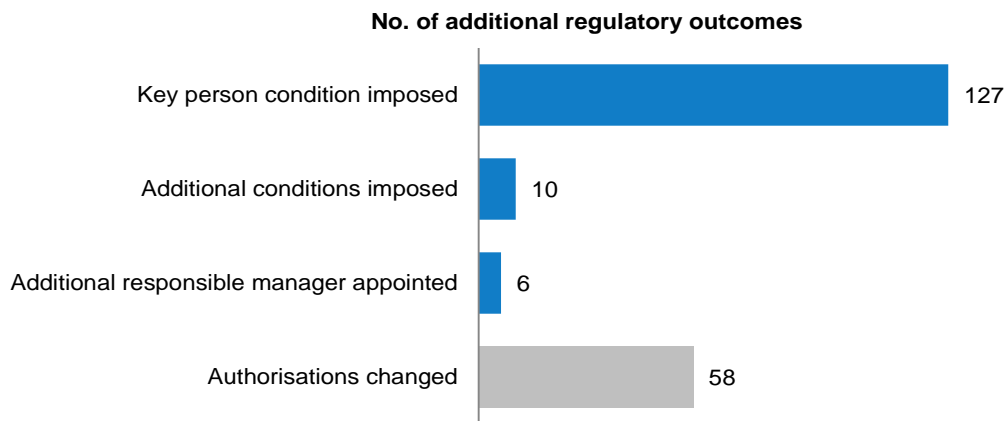
93 Figure 10 shows the new AFS licence applications we approved with additional regulatory outcomes during the relevant period, broken down by the type of regulatory outcome achieved. This reflects how we have influenced the terms of the AFS licences approved over the relevant period.

94 Figure 10 also shows the changes we made to licence authorisations on 58 occasions by modifying, tailoring, reducing or refusing the authorisations sought. For example, we have changed authorisations to:

- (a) relate to wholesale advice or dealing, or only apply to named managed investment schemes rather than the broader authorisation of ‘kinds of schemes’;
- (b) relate to the provision of general financial product advice rather than personal financial product advice;
- (c) restrict the dealing authorisation to the more limited authorisation of ‘arranging to deal’;
- (d) restrict the ‘asset holding’ authorisation from the more general ‘operate a registered managed investment scheme’ to the holding of client assets in a specific fashion or subject to specific requirements;

- (e) restrict the provision of certain financial services in relation to financial products in FX and derivatives to the Australian jurisdiction only; and
- (f) delete financial services or financial product authorisations that are obsolete (i.e. carbon units).

Figure 10: Number and type of additional regulatory outcomes in approved new AFS licence applications—1 July to 31 December 2015

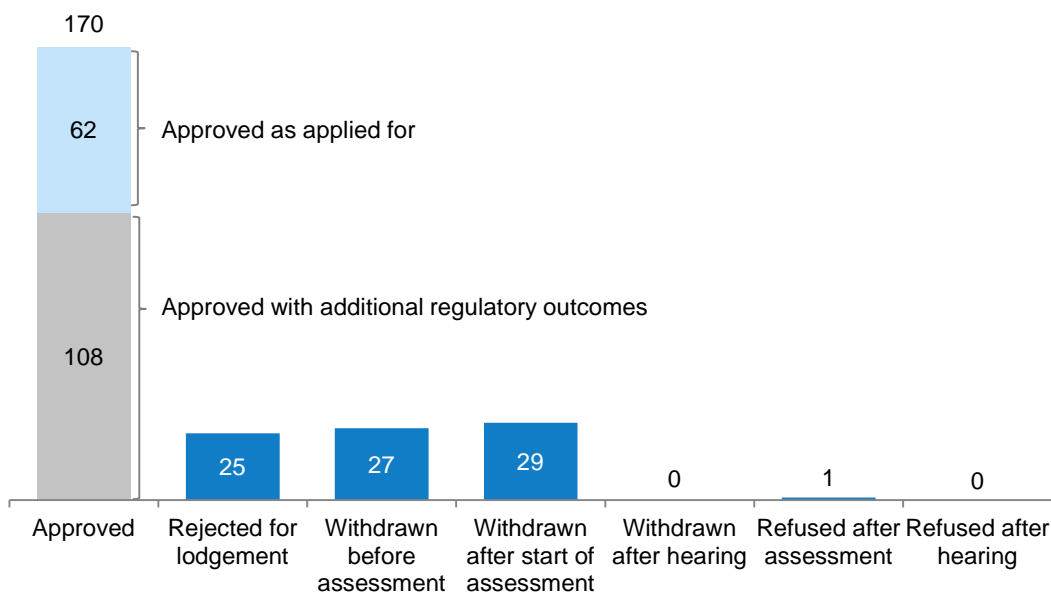


Note 1: See Table 15 in the appendix for the complete data used in this figure (accessible version).

Note 2: There may be more than one additional regulatory outcome for each approved licence application. For example, we could impose a key person condition after requiring an additional responsible manager to be appointed.

95 Figure 11 shows the AFS licence variation applications we finalised in the relevant period. This graph also shows the number of approved AFS licence variation applications where we approved the variation the applicant applied for in their initial application without imposing additional regulatory outcomes.

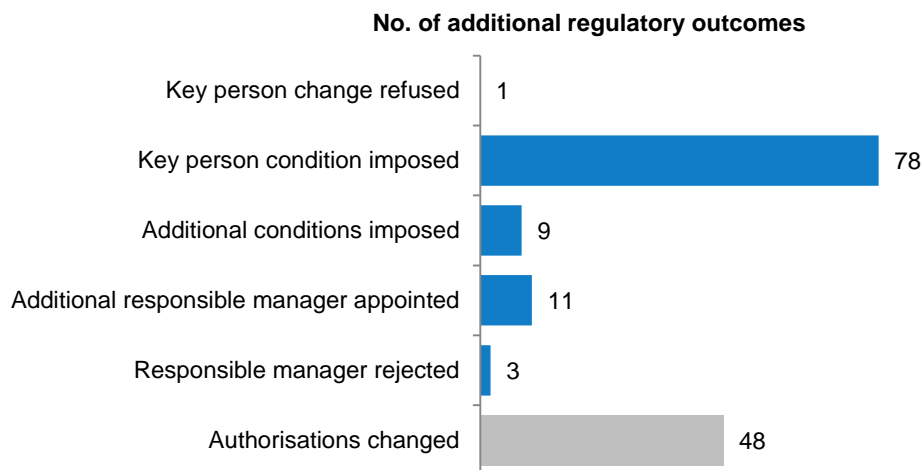
Figure 11: Number of finalised AFS licence variation applications by status—1 July January to 31 December 2015



Note: See Table 16 in the appendix for the complete data used in this figure (accessible version).

96 Figure 12 shows the AFS licence variation applications we approved with additional regulatory outcomes, broken down by type of regulatory outcome.

Figure 12: Number and type of additional regulatory outcomes in approved AFS licence variation applications—1 July to 31 December 2015



Note 1: See Table 17 in the appendix for the complete data used in this figure (accessible version).

Note 2: There may be more than one additional regulatory outcome for each approved licence variation application. For example, we may reject a responsible manager and impose additional conditions.

Note 3: 'Responsible manager rejected' indicates ASIC's decision not to accept the nominated responsible manager as having the necessary knowledge and/or skills to satisfy us that the applicant meets the necessary organisational competence as set out in RG 105.

Applications approved with additional regulatory outcomes

97 An application for a new AFS licence or variation of an AFS licence may have more than one regulatory outcome (e.g. authorisations, special conditions, key person conditions and responsible managers). The application is reported as approved even if only some aspects are approved.

Licence authorisations

98 During the relevant period, we modified the authorisations sought in 106 cases (with 58 of these relating to new AFS licences and 48 relating to AFS licence variations). Of these:

- (a) we approved 83 licences with authorisations that were different to those sought by the applicant or refused to grant the authorisation sought; and
- (b) we approved 23 authorisations that were specific to that applicant (we refer to this as a 'tailored' authorisation).

Tailored authorisations

99 Ordinarily, the descriptions of financial services and products are consistent across AFS licences. However, in some cases, we may tailor a licence authorisation to more accurately reflect the specific type of financial service or

product authorisation that is being requested, or for which the applicant has demonstrated competence. For example, a licence may restrict the licensee to dealing with financial products that are listed on specified exchanges or operating schemes that only hold interests in unsecured debt or some other type of specialised asset.

Additional conditions imposed on AFS licences

100 Under s914A of the Corporations Act, we may impose or add conditions on an AFS licence and vary or revoke the conditions already imposed.

Key person condition

101 The most common AFS licence condition we impose continues to be the key person condition. If an AFS licensee is heavily dependent on the competence of one or more responsible managers (e.g. where the licensee has a sole responsible manager), we will generally impose a ‘key person condition’, and require that these persons are named on the licence as a key person. If a named key person leaves, the licensee must apply for a variation, as it will no longer be able to comply with that condition of the licence: see RG 105.83–RG 105.86.

102 During the relevant period, we imposed a key person condition on:

- (a) 127 of the approved new AFS licences (76% of approved applications); and
- (b) 78 of the approved AFS licence variations (46% of approved applications).

Other conditions

103 We may impose other special or non-standard conditions on an AFS licence where we consider that an applicant may need further monitoring, or should be specifically required to undertake some additional process. These special or non-standard conditions are in addition to those that may be imposed by other requirements (e.g. ASIC instruments, the Corporations Act and the Corporations Regulations).

104 During the relevant period, we imposed additional conditions on:

- (a) 10 of the approved new AFS licences; and
- (b) nine of the approved AFS licence variations.

105 We imposed additional conditions on a number of AFS licences as a result of surveillance activities undertaken by one or more ASIC stakeholder teams (e.g. Financial Advisers; Investment Managers and Superannuation; Deposit Takers, Credit and Insurers; and Financial Services Enforcement). For example, we required some of these AFS licensees to:

- (a) appoint a compliance expert to review the licensee’s compliance measures;

- (b) commission the expert to provide, by a specified date, a report to the licensee and ASIC setting out:
 - (i) an assessment of whether the compliance measures ensure that the licensee complies with Australian financial services laws; and
 - (ii) any specific or general recommendation on the steps to be taken by the licensee to ensure that appropriate compliance measures are in place; and
- (c) if required, commission the expert to provide the licensee and ASIC with a second or further report detailing whether the recommendations set out in the first or earlier report have been complied with.

106 We imposed a special condition on 27 AFS licensees (25 new applications and two variation applications) to restrict the number of authorised representatives appointed to no more than five. In two other cases, we imposed a restriction on the manner in which scheme property is to be held.

107 We also assessed an application during the relevant period where we decided to impose a restriction on the authorisation to deal in derivatives to only cover specific derivatives that are suitable for the hedging of risk when supporting dealing in other financial products.

Responsible managers

108 An applicant must demonstrate competence in relation to each financial service and product authorisation they have sought. Where competence has only been shown for some financial services and products, we may offer a licence that contains fewer financial service and product authorisations than were sought.

109 We will require the appointment of an additional responsible manager when our assessment of an application concludes that the nominated responsible managers are not able to demonstrate to our satisfaction that they have sufficient competence or capacity, given their other roles and engagements, for the authorisation(s) sought.

110 During the relevant period, we requested the appointment of an additional responsible manager for:

- (a) six approved new AFS licences; and
- (b) 11 approved AFS licence variations.

111 We have also not accepted responsible managers nominated by applicants for the purposes of satisfying us about the applicant's organisational competence in three applications (all of which were applications to vary an existing AFS licence).

Applications rejected or withdrawn

- 112 We will reject for lodgement an application if it does not include all core proof documents. An applicant may also withdraw their application before or after our assessment. Withdrawals or rejections before acceptance of lodgement occur where the applicant does not include the required core proof documents or the core proof documents are manifestly defective. If the applicant chooses not to withdraw the deficient application, we will reject it. If a withdrawal or rejection occurs at this stage, the application fee will be refunded or credited towards a future application.
- 113 Withdrawal after assessment usually occurs when an applicant decides that they would prefer to withdraw their application (either before or after a hearing) rather than risk having the application refused. There is no refund of the licence application fee after our assessment has commenced.
- 114 In most cases, an applicant withdraws their application during the assessment when they are unable to demonstrate that a nominated responsible manager has the required competence regarding an authorisation being sought, without which the proposed financial services business cannot operate. For example, an applicant receiving a general advice authorisation, but not an authorisation to 'operate a registered managed investment scheme', would be of limited use if the applicant's proposed business model involved offering units in a scheme in relation to operating a funds management business.
- 115 We rejected for lodgement 108 applications during the relevant period (83 in relation to new applications and 25 variation applications).
- 116 During the relevant period, 111 AFS licence applications were withdrawn, comprising:
- (a) 55 new AFS licence applications (27 of these related to applications accepted for lodgement but withdrawn before assessment, and 28 were withdrawn after assessment); and
 - (b) 56 AFS licence variation applications (27 of these related to applications accepted for lodgement but withdrawn before assessment, and 29 were withdrawn after assessment).

Applications refused

- 117 The Licensing team's objective is to ensure that investors and financial consumers can reasonably expect that persons licensed and registered by ASIC have adequately demonstrated that they meet, and will continue to meet, the appropriate minimum statutory requirements in the provision of their financial services and financial products. This has to be balanced against the objective of enhancing market efficiency by facilitating competition and

reducing unnecessary regulatory red tape for businesses. We need to ensure that applicants who do not meet the statutory requirements are not licensed, given they have the potential to inflict significant financial and personal detriment on investors and financial consumers.

- 118 ASIC must not grant an AFS licence application unless:
- (a) we have no reason to believe that the applicant will be likely to contravene the obligations that will apply under s912A of the Corporations Act if the licence is granted (see s913B(1)(b)); and/or
 - (b) we have no reason to believe that the applicant's responsible officers are not of good fame or character (see s913B(3)(a)(i)).
- 119 The threshold for ASIC's statutory obligation to grant and refuse an AFS licence under s913B of the Corporations Act was clarified in the *Corporations Amendment (Future of Financial Advice) Act 2012*, with the effect that we are now more appropriately able to take account of the likelihood or probability of a future contravention.¹⁴
- 120 We refused four AFS licence applications during the relevant period (three of these related to a new AFS licence and the other one related to a licence variation).
- 121 We refused applications for a range of reasons, including because:
- (a) the applicant provided false or misleading information to ASIC on a number of occasions during our assessment of the application;
 - (b) we were not satisfied that the applicant's risk management systems were adequate;
 - (c) we were not satisfied that the applicant's organisational competence (as set out in RG 105) was adequate based on the nominated responsible manager; and
 - (d) we were not satisfied the applicant would not contravene its licence obligations under s912A of the Corporations Act.
- 122 We believe that the number of AFS licence applications refused would be much higher if applicants did not voluntarily withdraw their applications before the need for a formal determination by an ASIC delegate.

AFS licences suspended or cancelled

- 123 We can suspend or cancel an AFS licence for a number of reasons, including where the licensee:
- (a) enters into external administration;
 - (b) becomes deregistered;

¹⁴ See also *One RE v ASIC* 2012 AATA 294, as discussed at paragraph 99 of REP 433.

- (c) has not complied with the conditions on its licence;
- (d) ceases to carry on a financial services business; or
- (e) applies to ASIC for a suspension or cancellation.

124 During the relevant period, we suspended 11 AFS licences due to the licensee's circumstances (e.g. where the licensee entered into external administration), or as initiated by ASIC. Such suspensions may originate from complaints by the public, or from surveillance activities initiated by ASIC or other persons (e.g. a breach notification provided by the auditor or where the licensee fails to comply with the conditions on its licence).

125 Where a cancellation or suspension occurs, we may still specify that statutory obligations remain in place. Such obligations may include the continuation of professional indemnity insurance, continuation of membership with an external dispute resolution scheme and continuation of the obligation to lodge accounts.

126 During the relevant period, we cancelled 61 AFS licences. Of these:

- (a) 50 were cancelled at the request of the licensee. The main reason licensees gave for requesting a cancellation is that they had ceased to conduct a financial services business as a result of retirement or the sale of their client list/business; and
- (b) 11 were cancelled following action initiated by ASIC. The main reason for cancelling an AFS licence was because the licensee entered into external administration or was deregistered by ASIC.

C Credit licences

Key points

During the relevant period, we considered 447 credit licence applications (comprising 320 received during the relevant period and 127 received before the relevant period), and finalised 60% (268) of these in the period.

Of the 268 credit licence applications finalised, we granted 205 new licences and 63 licence variations. Of the 158 credit licence applications (including variations) that we approved during the relevant period, we imposed:

- a key person condition on 101 licences; and
- an additional responsible manager requirement on two licences.

We rejected for lodgement 14 credit licence applications, while 94 were withdrawn before we made a formal determination. We refused two applications.

Three credit licences were suspended and 156 credit licences were cancelled.

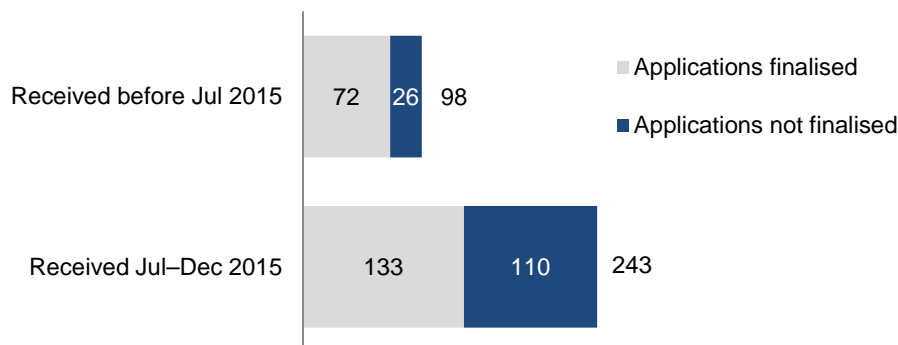
Applications and regulatory outcomes

- 127 An application for a credit licence may be rejected for lodgement, approved, withdrawn or refused. An application that is approved may also have additional regulatory outcomes. For further background information, see paragraphs 108–110 of REP 433.

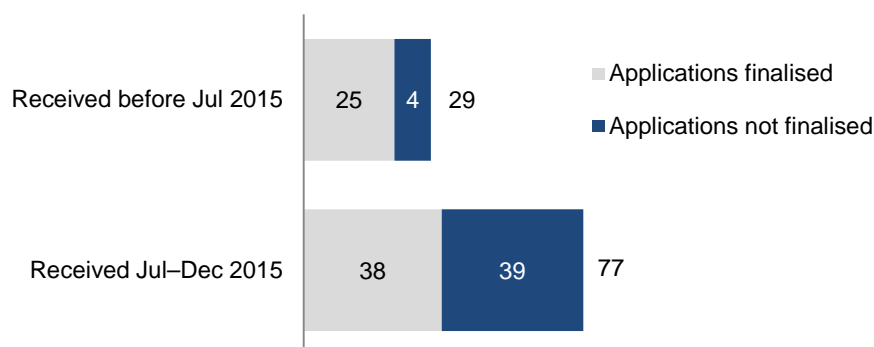
Applications finalised

- 128 Figure 13 and Figure 14 summarise the number of new credit licence and credit licence variation applications that were finalised during the relevant period in comparison with those lodged.

Figure 13: Number of lodged and finalised new credit licence applications—1 July to 31 December 2015



Note: See Table 18 in the appendix for the complete data used in this figure (accessible version).

Figure 14: Number of lodged and finalised credit licence variation applications—1 July to 31 December 2015

Note: See Table 19 in the appendix for the complete data used in this figure (accessible version).

129 Table 5 provides a breakdown of how the credit licence applications we finalised during the relevant period were decided. A total of 110 applications were either rejected for lodgement or withdrawn by the applicant during the relevant period.

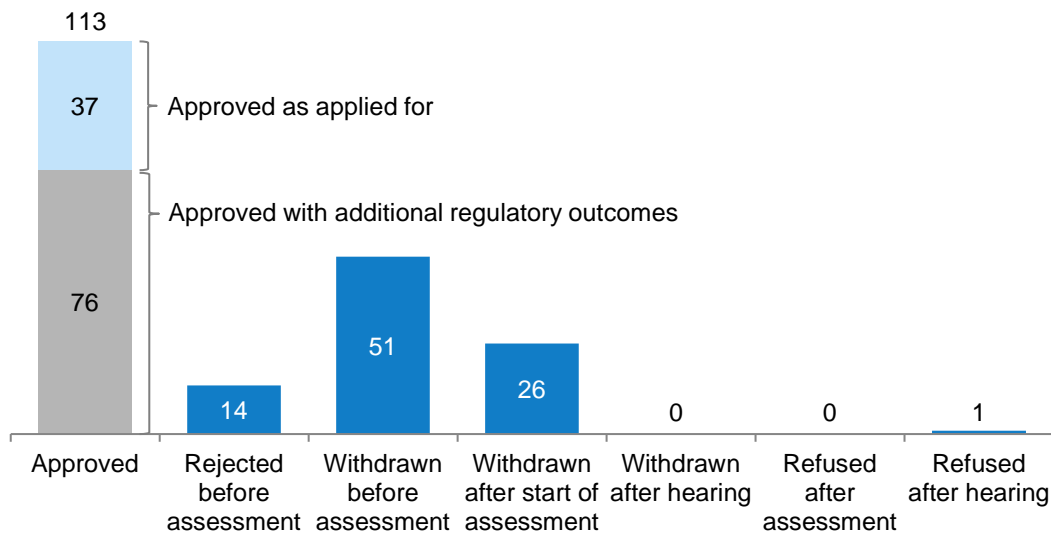
Table 5: How finalised credit licence applications were decided—1 July to 31 December 2015

Status of applications finalised Jul-Dec 2015	New licence applications received before Jul 2015	New licence applications received Jul-Dec 2015	Licence variation applications received before Jul 2015	Licence variation applications received Jul-Dec 2015
Approved (with and without additional regulatory outcomes)	47	66	16	29
Rejected for lodgement (pre-lodgement)	2	12	0	0
Withdrawn before start of assessment (pre-lodgement)	5	46	0	7
Withdrawn after start of assessment (post-lodgement)	17	9	8	2
Withdrawn after hearing	0	0	0	0
Refused after assessment	0	0	1	0
Refused after hearing	1	0	0*	0*
Total applications finalised	72	133	25	38

* Only variation applications that are partially refused have recourse to a hearing by an ASIC delegate.

130 Figure 15 shows the status of new credit licence applications we finalised in the relevant period. This graph also shows the number of applications we approved in the form requested by the applicant.

Figure 15: Number of finalised new credit licence applications by status—1 July to 31 December 2015

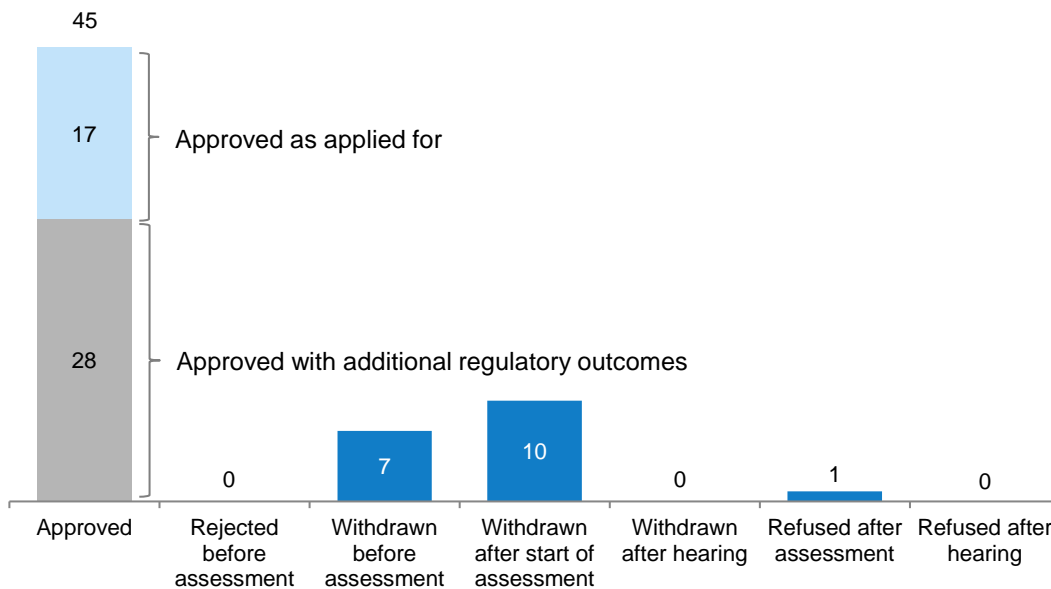


Note: See Table 20 in the appendix for the complete data used in this figure (accessible version).

131 During the relevant period, we imposed an additional key person condition on 76 of our approved new credit licences. In one instance, the nominated responsible manager was rejected.

132 Figure 16 shows the status of credit licence variation applications we finalised in the relevant period, with a breakdown of those we approved with additional regulatory outcomes and those we approved in the form requested by the applicant.

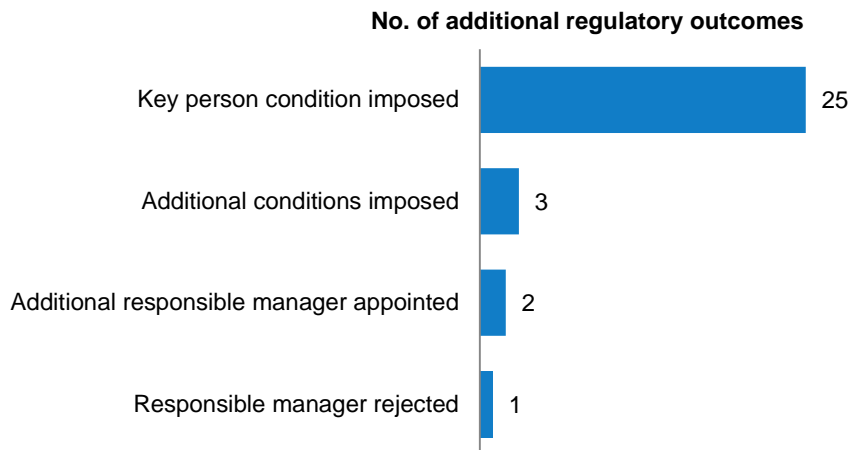
Figure 16: Number of finalised credit licence variation applications by status—1 July to 31 December 2015



Note: See Table 21 in the appendix for the complete data used in this figure (accessible version).

133 Figure 17 shows the credit licence variation applications we approved with additional regulatory outcomes, with a breakdown of the regulatory outcomes achieved.

Figure 17: Number and type of additional regulatory outcomes in approved credit licence variation applications—1 July to 31 December 2015



Note: See Table 22 in the appendix for the complete data used in this figure (accessible version).

Note: There may be more than one additional regulatory outcome for each approved licence variation application. For example, we may refuse a key person change and impose additional conditions.

Applications approved with additional regulatory outcomes

Additional conditions imposed on credit licences

134 Under s45 of the National Credit Act, we may impose conditions, or additional conditions, on a credit licence and may vary or revoke existing conditions. In 34% of credit licence applications, we granted the licence or variation in the form applied for by the applicant.

Key person condition

135 Similarly to AFS licence applications, the most common credit licence condition we impose is a key person condition. If a credit licensee is heavily dependent on the competence of one or more responsible managers (e.g. where the licensee has a sole responsible manager), we will generally impose a 'key person condition', and require that these persons are named on the credit licence as a key person.

136 During the relevant period, we imposed a key person condition on:

- (a) 76 of the approved new credit licences (67% of approved applications); and
- (b) 25 of the approved credit licence variations (56% of approved applications).

Other conditions

- 137 We may impose other conditions on a credit licence where we consider that an applicant may need further monitoring or should be specifically required to undertake some additional process.
- 138 During the relevant period, we imposed additional conditions on three of the approved credit licence variations. An additional condition imposed on one credit licensee included a compliance expert requirement, requiring an initial and a subsequent compliance review after issue of the licence variation.
- 139 We did not initiate variations to any credit licences during the relevant period.

Responsible managers

- 140 We will require the appointment of an additional responsible manager or managers when our assessment of an application concludes that the nominated responsible managers do not demonstrate sufficient competence for the authorisations sought.
- 141 During the relevant period, additional responsible managers were added to two approved credit licence variations. There were, however, a number of applications where the nominated responsible managers were assessed as not having the requisite relevant experience. In some cases, this was because the responsible managers were seeking to rely on:
- (a) experience that was gained in an unlicensed environment (i.e. the person was providing credit services that required a licence, but neither they nor their employer were licensed; or
 - (b) experience that was gained in relation to exempt credit services.
- 142 ASIC does not recognise the experience described in paragraphs 141(a) and 141(b). However, experience gained in the provision of mortgage management services is regarded as relevant experience for the provision of consumer credit, provided that there are no issues with that conduct (e.g. complaints or a failure to meet the requisite standards in relation to those activities).

Applications rejected or withdrawn

- 143 Applicants may withdraw their licence applications. The most common reason for withdrawals is linked to the quality of the application—that is, where we communicate to the applicant, and the applicant agrees, that the final outcome is likely to be a refusal if the matter proceeds to a hearing.
- 144 The application might lack relevant information or might be linked to individuals who do not meet the competence requirements to perform their duties. Ultimately, however, it is the applicant's decision whether or not to proceed with the application.

- 145 Reasons for credit licence withdrawals are similar to those for an AFS licence, with withdrawals occurring before and after lodgement.
- 146 During the relevant period:
- (a) we rejected for lodgement 14 new credit licence applications;
 - (b) 51 new credit licence applications were withdrawn before our assessment; and
 - (c) 26 new credit licence applications were withdrawn after our assessment.
- 147 In a significant number of cases, rejections and withdrawals were the result of applicants nominating responsible managers who were unable to demonstrate relevant experience: see paragraph 146.
- 148 In addition, we did not reject for lodgement any applications to vary an existing credit licence, seven variation applications were withdrawn before assessment commenced, and another 10 were withdrawn after the start of our assessment.

Applications refused

- 149 Under s37 of the National Credit Act, we must refuse a credit licence application if we have reason to believe that the applicant is likely to contravene the obligations that will apply under s47 of the Act if the licence is granted. This statutory requirement is the same as that discussed in relation to applications for AFS licences: see paragraph 118.
- 150 We may also refuse a credit licence application if we have reason to believe that a person who is a director, secretary or senior manager of the applicant is not a fit and proper person to engage in credit activities.
- 151 We refused one application for a new credit licence and one application for a credit licence variation during the relevant period.
- 152 We believe that there would have been a number of other credit licence applications refused if applicants did not voluntarily withdraw their applications before the need for a formal determination by an ASIC delegate.

Credit licences suspended and cancelled

- 153 As with AFS licences, we can suspend or cancel a credit licence for a number of reasons, including where the licensee:
- (a) enters into external administration;
 - (b) becomes deregistered;
 - (c) has not complied with the conditions on its licence;

- (d) ceases to carry on a financial services business; or
- (e) applies to ASIC for a suspension or cancellation.

154 Where a cancellation or suspension occurs, we may still specify that statutory obligations remain in place. Such obligations may include the continuation of professional indemnity insurance, continuation of membership with an external dispute resolution scheme and continuation of the obligation to lodge accounts.

155 During the relevant period, there were 156 licence cancellations. Of these, 23 were initiated by ASIC (non-enforcement) and 133 were initiated by the credit licensee. There were three ASIC-initiated suspensions during the relevant period. Reasons for the suspensions included that:

- (a) the licensee's responsible managers required additional time to complete the relevant training; or
- (b) the licensee was not presently carrying on credit activities.

D Liquidator, company auditor and approved SMSF auditor registrations

Key points

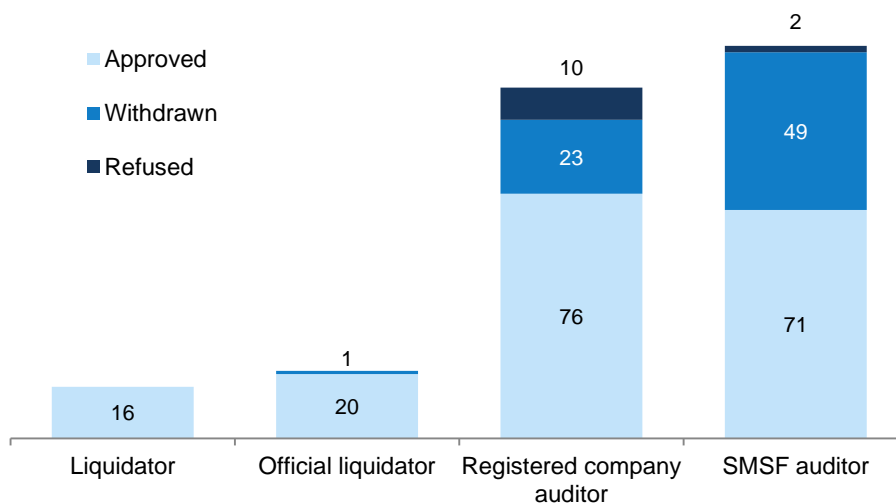
In the relevant period, we:

- approved 16 applications for registration as a liquidator, approved 20 applications for registration as an official liquidator and cancelled the registration of 17 registered liquidators;
- registered 76 company auditors, received withdrawal requests from 23 applicants and cancelled the registration of 123 company auditors and three authorised audit company; and
- registered 71 approved SMSF auditors, received withdrawal requests from 49 applicants and cancelled the registration of 62 SMSF auditors.

Outcomes of registration applications

156 Figure 18 summarises the outcomes of applications for registration as a liquidator, official liquidator, registered company auditor or approved SMSF auditor.

Figure 18: Number of finalised liquidator and auditor registration applications by status—1 July to 31 December 2015



Note: See Table 23 in the appendix for the complete data used in this figure (accessible version).

Liquidators

Registration

- 157 Under s1282(2) of the Corporations Act, we must grant an application for registration as a liquidator if certain requirements are satisfied. For further background information on the registration process, see paragraph 136 of REP 433.
- 158 During the relevant period, we approved 16 applications for registration as a liquidator and 20 applications for registration as an official liquidator.

Withdrawals

- 159 One application for registration as an official liquidator was withdrawn during the relevant period.

Refusals

- 160 We did not refuse any applications for registration as a liquidator or for registration as an official liquidator during the relevant period.

Suspensions and cancellations

- 161 ASIC does not have the power to suspend a liquidator. We may apply to CALDB to suspend a liquidator's registration: s1292(2) of the Corporations Act.
- 162 We only have the power to cancel the registration of a liquidator where the liquidator:
- (a) becomes insolvent;
 - (b) is subject to a prohibition under Pt 2D.6 of the Corporations Act;
 - (c) fails to maintain adequate professional indemnity insurance;
 - (d) requests that we cancel the registration of the liquidator; or
 - (e) is deceased.
- 163 Cancellations for any other reasons are dealt with by CALDB.
- 164 During the relevant period, 17 registered liquidators voluntarily cancelled their registration, 11 of whom were also official liquidators.¹⁵
- 165 For more detailed information, please see our report specifically covering the regulation of registered liquidators,¹⁶ and also [Media Release 15-224MR ASIC](#)

¹⁵ An official liquidator must also be a registered liquidator. It is possible that an individual ceases to be an official liquidator and continues as a registered liquidator. However, one cannot cease as a registered liquidator and continue to operate as an official liquidator.

¹⁶ The most recent report is Report 430 *ASIC regulation of registered liquidators: January to December 2014* (REP 430).

Cancels registration of liquidators (24 August 2015), where Commissioner Price said:

We are passionate about lifting standards and ensuring liquidators comply with the law so as to promote a fair, orderly and transparent insolvency market. Our work identifying failure to comply with basic obligations can highlight more systemic issues which will lead to ASIC enforcement action.

Company auditors

Registration

166 Under s1280 of the Corporations Act, we must grant an application for registration as a company auditor if certain requirements are met. For further background information, see paragraph 150 of REP 433.

167 During the relevant period, we registered 76 company auditors.

Withdrawals

168 Twenty-three applications for registration were withdrawn during the relevant period.

Refusals

169 Ten applications for registration were refused during the period.

Suspensions and cancellations

170 There were 123 company auditors and three authorised audit companies that ceased to be registered during the relevant period. A common reason for this was the retirement or death of the registered individual.

Approved SMSF auditors

Registrations

171 Under s128B of the *Superannuation Industry (Supervision) Act 1993* (SIS Act), we must grant an application for registration as an approved SMSF auditor if the applicant (who must be an Australian resident) meets certain requirements regarding qualifications and practical experience and has passed the competency examination required in the SIS Act. For further background information, see paragraphs 159–161 of REP 433.

172 During the relevant period, we registered 71 applicants as approved SMSF auditors.

Withdrawals

- 173 Forty-nine applications for registration of an approved SMSF auditor were withdrawn during the relevant period.

Refusals

- 174 We refused two applications for registration as an SMSF auditor during the period.

Suspensions and cancellations

- 175 We may suspend or cancel the registration of an approved SMSF auditor for various reasons, including because the auditor has:
- (a) not complied with the conditions on their registration;
 - (b) not conducted an audit for five years;
 - (c) applied to ASIC for a suspension or cancellation; or
 - (d) ceased to be an Australian resident.
- 176 During the relevant period, we cancelled 62 SMSF auditor registrations. Of these:
- (a) 59 were cancelled at the request of the SMSF auditor. Reasons are not recorded—however, these generally related to the auditor’s retirement, change of career path or death; and
 - (b) three were cancelled following action initiated by ASIC—in these cases, a disqualification order (not a fit and proper person).

Appendix: Accessible versions of figures

This appendix provides accessible table data for the figures presented in this report.

Table 6: Number of AFS licences approved per financial year and total number of approved AFS licences

Financial year ending 30 June	No. of approved AFS licences per year	Total no. approved AFS licences
Jun-02	35	35
Jun-03	601	626
Jun-04	3,255	3,853
Jun-05	401	4,135
Jun-06	429	4,415
Jun-07	369	4,625
Jun-08	329	4,768
Jun-09	285	4,803
Jun-10	335	4,874
Jun-11	329	4,883
Jun-12	333	4,955
Jun-13	389	5,043
Jun-14	302	5,101
Jun-15	323	5,198
Dec-15 (first half of 2015–16)	168	5,310

Note 1: The data for the period ending 30 June 2004 reflects the end of the AFS licensing transition period on 10 March 2004.

Note 2: This is the data contained in Figure 1.

Table 7: Number of AFS licence applications by status per half year—January 2013 to December 2015

Six-month period	Approved	Cancelled	Rejected/withdrawn/refused	Suspended	Totals
Jan–Jun 2013	179	136	55	5	375
Jul–Dec 2013	163	128	72	7	370
Jan–Jun 2014	140	124	79	7	350
Jul–Dec 2014	174	120	115	8	417
Jan–Jun 2015	149	98	106	9	362
Jul–Dec 2015	168	61	141	11	381

Note: This is the data contained in Figure 2.

Table 8: Number of credit licences approved per financial year and total number of approved credit licences

Financial year ending 30 June	No. approved credit licences per year	Total no. approved credit licences
Jun-11	4,750	6,081
Jun-12	325	6,004
Jun-13	336	5,856
Jun-14	360	5,837
Jun-15	301	5,779
Dec-15 (first half of 2015–16)	113	5,741

Note: This is the data contained in Figure 3.

Table 9: Number of credit licence applications by status per half year—January 2013 to December 2015

Six-month period	Approved	Cancelled	Rejected/withdrawn/refused	Suspended	Totals
Jan–Jun 2013	169	272	34	3	478
Jul–Dec 2013	170	188	75	7	440
Jan–Jun 2014	190	208	45	1	444
Jul–Dec 2014	166	172	76	0	414
Jan–Jun 2015	135	192	72	2	401
Jul–Dec 2015	113	156	92	3	364

Note: This is the data contained in Figure 4.

Table 10: Number of registered and official liquidators to 31 December 2015

Financial year ending 30 June	Registered liquidators	Official liquidators
Jun-99	900	368
Jun-00	883	375
Jun-01	858	371
Jun-02	830	357
Jun-03	835	363
Jun-04	758	356
Jun-05	762	367
Jun-06	747	437
Jun-07	689	447
Jun-08	674	462
Jun-09	660	484
Jun-10	664	501
Jun-11	669	517

Financial year ending 30 June	Registered liquidators	Official liquidators
Jun-12	680	542
Jun-13	685	569
Jun-14	696	589
Jun-15	711	611
Dec-15 (first half of 2015–16)	710	621

Note: This is the data contained in Figure 5.

Table 11: Number of registered company auditors and approved SMSF auditors to 31 December 2015

Financial year ending 30 June	Registered liquidators	SMSF auditors
Jun-99	7,736	
Jun-00	7,623	
Jun-01	7,221	
Jun-02	7,109	
Jun-03	6,440	
Jun-04	6,506	
Jun-05	6,163	
Jun-06	5,848	
Jun-07	5,658	
Jun-08	5,495	
Jun-09	5,345	
Jun-10	5,207	
Jun-11	5,114	
Jun-12	4,985	
Jun-13	4,852	5,935
Jun-14	4,729	7,073
Jun-15	4,596	6,669
Dec-15 (first half of 2015–16)	4,537	6,668

Note 1: This is the data contained in Figure 6.

Note 2: From 1 July 2013, SMSF auditors must be registered with ASIC.

Table 12: Number of lodged and finalised new AFS licence applications—1 July to 31 December 2015

	Received Jul–Dec 2015	Received before Jul 2015
Applications finalised	183	126
Applications not finalised	168	39
Applications lodged	351	165

Note: This is the data contained in Figure 7.

Table 13: Number of lodged and finalised AFS licence variation applications—1 July to 31 December 2015

	Received Jul–Dec 2015	Received before Jul 2015
Applications finalised	134	118
Applications not finalised	168	70
Applications lodged	302	188

Note: This is the data contained in Figure 8.

Table 14: Number of finalised new AFS licence applications by status—1 July to 31 December 2015

Status of applications	No. of finalised applications
Approved (136 with and 32 without additional regulatory outcomes)	168
Rejected for lodgement (pre-lodgement)	83
Withdrawn before start of assessment (pre-lodgement)	27
Withdrawn after start of assessment (post-lodgement)	28
Withdrawn after hearing	0
Refused after assessment	1
Refused after hearing	2
Total applications finalised	309

Note: This is the data contained in Figure 9.

Table 15: Number and type of additional regulatory outcomes in approved new AFS licence applications—1 July to 31 December 2015

Type of additional regulatory outcome	No. of additional regulatory outcomes
Key person condition imposed	127
Additional conditions imposed	10
Additional responsible manager appointed	6
Authorisations changed	58

Note: This is the data contained in Figure 10.

Table 16: Number of finalised AFS licence variation applications by status—1 July to 31 December 2015

Status of applications	No. of finalised applications
Approved (108 with and 62 without additional regulatory outcomes)	170
Rejected for lodgement (pre-lodgement)	25
Withdrawn before start of assessment (pre-lodgement)	27
Withdrawn after start of assessment (post-lodgement)	29
Withdrawn after hearing	0
Refused after assessment	1

Status of applications	No. of finalised applications
Refused after hearing	0
Total applications finalised	252

Note: This is the data contained in Figure 11.

Table 17: Number and type of additional regulatory outcomes in approved AFS licence variation applications—1 July to 31 December 2015

Type of additional regulatory outcome	No. of additional regulatory outcomes
Key person changed refused	1
Key person condition imposed	78
Additional conditions imposed	9
Additional responsible manager appointed	11
Responsible manager rejected	3
Authorisations changed	48

Note: This is the data contained in Figure 12.

Table 18: Number of lodged and finalised new credit licence applications—1 July to 31 December 2015

	Received Jul–Dec 2015	Received before Jul 2015
Applications finalised	133	72
Applications not finalised	110	26
Applications lodged	243	98

Note: This is the data contained in Figure 13.

Table 19: Number of lodged and finalised credit licence variation applications—1 July to 31 December 2015

	Received Jul–Dec 2015	Received before Jul 2015
Applications finalised	38	25
Applications not finalised	39	4
Applications lodged	77	29

Note: This is the data contained in Figure 14.

Table 20: Number of finalised new credit licence applications by status—1 July to 31 December 2015

Status of applications	No. of finalised applications
Approved (76 with and 37 without additional regulatory outcomes)	113
Rejected for lodgement (pre-lodgement)	14
Withdrawn before start of assessment (pre-lodgement)	51
Withdrawn after start of assessment (post-lodgement)	26

Status of applications	No. of finalised applications
Withdrawn after hearing	0
Refused after assessment	0
Refused after hearing	1
Total applications finalised	205

Note: This is the data contained in Figure 15.

Table 21: Number of finalised credit licence variation applications by status—1 July to 31 December 2015

Status of applications	No. of finalised applications
Approved (28 with and 17 without additional regulatory outcomes)	45
Rejected for lodgement (Pre-lodgement)	0
Withdrawn before start of assessment (pre-lodgement)	7
Withdrawn after start of assessment (post-lodgement)	10
Withdrawn after hearing	0
Refused after assessment	1
Refused after hearing	0
Total applications finalised	63

Note: This is the data contained in Figure 16.

Table 22: Number and type of additional regulatory outcomes in approved credit licence variation applications—1 July to 31 December 2015

Type of additional regulatory outcome	No. of additional regulatory outcomes
Key person condition imposed	25
Additional conditions imposed	3
Additional responsible manager appointed	2
Responsible manager rejected	1

Note: This is the data contained in Figure 17.

Table 23: Number of finalised liquidator and auditor registration applications by status—1 July to 31 December 2015

Status of applications	Liquidator	Official liquidator	Registered company auditor	SMSF auditor
Approved	16	20	76	71
Withdrawn	0	1	23	49
Refused	0	0	10	2

Note: This is the data contained in Figure 18.

Key terms

Term	Meaning in this document
ADTR licence	Australian derivative trade repository licence
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.
AFS licensee	A person who holds an AFS licence under s913B of the Corporations Act Note: This is a definition contained in s761A.
approved SMSF auditor	Has the meaning given in s10(1) of the SIS Act after 31 January 2013
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
Australian derivative trade repository licence	An Australian derivative trade repository licence under s905C of the Corporations Act that authorises a person to operate a trade repository
CALDB	Companies Auditors and Liquidators Disciplinary Board
consumer lease	has the meaning give in s169 of the National Credit Code
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
credit legislation	Has the meaning given in s5 of the National Credit Act
credit licence	An Australian credit licence under s35 of the National Credit Act that authorises a licensee to engage in particular credit activities
credit licensee	A person who holds a credit licence under s35 of the National Credit Act
CS facilities	Clearing and settlement facilities as defined by s768A of the Corporations Act
DHS	Department of Human Services
financial service	Has the meaning given in Div 4 of Pt 7.1 of the Corporations Act
FOFA	Future of Financial Advice
FX	foreign exchange

Term	Meaning in this document
IDPS	Means an investor directed portfolio service that are unregistered managed investment schemes for holding and dealing with one or more investments selected by investors. They are managed investment schemes because investors have the expectation of cost savings (e.g. through the netting of transactions or the pooling of funds to acquire investments) or access to investments that would not otherwise be available to them.
limited AFS licence	An AFS licence that only includes authorisations to provide one or more of the following limited financial services: <ul style="list-style-type: none"> • financial product advice on SMSFs; • financial product advice on a client's existing superannuation holdings, in certain circumstances; • class of product advice on: <ul style="list-style-type: none"> – superannuation products; – securities; – simple managed investment schemes (as defined in reg 1.0.02 of the Corporations Regulations); – general and life risk insurance products; and – basic deposit products; and • arranging to deal in an interest in an SMSF
liquidator	A person registered by ASIC under s1282 of the Corporations Act
marketplace lending	Means the facilitation of loans outside of the traditional banking system by connecting borrowers with lenders, or investors so as to expose the lenders to the risks and benefits of particular loans via an on-line platform.
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
National Credit Code	National Credit Code at Sch 1 of the National Credit Act
National Credit Regulations	National Consumer Credit Protection Regulations 2010
official liquidator	A person registered by ASIC under s1283 of the Corporations Act
OTC derivatives	over-the-counter derivatives
relevant period	1 July 2015 to 31 December 2015
REP 433 (for example)	An ASIC report (in this example numbered 433)
RG 105 (for example)	An ASIC regulatory guide (in this example numbered 105)

Term	Meaning in this document
trade repository	A derivative trade repository—a facility to which information about derivative transactions, or about positions relating to derivative transactions, can be reported
robo-advice	means financial advice that is either completely automated advice (that is, with no human involvement), or automated advice with some human advice input.
SIS Act	<i>Superannuation Industry (Supervision) Act 1993</i>
SIS Regulations	Superannuation Industry (Supervision) Regulations 1994
SMSF	Self-managed superannuation fund

Related information

Headnotes

ADTR licence, AFS licence, AFS licensee, application, approved SMSF auditor, authorisation, cancellation, company auditor, credit licence, credit licensee, financial market, foreign exchange, licence variation, liquidator, marketplace lending, official liquidator, OTC derivatives, refusal, registration, rejected for lodgement, responsible manager, robo-advice, SMSF auditor, suspension, withdrawal

Regulatory guides

RG 1 AFS Licensing Kit: Part 1—Applying for and varying an AFS licence

RG 2 AFS Licensing Kit: Part 2—Preparing your AFS licence application

RG 3 AFS Licensing Kit: Part 3—Preparing your additional proofs

RG 98 Licensing: Administrative action against financial services providers

RG 104 Licensing: Meeting the general obligations

RG 105 Licensing: Organisational competence

RG 180 Auditor registration

RG 186 External administration: Liquidator registration

RG 203 Do I need a credit licence?

RG 204 Applying for and varying a credit licence

RG 205 Credit licensing: General conduct obligations

RG 218 Licensing: Administrative action against persons engaging in credit activities

RG 243 SMSF auditor registration

Legislation

Corporations Act

Part 7.6: Licensing of financial services providers

Part 9.2: Registration of auditors and liquidators

Part 9.2A: Authorised audit companies

Corporations Regulations

Part 7.6: Licensing of financial services providers

Part 9.2: Registration of auditors and liquidators

Part 9.2A: Authorised audit companies

National Credit Act

Chapter 2: Licensing of persons who engage in credit activities

National Credit Regulations

Chapter 2: Licensing of persons who engage in credit activities

SIS Act

Part 16, Div 1A, Subdiv A: Registration of approved SMSF auditors

SIS Regulations

Regulations 9A.01, 9A.02, 9A.03, 9A.04, 9A.05 and 14.1

Reports

REP 429 *Cyber resilience: Health check*

REP 430 *ASIC regulation of registered liquidators: January to December 2014*

REP 433 *Overview of licensing and professional registration applications: July to December 2014*

REP 448 *Overview of licensing and professional registration applications: January to June 2015*

REP 467 *Overview of decisions on relief applications (June to September 2015)*

REP 476 *ASIC enforcement outcomes: July to December 2015*

Consultation papers

CP 254 *Regulating digital financial advice* (and attached draft regulatory guide)

Cases

One RE v ASIC 2012 AATA 294

Media releases

16-081MR *ASIC issues guidance on marketplace lending* (21 March 2016)

15-358MR *ASIC obtains final orders against Park Trent* (30 November 2015)

15-293MR *ASIC cancels retail derivative issuer's licence* (15 October 2015).

15-233MR *Two overseas entities agree to stop providing unlicensed FX services* (27 August 2015)

15-224MR *ASIC cancels registration of liquidators* (24 August 2015)

15-211MR *Innovation Hub: ASIC update* (5 August 2015)

Information sheets

INFO 179 *Applying for a limited AFS licence*

INFO 213 *Marketplace lending (peer-to-peer lending) products*

Pro formas

PF 209 *Australian financial services licence conditions*