

From the Desk of Director Marija Pajeska



Association of Securities & Derivatives Advisers of Australia

28 June 2018

Ms Kelly Fung
Lawyer
Financial Advisers
Australian Securities and Investments Commission
By email: policy.submissions@asic.gov.au

Response to ASIC Consultation Paper 300 – Approval and oversight of compliance schemes for financial advisers

The Association of Securities and Derivatives Advisers of Australia (ASDAA) appreciates the opportunity to provide these comments to ASIC in respect of ASIC Consultation Paper 300 – Approval and oversight of compliance schemes for financial advisers.

ASDAA's members are comprised of individuals who are either directors or employees of firms which hold Australian Financial Services Licences (AFSLs).

Our specific comments to each of ASIC's proposals in the Consultation Paper are detailed in Annexure A of this letter.

ASDAA appreciates the opportunity to provide this Submission to ASIC on these significant proposals. We would be happy to discuss any issues arising from our submissions on this issue, or to provide any further material that may assist. Should you require any further information, please contact Brad Smoling, Director of Communications, on (07) 5532 3930 or email brad@asdaa.com.au.

Yours Sincerely

A handwritten signature in black ink that reads 'M. Pajeska'.

Marija Pajeska
Compliance Director

Annexure A: Response to ASIC Questions

Section B: Compliance scheme approval application process

Three-stage application process for initial applicants

B1 proposal: ASIC proposes to conduct a three-stage application process for initial applications. We have set out the proposed process in more detail at paragraphs 43–46:

ASIC Question		Response
B1Q1	Are there better ways for ASIC to run the application process that will help to give certainty about resources required and enable all approvals to be announced at the same time? If so, please provide details.	We are not sure what the purpose of the expression of interest is? At this stage ASIC has not provided any guidance on what information it expects an applicant to include in the expression of interest and feel it may be a redundant step.
B1Q2	Does our proposed process create any particular risks that we will need to manage? If so, please provide details.	<ul style="list-style-type: none">• Any compliance scheme that fails to submit an expression of interest in Sep 2018 may have to use an alternative application process which is not addressed in this Consultation Paper.• If ASIC releases the relevant regulatory guide in late Sep 2018 (for example on 20 Sep 2018) it does not give interested applicants sufficient time to read and review the guide, assess whether they wish to apply, have a meeting of the Board of Directors to decide whether or not to apply, etc. If ASIC retains the requirement to submit an expression of interest then it should be set as 30 business days after the release of the Regulatory Guide.• We understand that the timeframe has been designed to ensure that there are compliance schemes available for financial advisers to sign up to by 15 Nov 2019. So, in order to meet these requirements and to give applicants sufficient time to submit their expression of interest ASIC should consider releasing the Regulatory Guide in Aug 2018 if all expressions of interest are to be submitted by 30 Sep 2018.

Content of Application

B2 proposal: ASIC proposes to standardise the content of compliance scheme approval applications to require them to contain the information set out at paragraphs 50–53.

ASIC Question		Response
B2Q1	Do you agree with the information we will require as part of the application? If not, why not?	We agree with the information ASIC will require the applicant to provide

Content of compliance scheme document

B3 proposal: ASIC proposes that a compliance scheme document should cover the matters set out in paragraph 55

ASIC Question		Response
B3Q1	Are there any matters other than those in paragraph 55 that should be included in the compliance scheme document? If so, please provide details.	We agree with the minimum information, prescribed by ASIC, that should be included in the compliance scheme document. We are also of the view that as this is a relatively new concept in Australia, the benefit of time will ASIC and compliance schemes to work together to make required changes.
B3Q2	Are there any matters in paragraph 55 that should not be included in the compliance scheme document? If so, please give details. Please also suggest alternative places for this information.	

Section C: Compliance scheme governance and administration

Responsibilities of governing body and staff of monitoring body

C1 proposal: ASIC proposes that the governing body and the staff of the monitoring body should have the responsibilities outlined in Table 2 and that the governing body's responsibilities should be set out in a charter or terms of reference.

ASIC Question		Response
C1Q1	Do you agree that the governing body should be permitted to delegate all of its responsibilities described in Table 2, other than the responsibilities described in paragraphs 63(a)-63(b)? If not, please give details.	Yes, as the monitoring body should discuss the matters at hand and make a determination. Overtime ASIC may wish to consider whether a delegate of the monitoring body can consider and determine minor failures of the code by a covered financial adviser provided that all actions taken by the delegate are to be ratified by the monitoring body.
C1Q2	Are there any matters other than those set out in paragraph 64 that should be addressed in the charter or terms of reference for the governing body? Please give details.	We feel that ASIC should consider prescribing the following to be included in the charter or terms of reference: <ul style="list-style-type: none"> • the composition of the monitoring body; • management of conflicts of interest; and • reporting obligations to external bodies.

Independence and impartiality

C2 proposal: ASIC proposes that monitoring bodies should have appropriate measures, as outlined in paragraphs 68-73, to ensure independence from the financial advice industry whose conduct they regulate.

ASIC Question		Response
C2Q1	Do you agree that the governing body should be comprised only of non-executive members? If not, please give details and provide alternatives.	We agree that the governing body should be comprised of only non-executive members (ie. persons not employed by the entity acting as the monitoring body). This will ensure that the allegations raised and investigated by the monitoring body about a covered financial adviser are independently reviewed and assessed.

ASIC Question		Response
C2Q2	Do you agree that the governing body should include an independent chair and a balance of industry and consumer representatives? If not, please give details and provide alternatives.	The governing body should be a peer group committee. The harshest critics would be persons with a vested interest in ensuring that the industry they operate in maintains a high level of professionalism. In this instance we do not see the benefit of including consumer representatives as they won't necessarily have the requisite knowledge of the industry and the codes required to pass judgement.
C2Q3	Do you agree that the criteria listed at paragraph 70 should be applied to determine the chair's independence? If not, please give details and provide alternatives.	We feel that the proposed definition of independent for the chair person is not appropriate taking into consideration that such a person may lack the knowledge and awareness surrounding current legal requirements, current industry practices and current technological advancements in this industry. As stated above a peer group committee which has knowledge of the current climate within which financial advisers operate would be a more effective monitoring body and in these circumstances the chair would not be able to meet the proposed definition of independent.
C2Q4	Do you think that the existence of an independent governing body and role separation will be effective to minimise the potential for conflicts of interest in the monitoring body? If not, please give details and provide alternatives.	Conflicts of Interest exist in all facets of the financial services industry and life. ASIC should be more concerned with ensuring that the charter or terms of reference for the governing body include effective measures to manage conflicts of interest which include a member of the governing body recuse themselves if a conflict of interest exists. This is common and normal practice within any governing body or committee.

Expertise

C3 proposal: ASIC proposes to assess the expertise of monitoring bodies by reviewing:

- (a) the expertise of the proposed initial governing body and the procedures for maintaining the expertise of the governing body; and*
- (b) the job descriptions for the broader staff of the monitoring body and the procedures for maintaining the expertise of the broader staff.*

ASIC Question		Response
C3Q1	Do you agree with our proposed approach of assessing the expertise of monitoring bodies by assessing the matters outlined in paragraph 76? If not, please give details and provide alternatives.	We feel that ASIC's proposed approach is reasonable
C3Q2	Will it be practical to provide information about the members of the proposed initial governing body in an application for approval of a compliance scheme? If not, please give details and provide alternative methods we may use to assess the expertise of the governing body.	We fail to see the relevance of this information considering that the monitoring body will be responsible for determining who will be a member of the governing body and will not need to seek permission from ASIC for any changes to membership. ASIC should be more concerned about the procedure adopted by the monitoring body to determine who would be appropriate and what experience, knowledge and qualifications such persons should have.
C3Q3	Do you agree that there should always be one member of the governing body who, at some point in the five years before being appointed to the governing body, met the training and competence standards that would have allowed them to give personal advice to retail clients on 'Tier 1' or relevant financial products? If not, please give details and provide alternatives.	Yes we agree
C3Q4	Do you agree that there should always be one member of the governing body who has experience in and knowledge of the principles of procedural fairness and administrative law? If not, please give details and suggest alternative ways that the governing body may be able to access this expertise.	We agree with this proposal as it will ensure that all parties adhere to procedural fairness.

ASIC Question		Response
C3Q5	Are there other aspects of a monitoring body's expertise that we should assess before granting approval for a compliance scheme? If so, please provide details.	We have no further comment

C4 proposal: ASIC proposes that it will be the responsibility of the governing body to ensure that the monitoring body has the appropriate expertise to carry out its responsibilities on an ongoing basis. We have outlined our expectations in more detail in paragraphs 84–85.

ASIC Question		Response
C4Q1	Do you agree with this proposal? If not, please provide details and alternatives.	We agree with this proposal

Resources

C5 proposal: ASIC proposes that:

- (a) ASIC will make an initial assessment of the adequacy of the resources of the monitoring body, based on a statement that the monitoring body provides with its application; and*
- (b) it will be the governing body's responsibility to ensure the monitoring body is adequately resourced on an ongoing basis.*

ASIC Question		Response
C5Q1	Do you agree with our proposed approach of assessing the expertise of monitoring bodies by assessing the matters outlined in paragraph 76? If not, please give details and provide alternatives.	We feel that ASIC's proposed approach is reasonable
C5Q2	Will it be practical to provide information about the members of the proposed initial governing body in an application for approval of a compliance scheme? If not, please give details and provide alternative methods we may use to assess the expertise of the governing body.	We fail to see the relevance of this information considering that the monitoring body will be responsible for determining who will be a member of the governing body and will not need to seek permission from ASIC for any changes to membership. ASIC should be more concerned about the procedure adopted by the monitoring body to determine who would be appropriate and what experience, knowledge and qualifications such persons should have.

ASIC Question		Response
C5Q3	Are there other aspects of a monitoring body's expertise that we should assess before granting approval for a compliance scheme? If so, please provide details.	We have no further comment

Outsourcing

C6 proposal: ASIC proposes to set the expectations regarding outsourcing by monitoring bodies outlined in paragraphs 93–97.

ASIC Question		Response
C6Q1	Is the definition of 'core function of the compliance scheme' set out in paragraph 93 appropriate? If so, please provide details.	We agree that the definition is appropriate
C6Q2	Are there key matters, other than those listed in paragraph 97, that monitoring bodies who outsource their activities should address in their contractual arrangements with outsourced service providers? If so, please provide details.	We have no comment

Section D: Compliance scheme monitoring and enforcement

Monitoring and enforcement

D1 proposal: ASIC proposes that monitoring bodies should carry out monitoring and enforcement activities in accordance with proposals D2–D10 from 1 January 2020.

ASIC Question		Response
D1Q1	Should monitoring bodies carry out both proactive and reactive monitoring? Please provide reasons for your response.	Initially, monitoring bodies should carry out reactive monitoring activities only. Most government run regulatory bodies have difficulty conducting proactive monitoring activities and the those bodies have access to a wealth of information from various sources so to expect a monitoring body to conduct proactive monitoring activities with access to limited information will not benefit industry or relevant regulatory bodies.
D1Q2	Would it be preferable to delay any aspect of the monitoring and enforcement requirements to facilitate transition to the new regime (e.g. should we delay the requirement that the monitoring body conduct proactive monitoring activities)? If so, please explain why and provide details.	Yes, to give monitoring bodies and advisers to familiarize themselves with the requirements and to test documented policies and procedures for effectiveness. Once the core elements of the compliance scheme are implemented and functional then it would be reasonable to introduce new laws regarding access to information and the sharing of information between regulatory bodies and compliance schemes in order to allow for proactive monitoring activities to be implemented. We suggest a 2 year transitional period.
D1Q3	Could monitoring bodies work together to develop a uniform approach to monitoring and enforcement, and would this be appropriate? If so, please explain why and provide details of how this could occur.	This is an option and it would ensure that there is a uniform approach regarding enforcement activities. ASIC should consider whether it is appropriate to have the governing body and enforcement function sitting at a higher level, for example FASEA as they are responsible for setting the code of ethics.
D1Q4	Could a single body carry out these activities for all or a number of compliance schemes and would it be appropriate? If so, please provide details.	

D2 proposal: ASIC proposes that monitoring bodies should, each year, develop a risk-based annual work plan, provide it to ASIC and make it public, as outlined in paragraphs 102–104.

ASIC Question		Response
D2Q1	Do you agree that a monitoring body should prepare a risk-based annual work plan? If not, please give details and provide alternatives.	We agree that a monitoring body should prepare a risk-based annual work plan. We refer to paragraph 104(c) which includes examples of information that should be requested from an AFS Licensee. We would like highlight that ASIC has made an assumption in compiling this paragraph and that is that the membership to a compliance scheme will be held by an AFS Licensee. It is our understanding that the membership to a compliance scheme is to be held by the financial adviser and they have the discretion to choose which compliance scheme they wish to be a member of. In such circumstances the examples provided mean that proactive monitoring activities are uneconomical. As ASIC would appreciate it takes an extensive amount of time to understand and assess an AFS Licensees policies and procedures and to do this for one or a small group of advisors does not make sense. If it did ASIC would be doing it themselves on a periodic basis.
D2Q2	Do you agree that the annual work plan should be provided to ASIC each year, from 1 January 2020? If not, please give details.	No, unless ASIC is going to provide feedback. If ASIC is going to receive and store it, then what is the point.
D2Q3	Do you agree that the annual work plan should be made public? If not, please give details.	No as it will not add any value and it will give an adviser an opportunity to select a monitoring body based on the fact that they are not targeting particular compliance issues during a year that of are of a sensitive nature to them.

Proactive monitoring activities

D3 proposal: ASIC proposes that the following proactive monitoring activities should be carried out under a compliance scheme each year, at a minimum:

- (a) one thematic 'own-motion' inquiry; and*
- (b) one compliance statement process, with associated verification activities.*

ASIC Question		Response
D3Q1	Will a minimum of one thematic own-motion inquiry and one compliance statement process each year, with associated verification activities, be sufficient proactive monitoring activities to ensure that compliance with the code is appropriately monitored and enforced under a compliance scheme? If not, please give details and provide alternatives.	We think that the minimum standards set by ASIC are reasonable.
D3Q2	Are the proposed proactive monitoring activities appropriate for monitoring compliance with the standards set out in the draft code? If not, please give details and provide alternatives.	We think that the minimum standards set by ASIC are reasonable.

Receipt and initial assessment of reports

D4 proposal: ASIC proposes that that monitoring bodies should have a process for receiving and conducting an initial assessment of reports of failures to comply with the code, as described in paragraphs 120–123.

ASIC Question		Response
D4Q1	Is it reasonable for monitoring body staff to complete their initial assessment of the report within 28 days of receiving a report? If not, what other timeframe would be appropriate?	We agree with this proposal, however it should allow for longer time periods for initial assessment in extenuating circumstances.

D5 proposal: ASIC proposes that that monitoring bodies should have a communications strategy, as described in paragraph 124.

ASIC Question		Response
D5Q1	Do you agree with the proposal for monitoring bodies to have a communications strategy? If not, please give details and provide alternatives.	We agree with this proposal.

Investigation process

D6 proposal: ASIC proposes that compliance schemes should have a process for investigating possible failures to comply with the code, as described in paragraphs 127–134.

ASIC Question		Response
D6Q1	Is it reasonable for investigations to be completed within 90 days of the initial assessment recommending that further investigations should take place? If not, what other timeframe would be appropriate?	We agree with this proposal, however it should allow for longer time periods for initial assessment in extenuating circumstances.
D6Q2	Should the governing body regularly review a random sample of matters that were investigated but not referred to it, as proposed in paragraph 134? If not, please give details and suggest alternative measures that can be used to ensure consistency and quality in the investigation and referral process.	We understand the logic behind this proposal but question whether it is delivering a message that the governing body does not trust the staff within the monitoring body to perform their duties.

Decision-making process

D7 proposal: ASIC proposes that monitoring bodies should have a process for making determinations about whether a financial adviser has failed to comply with the code, which is consistent with the principles in paragraphs 137–139 and Table 4.

ASIC Question		Response
D7Q1	Do you agree that the governing body should be responsible for making the final determination about whether a financial adviser has failed to comply with the code? If not, please give details and provide alternatives that address the need to ensure that the decision maker is impartial.	We feel that a single governing body that all monitoring bodies report to would be a better option. This would ensure that there is a uniform approach regarding enforcement activities. ASIC should consider whether it is appropriate to have the governing body and enforcement function sitting at a higher level, for example FASEA as they are responsible for setting the code of ethics.
D7Q2	Is it reasonable to expect the governing body to make a determination within 45 days of a matter being referred to it? If not, what other timeframe would be appropriate?	We think this is reasonable
D7Q3	Do you agree that the governing body should comply with the principles set out in Table 4 in carrying out its decision making activities? If not, please give details and provide alternatives.	We agree that they should comply with the principles set out in Table 4.

Sanctions

D8 proposal: ASIC proposes that monitoring bodies should have access to a range of sanctions and should have guiding principles about when each will be applied. We have set out our expectations for these sanctions and associated guiding principles in paragraphs 145–147 and Table 5

ASIC Question		Response
D8Q1	Does the list at paragraph 145 capture all of the sanctions that might be appropriate to impose? If not, please give details.	We think that the sanctions listed are appropriate and encourage a financial adviser to take proactive action to change their ways and promote compliance with the code.
D8Q2	Are there matters other than those listed in Table 5 that a governing body should take into account when determining which sanctions to apply? If so, please provide details.	We agree that they should comply with the principles set out in Table 4.

Appeals and dispute resolution

D9 proposal: ASIC proposes that a monitoring body must have a documented process, consistent with paragraphs 151–156, for dealing with appeals and other disputes from covered financial advisers.

ASIC Question		Response
D9Q1	Are there matters, other than those listed in paragraph 152, that should be covered in a monitoring body's documented appeals process? If so, please provide details.	We do not think any other matters should be covered in the monitoring body's documented appeals process.
D9Q2	Should there be another party, aside from the governing body, that can hear appeals from covered financial advisers? If so, please give details.	We think that the governing body is best placed to hear appeals from covered financial advisers.
D9Q3	Is it reasonable for a final response to be provided to a covered financial adviser about their dispute within 45 days? If not, what other timeframe would be appropriate?	We agree with this proposal, however it should allow for longer time periods for initial assessment in extenuating circumstances.

Enforceability

D10 proposal: ASIC proposes that financial advisers should be contractually bound to share materials with the monitoring body and to comply with the terms of the compliance scheme and the decisions made under it. We have set out our expectations in more detail in paragraphs 159–162.

ASIC Question		Response
D10Q1	Is a legally binding agreement an appropriate way to make the compliance scheme enforceable between the monitoring body and financial advisers? If not, please give details and provide alternatives.	We have no comments in this regard.
D10Q2	Do you agree with the proposed process for dealing with non-compliance by a covered financial adviser outlined in paragraph 161? If not, please give details and provide alternatives.	We agree with the proposal.

Section E: Compliance schemes' ongoing operation

Data collection, analysis and reporting

E1 proposal: ASIC proposes that monitoring bodies must report on the data they collect and analyse, as set out in paragraphs 166–172.

ASIC Question		Response
E1Q1	Do you agree that monitoring bodies should produce public annual reports covering the matters outlined in paragraph 167? If not, please give details (e.g. about which data in particular should not be made public) and provide alternatives.	We agree that monitoring bodies should produce public annual reports covering the matters outlined in paragraph 167
E1Q2	Do you agree that monitoring bodies should produce quarterly reports for ASIC and meet with ASIC on a quarterly basis to discuss the matters outlined in paragraph 167? If not, please give details and provide alternatives.	We think monitoring bodies should produce annual reports for ASIC and meet with ASIC on an annual basis to discuss the matters outlined in paragraph 167
E1Q3	Do you agree with our proposed 45-day timeframe for monitoring bodies to report serious contraventions or systemic issues to ASIC? If not, please give details and provide alternatives.	We agree with this proposal
E1Q4	Would it be preferable to delay the commencement of some or all of the data collection, analysis and reporting expectations? If so, please explain why and provide details.	Yes, to give monitoring bodies time to implement policies and procedures to efficiently collect, analyse and report to ASIC. We suggest a 2 year transitional period.
E1Q5	Would it be appropriate to reduce, or consider reducing, the proposed requirements for reporting to ASIC over time? If so, please explain why and provide details.	We feel that annual reporting would be sufficient and should be retained long term.
E1Q6	Would it be feasible for monitoring bodies to work together to develop a reporting standard and would this be appropriate? If so, please explain why and provide details of how this could occur.	It would be feasible, however ASIC would need to first take into consideration how many compliance schemes are approved. We think it would be something that ASIC would need to co-ordinate.

Independent review

E2 proposal: ASIC proposes to give guidance that we expect monitoring bodies to consult with us about the terms of the independent review they propose to commission and the appointment of the independent reviewer.

ASIC Question		Response
E2Q1	Do you agree with this proposal? If not, please provide details.	We agree with this proposal.

Consultation

E3 proposal: ASIC proposes to give guidance on our expectations for consultation by monitoring bodies, as set out in paragraphs 180–185.

ASIC Question		Response
E3Q1	Do you agree with our proposed expectations for consulting about the compliance scheme? If not, please provide details.	We think that the consultation should be limited to its members, FASEA and ASIC. It is our understanding that ASIC will be well versed on the expectations of the relevant bodies and participants in the industry and it will be well versed with the standards adopted by other schemes. Therefore, this should be sufficient.
E3Q2	Are our expectations for consultation and information sharing between monitoring bodies appropriate? If not, please give details and suggest alternatives.	There is an expectation that ASIC will deliver on its obligation to keep the MoneySmart Adviser Register up to date and as such that is all the information that anybody should require. We have concerns about the legal ramification for a compliance scheme with regards to its obligations under the Privacy Act and the information it holds in regards to its members. ASIC should consider prescribing that a financial adviser can't be a member of more than one scheme at any one time. Therefore, if an adviser applies to be a member of a scheme, the scheme to which they have applied can't accept them unless they are released from their existing scheme. Again this would also be supported by the information contained on the MoneySmart Adviser Register as their registration details to an Association must be recorded on the register.

Ongoing support and education for advisers

E4 proposal: ASIC proposes that monitoring bodies should offer support, as set out in paragraphs 189–190, to covered financial advisers to help them comply with the code.

ASIC Question		Response
E4Q1	Do you agree that monitoring bodies should offer support to covered financial advisers to help them comply with their ethical obligations? If not, please give details.	We agree with this proposal
E4Q2	Are there any forms of support not listed in paragraph 189 that we should suggest? If so, please provide details.	ASIC should including the wording 'any other methods that are appropriate taking into consideration the services offered by its covered financial advisers.

Section F: Revocation of and conditions on compliance scheme approval

Information we will use to make a decision

F1 proposal: ASIC proposes to provide guidance about the information we will look at to decide whether to revoke approval of a compliance scheme, or vary or impose a condition on approval, as set out in paragraph 193.

ASIC Question		Response
F1Q1	Is there information other than that set out in paragraph 193, that we should take into account when deciding whether to exercise ASIC's powers to revoke approval of a compliance scheme or vary or impose a condition on approval? If so, please provide details.	Yes, changes the compliance scheme has implemented to rectify the issues that ASIC has identified.

Threshold for making decision

F2 proposal: ASIC proposes to provide the guidance, set out in paragraph 197–199, about when we will revoke approval of a compliance scheme, or vary or impose conditions on that approval.

ASIC Question		Response
F2Q1	Are there matters other than those set out in paragraphs 197 and 198 that we should take into account when deciding whether to exercise ASIC's powers to revoke approval of a compliance scheme or vary or impose a condition on approval? If so, please provide details.	We think that the matters set out in paragraphs 197 and 198 are sufficient.
F2Q2	In what circumstances should we exercise ASIC's power to revoke a compliance scheme's approval or impose conditions on our approval? What conditions should be imposed?	In circumstances where ASIC has notified the compliance scheme of the issues, given it an opportunity to implement policies and procedures to rectify the issues and the compliance scheme has not undertaken adequate action to rectify the matters.

Section G: Requiring AFS licensees and authorized representatives to provide information to monitoring bodies

Declaration to require AFS licensees and authorized representatives to provide information to monitoring bodies

G1 proposal: ASIC proposes to amend the law to declare that:

- (a) monitoring bodies may request information, documents or other reasonable assistance from an AFS licensee or authorized representative to help the bodies carry out their proactive monitoring activities; and*
- (b) AFS licensees and authorised representatives must comply with these requests.*

ASIC Question		Response
G1Q1	Do you agree with our proposed amendments to s921L(3) and s921M(2)? If not, why not?	We agree with the proposal
G1Q2	Will our proposed amendments be sufficient to enable monitoring bodies to carry out the activities we are proposing to expect? If not, please give details and provide alternatives.	It is difficult to predict whether these changes will allow monitoring bodies to carry out these activities taking into consideration that the members of the compliance scheme are financial advisers and not AFS Licensees.
G1Q3	Please give details of any additional costs to AFS licensees, authorised representatives or monitoring bodies associated with monitoring bodies gathering information in reliance on a modified s921L(3) and s921M(2), as opposed to some other mechanism. If possible, please quantify these costs.	These requirements will pose additional costs to an AFS Licensee as its compliance staff will be responsible for compiling the information and submitting it to the monitoring body. Monitoring bodies will need to ensure that they have the resources to conduct the reviews. It is difficult to quantify the cost as there is not precedent to go by for such reviews.

Section H: Notifications to ASIC

Significant reductions in resources and expertise

H1 proposal: ASIC proposes to provide guidance, as set out in paragraphs 207–212, on a monitoring body’s obligation to notify ASIC of a ‘significant’ reduction in the resources or expertise it uses to monitor and enforce compliance with the code.

ASIC Question		Response
H1Q1	Is it reasonable for the monitoring body to notify ASIC of a ‘significant’ reduction in the resources or expertise it uses to monitor and enforce compliance with the code within 45 days of becoming aware of the reduction? If not, what other timeframe would be appropriate?	We agree with the proposal
H1Q2	Are there any matters, other than those set out in paragraphs 209–210, that monitoring bodies should be required to consider when deciding whether a reduction is significant? If so, please provide details.	We think the matters outlined are sufficient

Notifications about proposed modifications to a compliance scheme

H2 proposal: ASIC proposes to provide guidance, as set out in paragraphs 216–219, on notifications about proposed modifications to a compliance scheme.

ASIC Question		Response
H2Q1	Do you agree with our proposed guidance? If not, please provide details.	We agree with the proposal