Introduction

Greg Yanco

Executive Director, Regulation & Supervision

Agenda

1. Acknowledgement of Country and Opening Remarks – Greg Yanco

2. ASIC's Digital Uplift Strategy – Joanna Harper

3. ASIC's Human Centred Design – Lisa Summers and Stephanie Jones

4. New Licensing Portal – Peng Lee

5. Service charter and performance - Peng Lee

6. Other Licensing issues – Peng Lee, Gerard Mithen and Nicholas Vonarx

7. Open Forum

Housekeeping

- Got any questions? Raise hand (including virtually) or email ASICLicensingLiaison@asic.gov.au

- Please stay on mute during the presentations

- Note: Session is being recorded and will be available afterwards on ASIC's website

ASIC's priorities at a glance

Strategic priorities

- Product design and distribution
- Sustainable finance
- Retirement outcomes
- Technology risks

Core strategic projects

- Scams
- Sustainable finance practices
- Crypto-assets
- Design and distribution obligations (DDO)
- Cyber and operational resilience
- Digital technology and data

Regulation & Supervision Group

- ASIC's Regulation & Supervision Group (R&S):

  - leads the whole of ASIC engagement and supervision across ASIC's regulated populations

  - conducts proactive surveillance, including on cross-sector and ASIC-wide issues

  - leads regulatory reform and implementation across all sectors (excluding Markets) and

  - provides relief application and advice functions across companies, financial services and credit.

- Comprises Sector and Cross-Sector teams

- Leads or contributes to all of ASIC's strategic priorities and projects

ASIC
Australian Securities &
Investments Commission

ASIC's Digital Vision and Human Centred Design Hub

Content

A. WHY | ASIC's Digital Vision

B. WHAT | ASIC's HCD approach

C. HOW | Streamlining the AFSL experience

Why |
ASIC's Digital
Vision

ASIC's DIGITAL VISION

"

BY 2030 ASIC WILL BE A LEADING DIGITALLY-ENABLED, DATA-INFORMED REGULATOR

"If we want to be a credible, relevant, active regulator and law enforcement agency we have to be digitally enabled and intelligent.

Everyone working at ASIC contributes to our **'digital mindset'.** Our people collaborate, innovate and are empowered to drive continuous digital improvement.

Stakeholders are at the forefront of service delivery and design. We anticipate their needs, making it easy to do the right thing and harder to do the wrong thing.

A **Digital Front Door** is used for all external interactions with ASIC. It is accessible at a time and in a way that is convenient and intuitive for the user. The experience is seamless and consistent across all services.

We have a single view of regulated entities. They can see in one place all the information they have provided to ASIC and ASIC staff can readily access everything they need about a regulated entity.

We make **timely and better regulatory decisions** and deliver improved outcomes by leveraging data analytics, automation and advanced technologies (including AI).

Secure systems are backed by **resilient technology foundations** and protect us against **new and emerging threats.**

We **actively encourage and support RegTech and SupTech** initiatives that foster a fair, strong and efficient financial system.

11

Draft Data and Digital Government Strategy

Federal Government Digital Transformation Agency DTA has released a draft Strategy

- Consultation during June and July
- Expect final to be released by end of 2023

Action Mission 3 speaks to innovation - Government for the Future

"The Australian Government is a leader in using new and evolving data and digital technologies in innovative ways to take advantage of opportunities and respond to emerging priorities. The Australian Government will partner domestically and internationally to promote standards and capability to deliver secure and ethical modern data and digital technology"

FIVE MISSIONS

ACTION MISSION 1

Delivering for all People and Business

ACTION MISSION 2

Simple and Seamless Services

ACTION MISSION 3

Government for the Future

FOUNDATION MISSION 4

Trusted and Secure

FOUNDATION MISSION 5

Data and Digital Foundations

Areas to Explore – Responsible AI

- **Rapid Response Information Report on Generative AI in March 2023 raised numerous questions. Does Australia have:**
  - Sufficient compute power
  - Appropriately skilled practitioners
  - Scientific expertise
  - Workforce development strategies and policy settings

- **ASIC has adopted an AI policy and working on Assurance Framework**
  - We have adopted the Australian AI Ethics Principles developed by Department of Industry, Science and Resources (DISR)

- **RoboDebt Royal Commission Recommendations**

  - Identified many lessons including the need for Human Centred Design

- **Regulation is likely**

  - DISR Supporting Responsible AI Discussion Paper – Consultation Closed submissions are available online

- **The Essential Eight**
    - While no set of mitigation strategies are guaranteed to protect against all cyber threats, organisations are recommended to implement eight essential mitigation strategies from the ACSC's Strategies to Mitigate Cyber Security Incidents as a baseline. This baseline, known as the Essential Eight, makes it much harder for adversaries to compromise systems.

- **IRAP**
    - The Information Security Registered Assessor Program (IRAP) provides a comprehensive process for the independent assessment of a system's security against Australian government policies and guidelines. The IRAP goal is to maximize the security of Australian federal, state, and local government data by focusing on the information and communications technology infrastructure that stores, processes, and communicates it

What |
ASIC's HCD
Approach

Design is not just what it looks like and feels like. **Design is how it works.**

Steve Jobs
Co-founder of Apple, Inc.

'Design the right thing...

So we can design thing right'

UK Design council

ASIC
Australian Securities &
Investments Commission

How |
Streamlining the
AFSL experience

Design objective and method

How might we redesign the AFS licence application for internal and external users so we can improve their experience – including reducing time and effort?

External engagement

40+ hours of user testing.

3 rounds of testing with users.

23 external interviews with 60 users
(with some participants coming to 2 or more rounds) stages

1 round of engagement with the FCA UK.

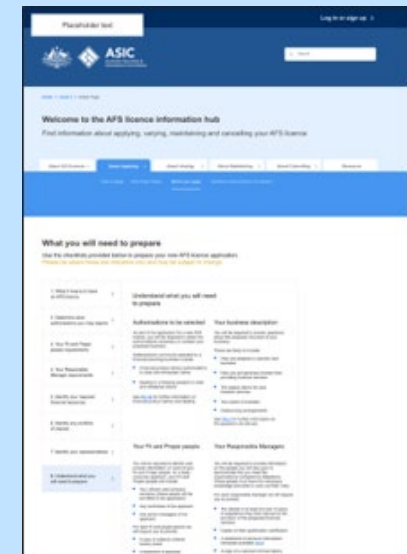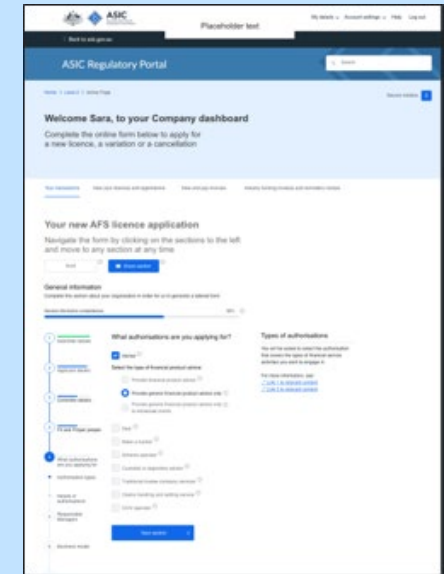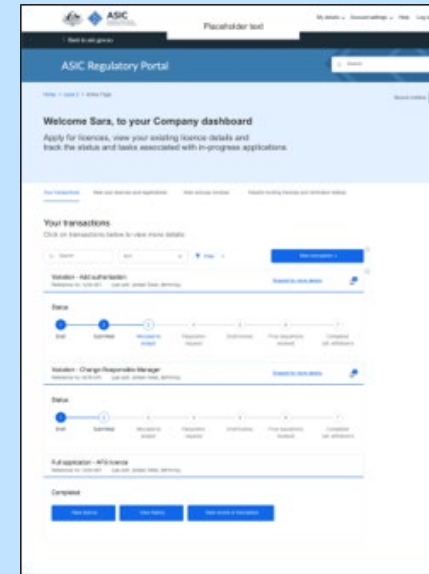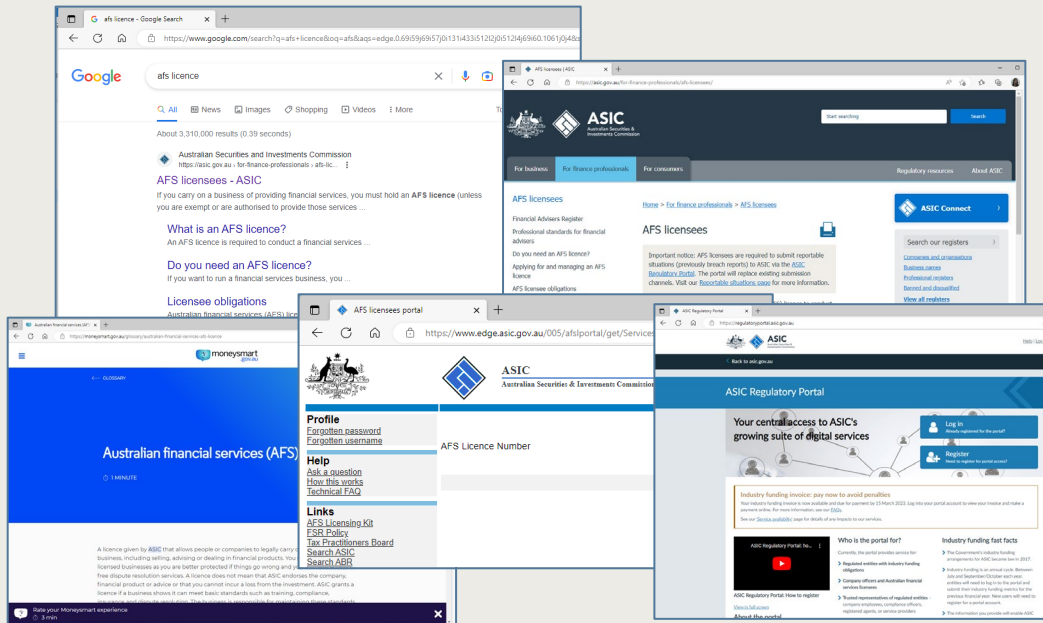# Streamlining the AFSL experience

Current state

Problems to solve?

- Multiple touchpoints for new AFS licensees
- Different look and feel for each page
- Reliance on google to take users to the right site
- Key information is hidden amongst irrelevant or complex pages

Future state concepts – AFSL Hub + application

New Licensing portal

- Announced last year and work is continuing

- Starting with AFS licences, then credit, auditor and liquidators

- Pilot for AFS scheduled - mid to late 2024 and the others in 2025

- Three parts:
  - A new front-end application forms
  - A new internal workflow
  - Better use of technology to facilitate data analytics and reporting

Overall objectives

- On-line engagement via a single licensing portal

- Pre-filled known information

- Clearer guidance on how to complete an application

- Easier to record, retrieve and monitor progress

- Enable more efficient licensing decision making

- Reduce the number of requisitions

- Collect information in a structured format (easier search and reporting)

Key assessment considerations

- Review RG 1, 2, 3, 105, INFO 240 and website information

- Fit and proper person checks

- Responsible manager regime and key person condition

- Competence thresholds and options

- A5 business activity description

- Outsourced arrangements

- Cyber-security

- Administration of deeds of subordination

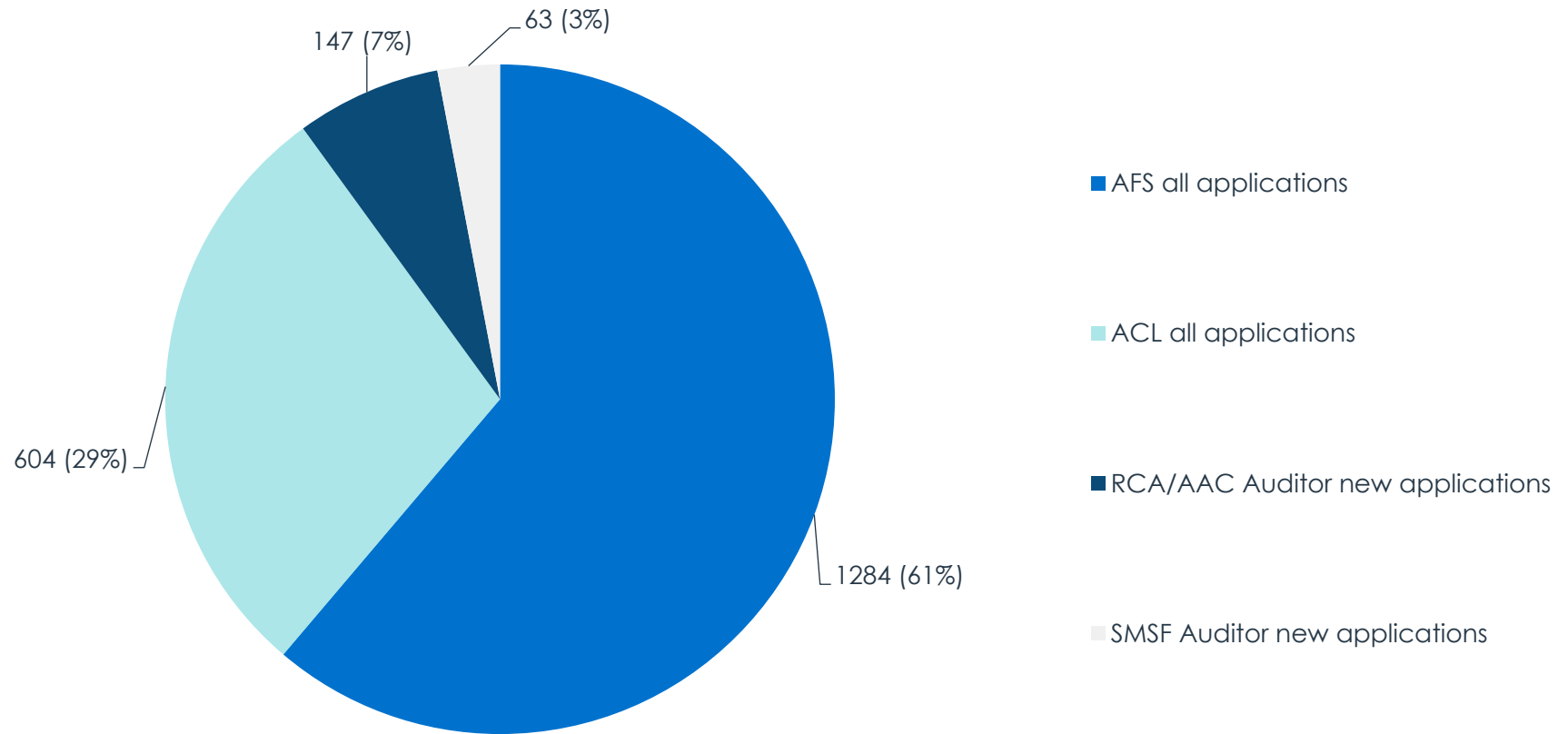- Review our recently revised engagement arrangements with implementation of our new portal

ASIC Licensing performance – key highlights

Peng Lee

Snap shot: 2022-23 volumes

Volume of applications received by Category

Pie chart legend:
- AFS all applications — 1284 (61%)
- ACL all applications — 604 (29%)
- RCA/AAC Auditor new applications — 147 (7%)
- SMSF Auditor new applications — 63 (3%)

AFS, ACL & Auditor applications received: 3 years

No of Applications - Received

Legend: Oct 2020 - Sep 2021 / Oct 2021 - Sep 2022 / Oct 2022 - Sep 2023
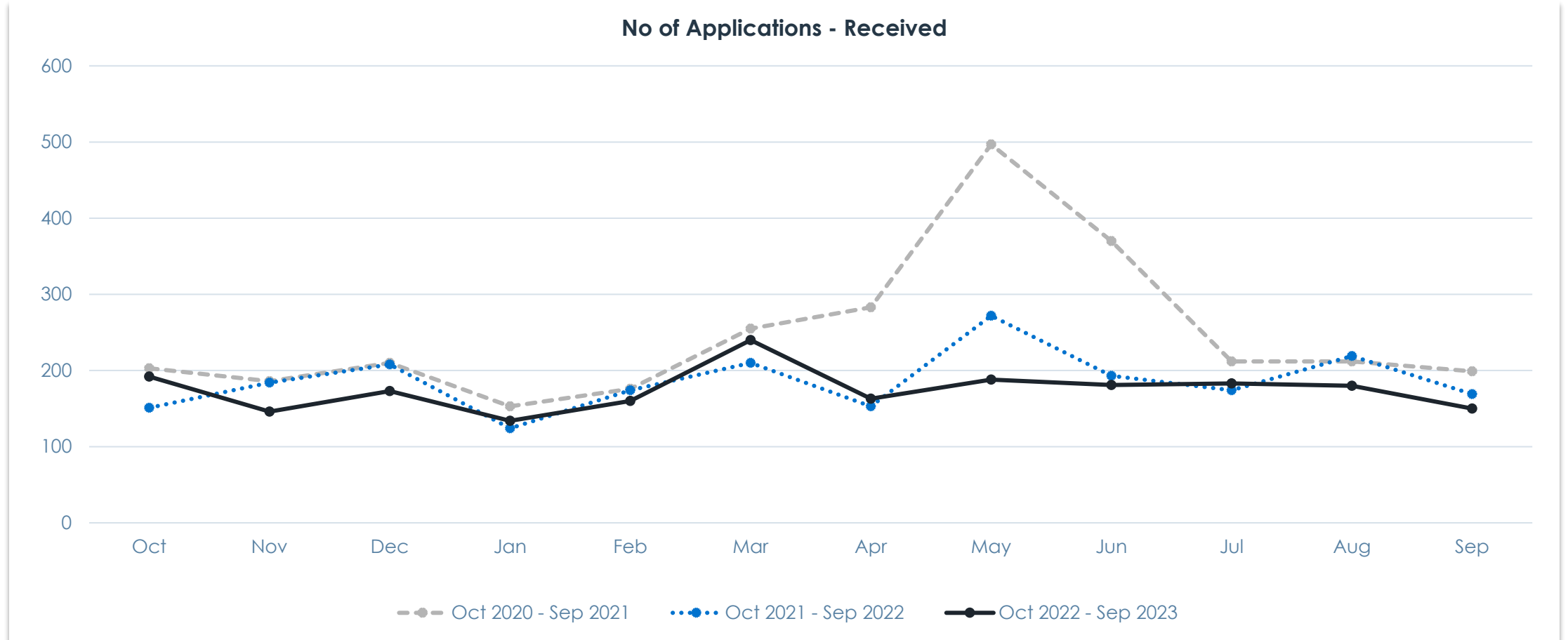
AFS, ACL & Auditor applications on-hand: 3 years

No of Applications - On Hand

Legend: ---●--- Oct 2020 - Sep 2021 ·····●····· Oct 2021 - Sep 2022 ——●—— Oct 2022 - Sep 2023
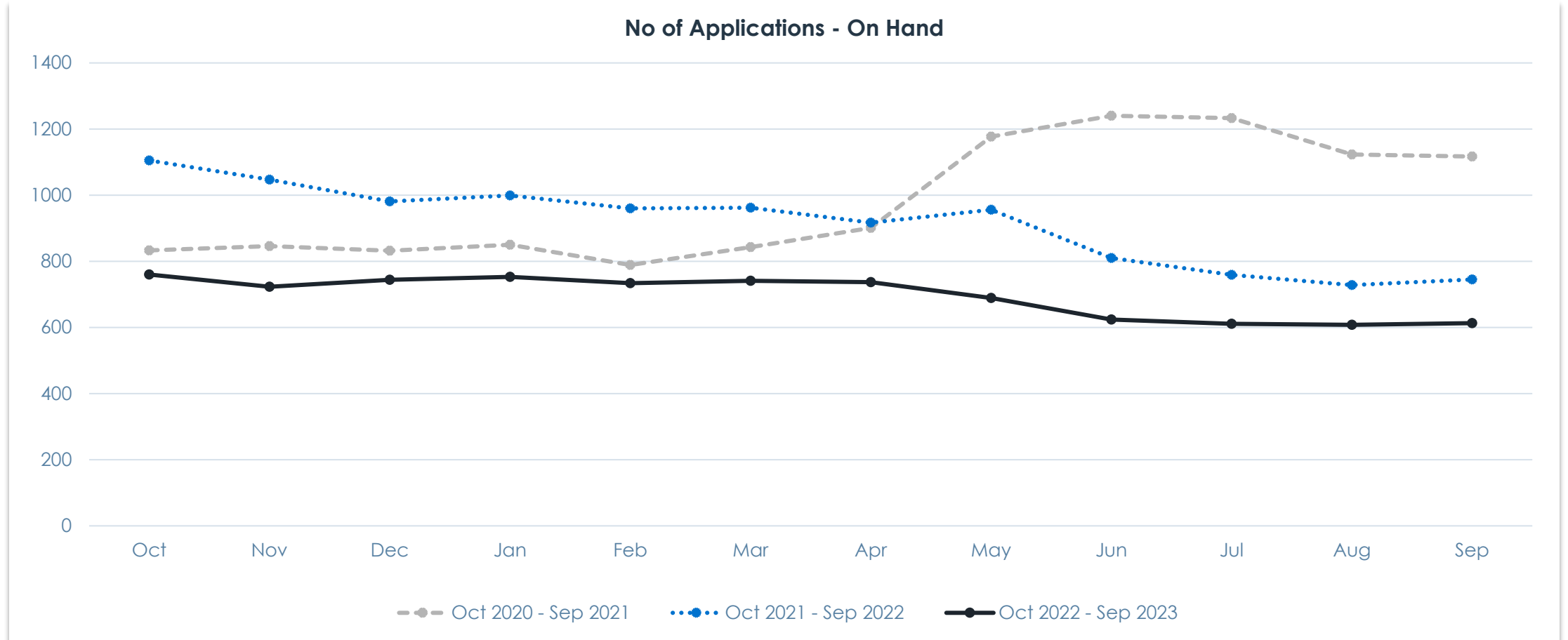
AFS, ACL & Auditor applications finalised: 3 years

No of Applications - Finalised

Legend: Oct 2020 - Sep 2021, Oct 2021 - Sep 2022, Oct 2022 - Sep 2023

AFSL performance: days taken to reach % decisions

AFSL - time taken to make decision for last three FY

Legend: 25% within, 50% within, 70% within, 90% within
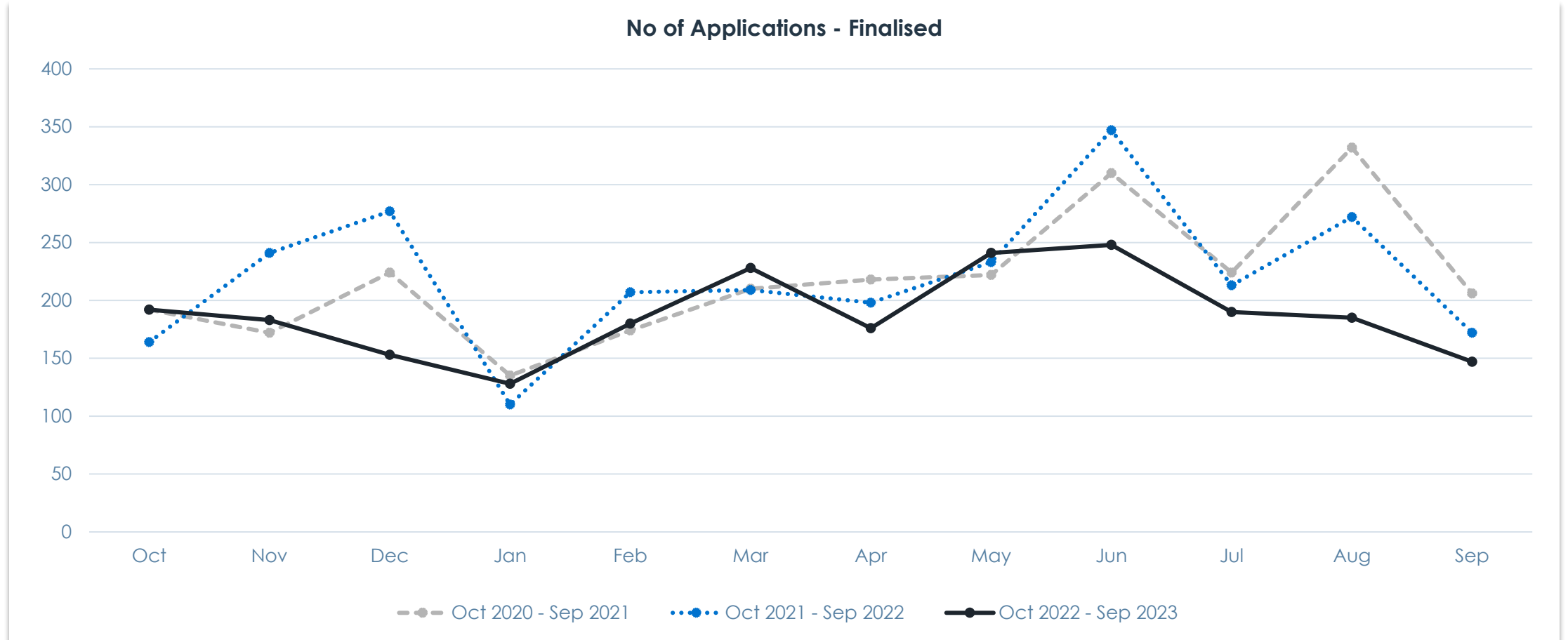
ACL performance: days taken to reach % decisions

ACL - time taken to make decision for last three FY
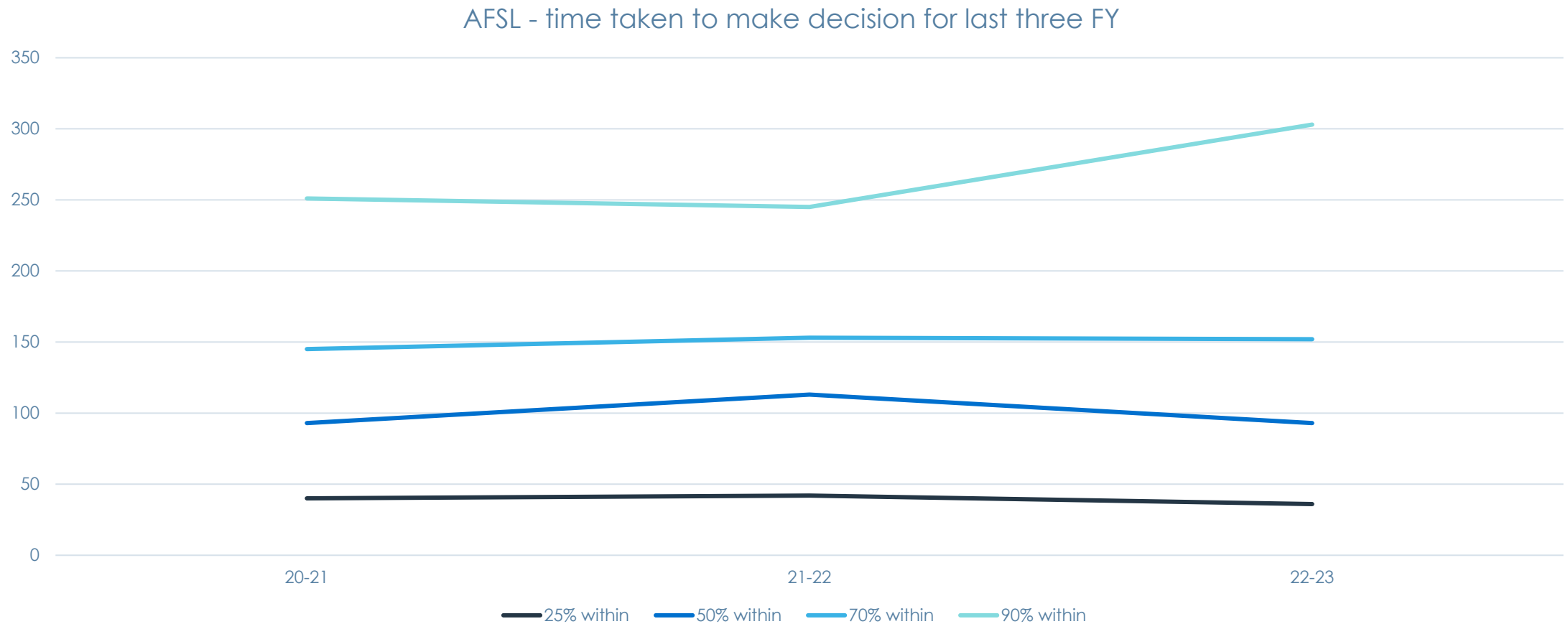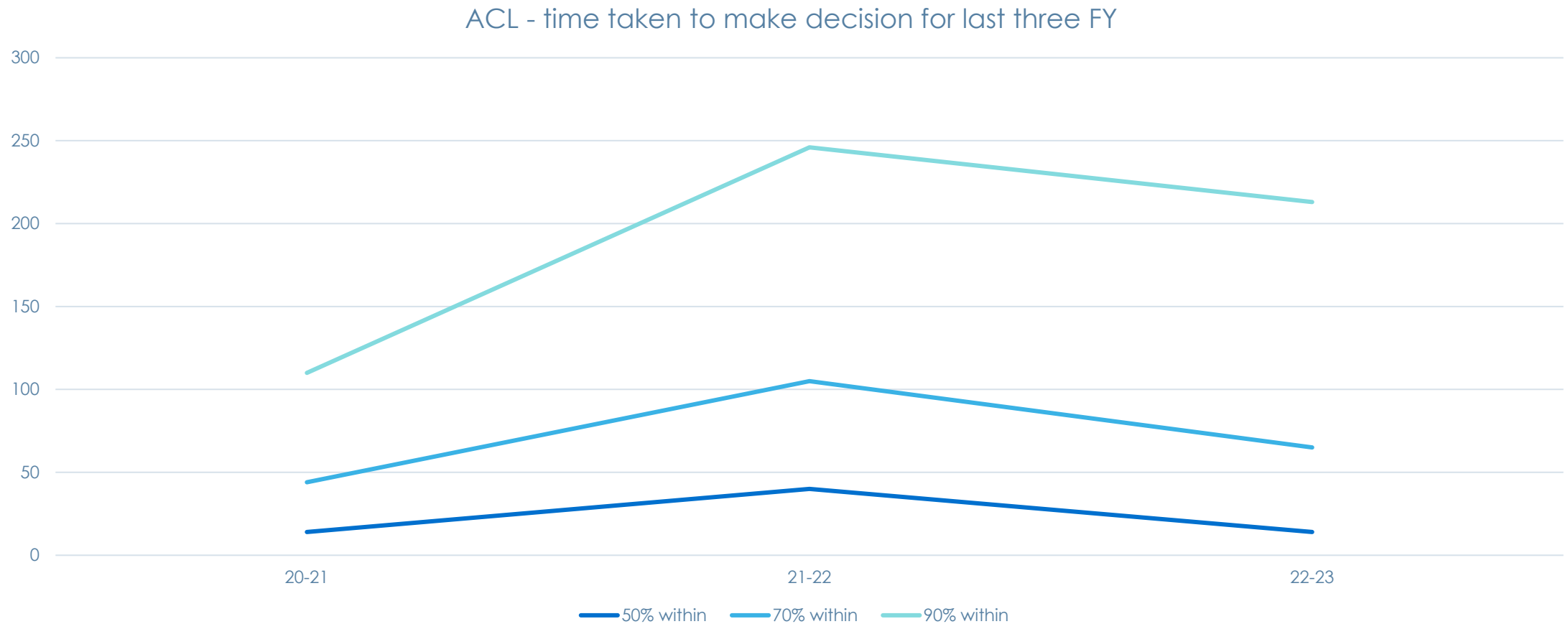
Median age of applications – last two years

Median age of applications on-foot - last two years

Legend: New AFS, Variation AFS, New Credit, Variation credit
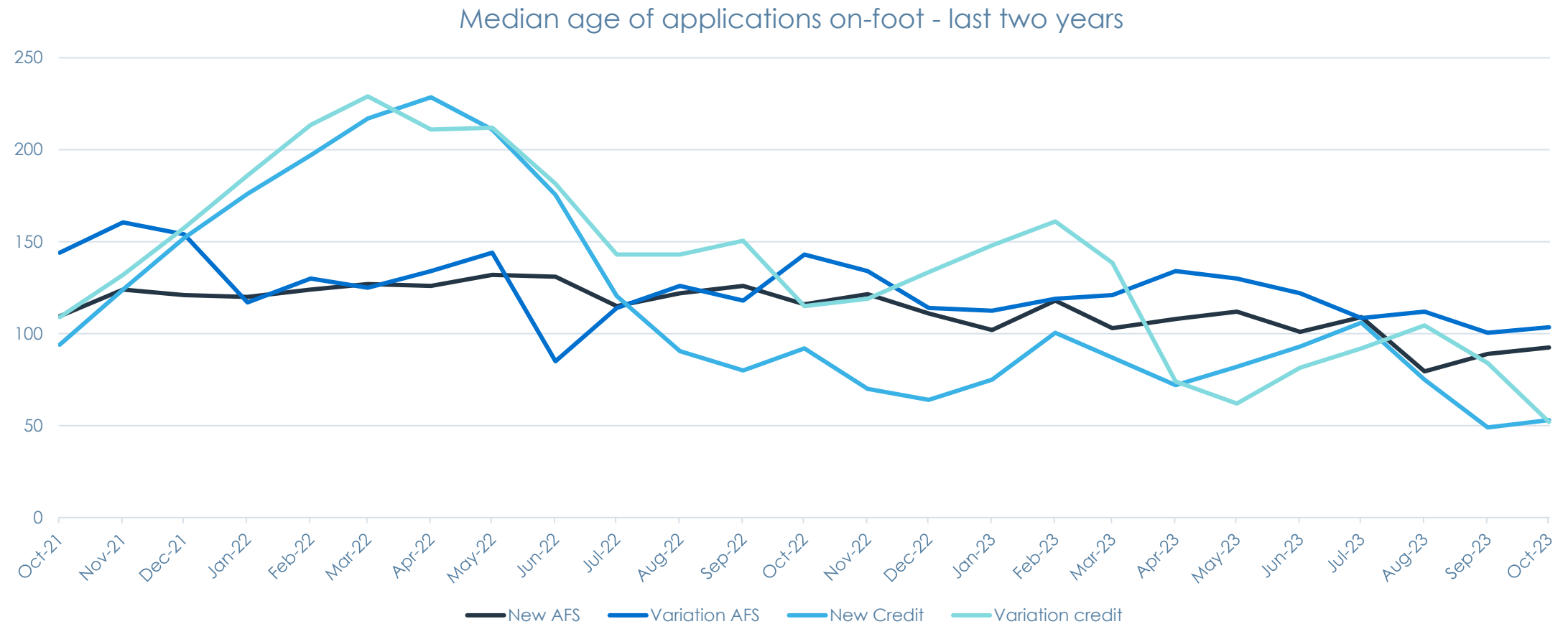
Time to decision for applications accepted for lodgement

Decision spread (median) - FY2022-23				
Type	25% within	50% within	70% within (KPI 150 days)	90% within (KPI 240 days)
AFS new	41 days	84 days	137 days	273 days
AFS vary	47 days	111 days	177 days	339 days
ACL new	14 days	42 days	92 days	207 days
ACL vary	13 days	68 days	146 days	318 days

Table 1: Performance: % of AFSL and ACL within 150 day KPI since FY21-22

Key indicator	2021-22 150 days	2022-23 150 days	2023-24 (YTD) 150 days	2021-22 240 days	2022-23 240 days	2023-24 (YTD) 240 days
Applying for a new AFS licence	73%	75%	84%	91%	88%	91%
Applying for a varied AFS licence	67%	66%	83%	89%	83%	92%
Applying for a new credit licence	75%	91%	90%	71%	93%	95%
Applying for a varied credit licence	87%	81%	98%	90%	87%	98%

Outcomes of finalised applications 22-23

Outcome	AFS new and variation	Credit new and variation
Approved	841 (80%)	263 (66%)
Withdrawn	117 (11%)	81 (20%)
Rejected for lodgement	96 (9%)	56 (14%)
Refused	1	1

Additional regulatory outcomes achieved 22-23

Type of additional regulatory outcome	AFS licence	Credit licence
% of approved applications subject to at least one additional regulatory outcome	47%	58%
Key person condition imposed	259 (30%)	149 (56%)
Authorisations changed - tailored authorisations	119 (14%)	2
Authorisations changed or refused from those sought by applicant	85 (10%)	5
Additional responsible manager appointed	24	1
Additional conditions imposed	6	2

Fit and proper person requirements

- We are pleased to announce some upcoming changes to our approach to applying the fit and proper person test for AFS and credit licence applications.

- The purpose of the changes is to reduce the overall burden for applicants to comply with our fit and proper person requirements.

- We will no longer require Australian bankruptcy checks for all fit and proper persons and responsible managers.

- We are considering accepting international criminal and bankruptcy checks from third party providers where the Applicant can demonstrate that the third-party provider has obtained the relevant check from the national government authority of the relevant country.

- Given system constraints, we will not be able to fully reflect any fit and proper requirements that we change. However, we will provide a flag to prompt of any changes in our regulatory guidance and INFO sheets.

Data.gov.au

- Provides access to a range of datasets including:

  - AFS licensees

  - AFS authorised representatives

  - Financial Advisers

  - Credit licensees

  - Credit representatives

  - Company

  - Banned and Disqualified Persons and Organisations

  - Auditors and Liquidators

Debt management services

- Since 1 July 2021, debt management service firms were required to be licensed, or operate under transitional arrangements.

- As at 30 June 2023, we had received a total of 123 applications from firms seeking to be authorised to provide debt management services and granted 79 authorisations.

- The rate of debt management services withdrawn or refused was approximately three times higher than historical average for other credit licence applications.

- ASIC continues to review intelligence provided by stakeholders about debt management firms.

- We encourage any stakeholders to report any person they suspect may be providing debt management services without an authorisation to lodge a report of misconduct.

Financial Accountability Regime

- The Financial Accountability Regime Bill 2022 (FAR Bill) and the Financial Sector Reform Bill 2022 (FS Reform Bill), which together establish the Financial Accountability Regime (FAR) passed Parliament on 5 September 2023.

- The FAR is designed to improve the operating culture of banking, insurance and superannuation entities and increase transparency and accountability across these industries.

- The FAR will be jointly administered by APRA and ASIC ensuring it is enforced from both a prudential perspective and a conduct and consumer outcomes perspective.

- The Financial Accountability Regime will commence on 15 March 2024 for authorised deposit-taking institutions and on 15 March 2025 for insurance and superannuation entities.

- APRA and ASIC are holding workshops on the responsibilities of ADIs to prepare and notify information on their business and accountable persons and we will conduct similar sessions for the broader APRA-regulated population later next year.

Enhanced Regulatory Sandbox (ERS)

- The Australian Government introduced the enhanced regulatory sandbox (ERS) on 1 September 2020. The sandbox provides an environment for people to test certain innovative financial services and credit activities without the need to hold an AFS or credit licence.

- As at today, there are five participants using the ERS (three entered in 2023). The three that entered are:

  - A credit provider offering low interest 'green' loans to consumers to finance home efficiency upgrades and renovation projects that incorporate sustainable materials and practice

  - A buy-now-pay-later and payment gateway provider that leverages blockchain technology to facilitate crypto and fiat purchases.

  - A payment service provider with a reward/loyalty program focussed on sports, cultural and entertainment using tokens and NFTs.

- For more information on the ERS, see Information Sheet 248 *Enhanced regulatory sandbox* (INFO 248).

- Potential ERS participants are encouraged to contact ASIC's Innovation Hub at innovationhub@asic.gov.au before submitting an ERS notification.

Payment system modernisation

- In June 2023, the Australian Government released 2 consultation papers with the aim of ensuring regulation keeps pace with payments innovations.

- The [first consultation paper](#) proposed updates to the *Payments Systems (Regulation) Act 1998* (PSRA) to address the risks posed by new payments technologies

- The [second consultation paper](#) invited feedback on the proposed list of payments functions that would be regulated under the new licensing framework. This would include regulation of stored value facilities, including payment stablecoins.

- Further consultation on the regulatory obligations under the new licensing framework is expected later this year to facilitate the introduction of legislation for the new payments licensing regime in 2024.

Crypto

- Treasury has released its <u>consultation paper</u> on the future regulation of crypto-asset service providers. The proposal is to apply the AFSL regime to certain service providers.

- Responses to this consultation can be submitted until 1 December 2023.

- ASIC views this consultation as an opportunity to design a framework that's fit for purpose. ASIC needs access to the same – or similar – tools as we have for other products and related services - <u>Crypto-assets: The case for strong regulation and enforcement | ASIC</u>

- However, licensing, regulation and enforcement are not a panacea. They do not and cannot eliminate all risk for consumers.

- We will continue to act to protect the consumer wherever possible within the powers that our regulatory framework permits.

- ASIC's guidance (<u>Information Sheet 225</u>) helps make it clearer when crypto-assets may be, or involve, financial products based on the current legal framework.

Cyber resilience

- In June 2023, ASIC-regulated entities, including publicly listed companies and other entities holding licences and authorisations, were invited to take part in a survey to measure cyber resilience in Australia's corporate and financial markets. See Media Release (23-160MR)

- ASIC will publish a report with key findings from the survey later this year.

- The report will provide sectoral insights, red flags, areas for action and the better practices identified.

- The report also focuses on small companies and strategies for preventing cyber security incidents.

- ASIC's Chair has also highlighted in a recent speech the need for organisations to take an active approach to evaluating and managing cyber risk (including third-party risks).

- ASIC encourages entities to foster a culture of cyber awareness. ASIC's cyber resilience webpage contains useful resources to help entities improve their cyber security and resilience.

- We are continuing to work on updating what we request by way of technological resources for licence applicants.

Reportable situations

- In April 2023, ASIC updated Regulatory Guide 78 Breach reporting by AFS licensees and credit licensees (RG 78) - see Media Release (23-106MR)

- The updates to RG 78 include:

    - clarifying the circumstances in which licensees may group multiple reportable situations into one report to ASIC;

    - new guidance on the information to include when licensees describe a reportable situation; and

    - new guidance for licensees on ASIC's expectations when licensees are providing updates about a reported breach.

- ASIC has also been preparing for the release of its second annual report on information that is provided under the reportable situations regime.

Stakeholder Engagement

- ASIC's Regulatory Efficiency Unit (REU) was established in November 2021 to promote better regulation by removing unnecessary frictions.

- In 2022–23, REU undertook several initiatives to make it easier for stakeholders to interact with ASIC.

- One initiative focused on Licensing's approach to stakeholder engagement regarding AFS licence applications.

- REU, together with Licensing, tested additional engagement avenues for applicants, such as extra phone discussions and status updates.

- We have now incorporated these approaches as standard practice.

Stakeholder engagement

- We will continue to monitor the impact of these changes, including through surveying applicants at the end of the AFS licensing process.

- Since the introduction of these surveys in October 2022, we have received 109 survey responses – 84% of respondents are either satisfied (33) or very satisfied (59) with the assessment process for their application.

- The survey responses continue to reinforce that applicants desire increased transparency and timeliness in the licensing assessment process.

- The responses also indicated that applicants welcome the opportunity for the licensing portal to make the experience more seamless and efficient.

Open forum

Peng Lee
Senior Executive Leader, Licensing

Nicholas Vonarx
Senior Manager, Licensing

Gerard Mithen
Senior Manager, Licensing

Reminder

- If we do not get to your question during this session, please feel free to email us at

  ASICLicensingLiasion@asic.gov.au and we will respond to you directly.