



ASIC
Australian Securities &
Investments Commission

REGULATORY GUIDE 98

ASIC's powers to suspend, cancel and vary AFS licences and make banning orders

November 2022

About this guide

This guide is for AFS licensees, their representatives, and advisers.

It describes the administrative powers available to ASIC to enforce compliance with the Corporations Act, including the financial services licensing provisions, by suspending, cancelling and varying AFS licences and making banning orders. It also indicates the matters ASIC generally takes into account when exercising these powers.

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.

Document history

This version was issued in November 2022 and is based on legislation and regulations as at the date of amendment.

Previous versions:

- Superseded Regulatory Guide 98, issued November 2010, reissued July 2012, July 2013 and September 2018
- Superseded ASIC guide *Licensing: Administrative action against financial services providers*, issued 26 April 2006, rebadged as Regulatory Guide 98 on 5 July 2007

Disclaimer

This guide 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 guide are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

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A Overview

Key points

ASIC is responsible for regulating persons who carry on a financial services business in Australia, including:

- granting Australian financial services (AFS) licences to those persons;
- monitoring AFS licensees for ongoing compliance with their licence conditions and other legal obligations as licensees; and
- taking action, where appropriate, to enforce the laws ASIC administers when they are breached by an AFS licensee (or a person acting on their behalf).

ASIC's powers to take action to protect investors and consumers may involve the use of an administrative remedy, which may be in addition to civil or criminal remedies. These remedies may include suspending, cancelling or varying an AFS licence or making a banning order against a person.

We will use a remedy, or combination of remedies, where it most effectively and efficiently achieves our aim of promoting the objects of Ch 7 of the *Corporations Act 2001* (Corporations Act): see s760A. This includes by promoting compliance with the law through deterring misconduct and raising professionalism in the financial services industry.

- RG 98.1 This guide provides guidance for participants in the financial services industry on ASIC's administrative powers to:
- (a) suspend, cancel or vary an AFS licence under s914A, 915B and 915C; and
 - (b) make a banning order under s920A, prohibiting a person from:
 - (i) providing financial services; or
 - (ii) controlling, or performing functions involved in carrying on, a financial services business (including, for example, as an officer or employee).

Note: In this guide, references to sections (s), divisions (Div), chapters (Ch) and parts (Pt) are to the Corporations Act, unless otherwise specified.

- RG 98.2 It indicates the matters we generally take into account when exercising these powers, with some illustrative examples.

Note: This guide does not discuss the administrative powers that we may exercise in relation to Australian credit licensees (credit licensees). These are explained in [Regulatory Guide 218](#) *Licensing: Administrative action against persons engaging in credit activities* (RG 218).

- RG 98.3 In this guide, we explain how we approach our task of promoting the objects of the financial services regime. This task includes protecting investors and

consumers, and reinforcing the integrity and reputation of the financial services industry.

- RG 98.4 This guide should be read in conjunction with regulatory guides and information sheets we have published on how we will administer the financial services provisions of the Corporations Act: see 'Related information'.
- RG 98.5 This guide does not deal with decision making by the Financial Services and Credit Panel. It also does not deal with the broad range of other administrative actions that might be available to ASIC—including, for example:
- (a) making a stop order;
 - (b) issuing an infringement notice;
 - (c) issuing warnings and reprimands; or
 - (d) for AFS licensees who are participants of a financial market, referring alleged contraventions of the market integrity rules to the Markets Disciplinary Panel.
- RG 98.6 This guide also does not discuss ASIC's complementary civil or criminal enforcement powers or its power to accept a court enforceable undertaking.

Note: For guidance on ASIC's approach to enforcement more generally, see [Information Sheet 151 ASIC's approach to enforcement](#) (INFO 151). For guidance on ASIC's approach to court enforceable undertakings, see [Regulatory Guide 100 Court enforceable undertakings](#) (RG 100). For guidance on referrals to the Markets Disciplinary Panel, see [Regulatory Guide 216 Markets Disciplinary Panel](#) (RG 216). For guidance on the Financial Services and Credit Panel, see [Regulatory Guide 263 Financial Services and Credit Panel](#) (RG 263).

ASIC's responsibilities

- RG 98.7 We are responsible for regulating persons who carry on a financial services business in Australia, as well as those who provide financial services on behalf of persons who carry on a financial services business.
- RG 98.8 Our regulatory responsibilities are underpinned by the objects of the financial services regime, which include promoting:
- (a) investors and consumers making confident and informed decisions;
 - (b) fairness, honesty and professionalism by those who provide financial services; and
 - (c) fair, orderly and transparent markets for financial products (see s760A).
- RG 98.9 The financial services regime aims to ensure that investors and consumers can feel confident when dealing with participants in the financial services industry. To promote confidence, industry participants are subject to the

legal obligations that attach to their participant status, such as their status as an AFS licensee or a financial services provider. ASIC's powers to protect investors and consumers include the power to apply a variety of administrative remedies against financial services providers and other industry participants that breach or are likely to breach those obligations, where this is appropriate.

RG 98.10 To promote investor and consumer confidence in the financial services industry, we endeavour to ensure that industry participants comply with their obligations and meet community expectations. We educate investors and consumers so that they will be in a better position to make informed decisions. We also educate industry participants to raise compliance standards generally. Where necessary, we will take action to protect investors and consumers.

RG 98.11 The administrative action we take against a participant in the financial services industry demonstrates to the person, to industry participants more generally, and to investors and consumers, that the particular conduct is unacceptable. This in turn promotes the objects of the financial services regime and may deter industry participants from engaging in misconduct.

*Note: In *HIH Insurance Ltd and HIH Casualty and General Insurance Ltd, Re: ASIC v Adler* (2002) 42 ACSR 80, Santow J summarised the principles by which the discretionary power to disqualify directors is exercised (at [56]). These principles are applicable to ASIC's exercise of administrative powers to cancel or suspend a licence or to make a banning order.*

AFS licensees and their representatives

RG 98.12 Our regulatory role in relation to the financial services regime includes a responsibility for licensing persons who wish to carry on a business of providing financial services in Australia. These persons are generally required to hold an AFS licence: see s911A.

RG 98.13 We are also responsible for monitoring AFS licensees' ongoing compliance with their licence and other legal obligations. To this end, among other things, we conduct surveillance and analyse the reports of misconduct we receive.

RG 98.14 Lastly, we are responsible for taking action, where appropriate, to enforce the law when it is breached by an AFS licensee or a person acting on behalf of an AFS licensee. If appropriate, that enforcement action may involve the use of an administrative remedy, sometimes in addition to civil or criminal remedies.

RG 98.15 When we seek a remedy, we will use the remedy or combination of remedies that best achieves the aims set out in RG 98.8–RG 98.14.

ASIC's administrative powers

- RG 98.16 The financial services laws over which we have jurisdiction set out the remedies available to ASIC. These remedies can be broadly categorised as:
- (a) criminal action;
 - (b) civil action; and
 - (c) administrative action.

We may use these remedies in combination.

- RG 98.17 Administrative actions that we may take against AFS licensees include:
- (a) immediately suspending or cancelling an AFS licence in certain limited circumstances;
 - (b) suspending or cancelling an AFS licence after offering a hearing; and
 - (c) varying AFS licence conditions after offering a hearing, including by imposing additional licence conditions or removing licence authorisations.

- RG 98.18 ASIC's administrative powers to suspend, cancel or vary an AFS licence are explained in more detail in Section B.

- RG 98.19 An administrative action that we may take against a financial services provider or other industry participant is to make a banning order against that person. For example, the order may prohibit that person from:
- (a) providing financial services; or
 - (b) controlling, or performing functions involved in carrying on, a financial services business (including as an officer, manager, employee, contractor or in some other capacity).

- RG 98.20 ASIC's administrative powers to make a banning order are explained in more detail in Section C.

When we will take administrative action

- RG 98.21 Whether we will take administrative action to suspend, cancel or vary an AFS licence or make a banning order will depend on the facts of each matter. Factors underlying our decision about whether to take this type of administrative action include:
- (a) whether the proposed action is within ASIC's powers;
 - (b) whether taking the action will promote the objects of the financial services regime;
 - (c) whether taking the action will deter misconduct;
 - (d) the strategic significance of taking action;

- (e) the need to protect investors and consumers; and
- (f) whether taking the proposed action is preferable to taking another type of administrative action, in terms of cost and timeliness.

RG 98.22 Any administrative action we take may be in addition to civil or criminal action we are taking against the person or business.

A person's rights in dealing with ASIC

RG 98.23 For information about a person's rights in dealing with ASIC, see [Information Sheet 9](#) *ASIC decisions: Your rights* (INFO 9) and [Information Sheet 107](#) *Guidelines for managing allegations of misconduct against ASIC officers* (INFO 107).

RG 98.24 The person may have a right to complain to the Commonwealth Ombudsman or to seek other independent review of our decisions.

B Suspending, cancelling or varying an AFS licence

Key points

Where AFS licensees breach (or we have reason to believe that they are likely to breach) their legal obligations, ASIC's powers include the power to:

- suspend or cancel an AFS licence (with or without a hearing); and
- vary or impose further conditions on an AFS licence.

The factors we will take into account when deciding whether to suspend, cancel or vary an AFS licence will depend on the circumstances of each matter.

Examples of factors we may consider when making these decisions include whether:

- we detect non-compliance by an AFS licensee (or by a person acting on their behalf) and the nature and seriousness of that non-compliance;
- the AFS licensee has notified ASIC of a reportable situation (previously by lodging a breach report), and the nature and seriousness of the reportable situation;
- suspension, cancellation or variation is an appropriate remedy for us to pursue;
- there is a more appropriate alternative remedy for us to pursue;
- action is desirable to protect investors and consumers;
- action is likely to promote confident and informed decision making by investors and consumers;
- action may deter industry participants from engaging in misconduct; or
- action is likely to promote fairness, honesty and professionalism by industry participants.

Where we decide to take administrative action, the type of administrative action we take will depend on the nature and seriousness of the conduct involved.

Power to suspend, cancel or vary an AFS licence

Immediate suspension or cancellation

- RG 98.25 If appropriate, we may suspend or cancel an AFS licence in certain circumstances without giving the AFS licensee the opportunity of a hearing or to make submissions: see s915B.
- RG 98.26 The circumstances where we may immediately suspend or cancel an AFS licence vary according to whether the AFS licensee is a natural person, a partnership, a body corporate or a trustee.

- RG 98.27 For instance, if the AFS licensee is a body corporate, we may suspend or cancel the licence without offering a hearing if:
- (a) the body ceases to carry on the financial services business;
 - (b) the body becomes a Chapter 5 body corporate;
 - (c) an officer of the body becomes an insolvent under administration;
 - (d) the body is:
 - (i) the responsible entity of a registered scheme whose members have suffered, or are likely to suffer, loss or damage because the body has breached the Corporations Act;
 - (ii) the operator of a notified foreign passport fund whose members have suffered, or are likely to suffer, loss or damage because the body has breached the Corporations Act; or
 - (iii) a trustee company whose clients have suffered, or are likely to suffer, loss or damage because the company has breached the Corporations Act or certain financial services laws relating to traditional trustee company services;
 - (e) the body applies to ASIC to have the AFS licence cancelled or suspended; or
 - (f) the body is liable to pay a levy imposed by the *ASIC Supervisory Cost Recovery Levy Act 2017* and has not paid in full at least 12 months after the due date for payment:
 - (i) the amount of the levy;
 - (ii) the amount of any late payment penalty payable in relation to the levy; and
 - (iii) the amount of any shortfall penalty payable in relation to the levy.

- RG 98.28 We may also cancel an AFS licence held by a body corporate if the body does not provide a financial service covered by the licence within six months after the licence is granted.

Note: See s915B for information on when an AFS licence held by a natural person, a partnership or a trustee can be suspended or cancelled without a hearing.

Suspension or cancellation after offering a hearing

- RG 98.29 We may also suspend or cancel an AFS licence after giving the licensee an opportunity to appear or be represented at a private hearing before ASIC and to make submissions: see s915C.

Note: The principles and procedures we adopt for these hearings are set out in [Information Sheet 1 Administrative hearings \(INFO 1\)](#) and [Regulatory Guide 8 Administrative hearings: Principles and conduct \(RG 8\)](#).

- RG 98.30 For an AFS licensee, the following circumstances may give rise to suspension or cancellation under s915C:
- (a) the licensee has not complied with, or we have reason to believe it is likely to contravene, its obligations under s912A;
 - (b) the requirement in s913BA (fit and proper person test) is not satisfied in relation to the licensee and the licence;
 - (c) we make a banning order, or a court makes a disqualification order, under Div 8 of Pt 7.6 against the licensee;
 - (d) we make a banning order, or a court makes a disqualification order, under Div 8 of Pt 7.6 against a representative of the licensee, and we consider that the representative's involvement in the provision of the licensee's financial services will significantly impair the licensee's ability to meet its obligations under Ch 7;
 - (e) the licensee is the operator of an Australian passport fund, or a person with responsibilities in relation to an Australian passport fund, and each of the following is satisfied:
 - (i) a host regulator for the fund has notified ASIC about the person's or fund's failure or potential failure to comply with law administered by the host regulator, including applicable Passport Rules; and
 - (ii) we are of the opinion that we should suspend or cancel the licence, given the potential impact of the failure, or potential failure, to comply on members or potential members of the fund;
 - (f) the application for the licence under s913A, or the licensee's application under s914A(2)(b) for ASIC to impose, vary or revoke conditions on the licence:
 - (i) was false in a material particular or materially misleading; or
 - (ii) omitted a material matter; and
 - (g) any information, audit report or statement lodged with ASIC in response to our request under s913B(3) in relation to the application for the licence, or under s914B(3) in relation to the licensee's application about licence conditions:
 - (i) was false in a material particular or materially misleading; or
 - (ii) omitted a material matter.

- RG 98.31 If we suspend or cancel an AFS licence, we may specify that the licence continues in effect for the purposes of specified provisions of the Corporations Act. This continuation will be in relation to specified matters or for a specified period, or both: see s915H.

Note: An example of when we might allow an AFS licence to continue in effect for a specified purpose would be to enable investors and consumers affected by a licensee's conduct to have their complaints dealt with by the Australian Financial Complaints Authority (AFCA). AFCA is the operator of the AFCA scheme, which is the external dispute resolution scheme for which an authorisation under Pt 7.10A is in force.

Varying or imposing licence conditions

- RG 98.32 We may impose conditions, or further conditions, on an AFS licence at any time. We may impose conditions when we grant the licence or subsequently, and may vary or revoke the conditions: see s914A(1).
- RG 98.33 Before imposing any such conditions after the licence has been granted, or before varying any such conditions, we must give the AFS licensee an opportunity to appear or be represented at a private hearing before ASIC and to make submissions to ASIC: see s914A(3).
- RG 98.34 If appropriate, we may use ASIC's power to impose additional licence conditions to address compliance issues. These licence conditions may, for example:
- (a) preclude the AFS licensee from providing certain types of financial services; or
 - (b) impose different or additional compliance obligations on the licensee—such as requiring the licensee to engage an independent external compliance consultant and provide ASIC with ongoing reports of its progress in remedying previously identified deficiencies in compliance measures.

When we will suspend, cancel or vary an AFS licence

Our approach

- RG 98.35 The foundation of ASIC's approach to taking administrative action to suspend, cancel or vary an AFS licence is to take action where necessary or desirable to promote the objects of the financial services regime: see s760A.

Note: ASIC's approach is reflected in *Sovereign Capital Limited and Australian Securities and Investments Commission* [2008] AATA 901 at [84]: 'A licence should only be suspended or cancelled if it is necessary to do so in order to accomplish the objects of the legislative scheme'.

- RG 98.36 We are likely to take administrative action in instances where there is a need to protect investors and consumers, where there is a need to deter misconduct, or where conduct of the licensee may result in investor or consumer detriment. Whether administrative action will be taken will depend on the facts of each matter. In general, we may consider:
- (a) suspending, cancelling or varying an AFS licence where we have concerns about the licensee, or the way their business is being or has been conducted; and
 - (b) cancelling an AFS licence where we have concerns about the accuracy and completeness of the application.

Relevant factors ASIC will consider

- RG 98.37 ASIC's licensing powers were amended by the *Corporations Amendment (Future of Financial Advice) Act 2012*. Additional explanation about ASIC's licensing powers is provided in paragraphs 2.17–2.27 of the Explanatory Memorandum to the Corporations Amendment (Future of Financial Advice) Bill 2011. In particular, the Explanatory Memorandum notes that in determining whether a licensee is likely to contravene an obligation under s912A, for the purpose of suspending or cancelling an AFS licence, ASIC may take into account any information relevant to this question. For example:
- (a) conduct of the licensee that shows deliberation and planning in wilfully disregarding the law;
 - (b) the extent of compliance by the licensee with analogous obligations in another regime; or
 - (c) any other conduct of the licensee that may lead ASIC to conclude, on reasonable grounds, that the applicant is not likely to comply.
- RG 98.38 While it is not possible to identify all factors relevant to a decision to suspend, cancel or vary a licence, Table 1 sets out factors that may be taken into account.

Note: The list in Table 1 is not exhaustive and there will be other factors that are not mentioned in this guide that could lead to these outcomes.

Table 1: Key factors we consider in deciding to suspend, cancel or vary a licence

Factors	Relevant considerations
Nature and seriousness of the suspected misconduct	<ul style="list-style-type: none"> • Whether the conduct of the licensee shows deliberation and planning in wilfully disregarding the law • Whether there is evidence that the contravention involved dishonesty or was intentional, reckless or negligent • Whether the misconduct poses an unacceptable risk to investors and consumers • The amount of any benefit gained or detriment suffered as a result of the misconduct • The amount of any loss caused to investors and consumers • The impact of the misconduct on the market, including potential loss of public confidence • Whether the conduct is continuing or appears likely to recur • Whether the misconduct indicates systemic compliance failures • Whether the licensee has a poor compliance record (e.g. they have previously engaged in misconduct) • The extent of compliance by the licensee with analogous obligations in another regime • Whether the licensee has failed to manage a material conflict of interest • Whether information provided by the licensee to ASIC was false in a material particular or materially misleading, or omitted material information

Factors	Relevant considerations
Internal controls	<ul style="list-style-type: none"> • Whether the licensee had effective internal policies and procedures in place to ensure that the licensee and its representatives complied with obligations and that any breaches were detected • Whether those policies and procedures were complied with and whether any breaches of obligations were detected • Whether the licensee notified ASIC of reportable situations (previously by lodging a breach report) • If the misconduct was committed by a representative of a licensee, whether it indicates a systemic failure of supervision by the licensee • Whether a corporate culture conducive to compliance with obligations is evident (e.g. effective educational and compliance programs)
Conduct after the alleged contravention occurs	<ul style="list-style-type: none"> • When and how the breach came to the attention of ASIC • The level of cooperation with our investigation • Whether timely and effective remedial steps have been taken • Whether the licensee has been proactive in making appropriate changes to policies and procedures and, where applicable, changing its approach to ensure the effective functioning of its dispute resolution systems • Whether the licensee has been proactive in compensating client losses and in communicating with clients about the contravention
The expected level of public benefit	<ul style="list-style-type: none"> • The protective effect for investors and consumers • The reinforcement of the integrity and reputation of the financial services industry • Whether the case is likely to help participants in financial markets to better understand their obligations and thereby promote compliance
Likelihood that: <ul style="list-style-type: none"> • the licensee's behaviour will change in response to a particular action; and/or • other industry participants will be deterred from engaging in similar conduct through greater awareness of the consequences 	<ul style="list-style-type: none"> • The compliance history of the licensee • Whether there has been a change in control or management of the licensee • Whether behaviour (of a licensee or broader industry) is more likely to change if the licensee has their licence suspended or cancelled
Mitigating factors	<ul style="list-style-type: none"> • Whether the misconduct relates to an isolated complaint and investors and consumers have generally not suffered substantial detriment or been placed in a position of unacceptable risk • Whether the misconduct was inadvertent and the licensee undertakes to cease or correct the conduct • If the licensee has not commenced to carry on a financial services business, whether there are genuine reasons for the licensee not doing so

Whether suspension, cancellation or variation is more appropriate: Considerations

RG 98.39 In deciding whether it is more appropriate to suspend or to cancel an AFS licence, we will consider the principle set out in *Sovereign Capital Limited*

and Australian Securities and Investments Commission [2008] AATA 901. That is, that a suspension will ordinarily be preferable if there is a reasonable prospect that the licence holder can remedy the defects that prompted the concern. In considering whether there is a reasonable prospect that defects can be remedied, we will have regard to whether the AFS licensee has previously been subject to regulatory action. If so, cancellation of the AFS licence may be more likely to occur.

- RG 98.40 In appropriate cases, the objects of the licensing regime may be satisfied by suspending rather than cancelling a licence (e.g. to enable necessary remedial or compliance measures to be put in place by the licensee).
- RG 98.41 Similarly, in appropriate cases, the objects of the licensing regime may be satisfied by varying licence conditions under s914A rather than suspending or cancelling the licence (e.g. imposing special compliance consultant review and report conditions, or restrictive conduct and enhanced disclosure conditions, might be preferable to suspending or cancelling the licence).

Examples of misconduct that may result in cancellation or suspension

- RG 98.42 Examples of misconduct that may result in an AFS licence being cancelled or suspended include:
- (a) dishonesty by a licensee;
 - (b) the licensee failing to implement and maintain effective compliance measures;
 - (c) systemic or persistent breaches of the licensee's obligations;
 - (d) the licensee, at senior levels of management, misleading or hindering ASIC, including by concealing or deliberately destroying records it is required to keep;
 - (e) there is actual or potential significant risk to investors and consumers because the licensee does not comply with its obligations under s912A, for example, by:
 - (i) not having adequate resources, risk management arrangements or arrangements to manage conflicts of interest to continue to meet its obligations; or
 - (ii) not complying with the conditions of its licence; and
 - (f) the licensee giving information to ASIC that is false in a material particular or materially misleading, or omits a material matter.

Note: These examples are not exhaustive and are intended to only give an indication of misconduct that might lead to ASIC taking administrative action.

Administrative action may be taken even if breaches are rectified

RG 98.43 We may cancel, suspend or vary an AFS licence even if the licensee has rectified breaches. We may do so to deter the licensee or others from engaging in misconduct. In deciding whether to do so, we will consider, among other things, whether the licensee has been reactive rather than proactive in its approach to compliance. The attitude of an individual licensee to compliance and the organisational culture of a corporate licensee are examples of factors we will take into account when forming a view about whether the licensee has a reactive or proactive compliance approach.

Note: See Masu Financial Management Pty Ltd and Australian Securities and Investments Commission [2017] AATA 97.

Change in control does not neutralise history of non-compliance

RG 98.44 A change in the control or the management of a body corporate AFS licensee does not mean that ASIC will disregard the licensee's history of non-compliance. In appropriate circumstances, ASIC may cancel, suspend or vary the licensee's AFS licence even if there is a change in control or in management. This is because even if breaches occurred before the change, those breaches form part of the licensee's compliance history and may remain relevant.

C Banning orders

Key points

ASIC's powers to protect investors and consumers include the power to make a temporary or permanent banning order prohibiting a person from providing all or specified financial services or controlling, or performing functions involved in carrying on a financial services business. We will consider using these powers where a person breaches (or we have reason to believe that they are likely to breach) their legal obligations, or is involved in another person's contravention of financial services laws.

The factors we will take into account when deciding whether to make a banning order will depend on the circumstances of each matter.

Examples of factors we may consider when making these decisions include whether:

- we detect non-compliance by the person;
- a banning order would be an appropriate remedy for us to pursue;
- there is a more appropriate alternative remedy for us to pursue;
- action is desirable to protect investors and consumers;
- action is likely to promote confident and informed decision making by investors and consumers;
- action may deter industry participants from engaging in misconduct; or
- action is likely to promote fairness, honesty and professionalism by industry participants.

Where we decide to take administrative action, the type of banning order we make will depend on the nature and seriousness of the conduct involved.

Power to make a banning order

RG 98.45 We can exclude a person from, or limit their participation in, the financial services industry by making one or more banning orders against them: see s920A and 920B.

What is a banning order?

RG 98.46 A banning order is a written order by ASIC that prohibits the banned person from doing one or more of the following:

- (a) providing any financial services;
- (b) providing specified financial services in specified circumstances or capacities;

- (c) controlling, whether alone or in concert with one or more other entities, an entity that carries on a financial services business;
- (d) performing any function involved in the carrying on of a financial services business (including as an officer, manager, employee, contractor or in some other capacity); and
- (e) performing specified functions involved in the carrying on of a financial services business.

RG 98.47 A banning order may be permanent or for a specified period. If the banning is because the person has been an officer of two or more corporations that have been unable to pay their debts and the criteria in s920A(1C) are met, a banning order may be for a specified period of up to five years: see s920B(2) and s920A(1)(k).

RG 98.48 We may also make a banning order that includes a provision allowing the banned person to do specified acts, or specified acts in specified circumstances, that the order would otherwise prohibit them from doing. This provision may be subject to any specified conditions.

RG 98.49 A banned person cannot be granted an AFS licence contrary to the banning order and must not engage in conduct in breach of the banning order: see s920C.

Making a banning order

RG 98.50 We can make a banning order that has immediate effect, without giving the person the opportunity of a hearing, if the person has been convicted of serious fraud or the person's AFS licence has been suspended or cancelled under s915B: see s920A(3).

RG 98.51 In other cases, we can only make a banning order after giving the person the opportunity to appear or to be represented at a private hearing before ASIC and to make submissions: see s920A(1)–(2).

RG 98.52 We can make a banning order in relation to a person under s920A when:

- (a) we suspend or cancel an AFS licence held by the person;
- (b) the person has not complied with their obligations under s912A;
- (c) we have reason to believe that the person is likely to contravene their obligations under s912A;
- (d) the person becomes a Chapter 5 body corporate or an insolvent under administration;
- (e) the person is convicted of fraud;
- (f) we have reason to believe that the person is not a fit and proper person to:
 - (i) provide one or more financial services;

- (ii) perform one or more functions as an officer of an entity that carries on a financial services business; or
- (iii) control an entity that carries on a financial services business;

Note: For matters that we must take into account when considering whether a person is not a fit and proper person, see s920A(1A).

- (g) we have reason to believe that the person is not adequately trained, or is not competent, to:
 - (i) provide one or more financial services;
 - (ii) perform one or more functions as an officer of an entity that carries on a financial services business; or
 - (iii) control an entity that carries on a financial services business;
- (h) the person has not complied with any one or more of their obligations under s921F (requirements relating to provisional relevant providers);
- (i) both of the following apply:
 - (i) a supervisor referred to in s921F has not complied with any one or more of their obligations under that section in relation to a provisional relevant provider; and
 - (ii) both the supervisor and the provisional relevant provider are authorised to provide personal advice to retail clients, on behalf of the person, in relation to relevant financial products;
- (j) both of the following apply:
 - (i) a provisional relevant provider has not complied with their obligations under s921F(7); and
 - (ii) the provisional relevant provider is authorised to provide personal advice to retail clients, on behalf of the person, in relation to relevant financial products;
- (k) we have reason to believe that the person was authorised, in contravention of s921C(2), (3) or (4), to provide personal advice to retail clients in relation to relevant financial products;
- (l) the person has not complied with a financial services law (other than s921E(3), which requires relevant providers to comply with the Code of Ethics);
- (m) we have reason to believe that the person is likely to contravene a financial services law;
- (n) the person has been involved in the contravention of a financial services law by another person;
- (o) we have reason to believe that the person is likely to become involved in the contravention of a financial services law by another person;
- (p) the person is the operator of, or another person connected with, an Australian passport fund, and each of the following is satisfied:

- (i) a host regulator for the fund has notified ASIC in writing that it is of the opinion that the person or the fund has not complied, is not complying or is not likely to comply with the law of that host economy to the extent that the law is administered by the host regulator for the fund (including the Passport Rules for the host); and
- (ii) we are of the opinion that we should make the banning order, given the potential impact of the failure, or potential failure, to comply on members or potential members of the fund;
- (q) the person has at least twice been linked to a refusal or failure to give effect to an AFCA determination relating to a complaint about:
 - (i) a financial services business; or
 - (ii) credit activities (within the meaning of the *National Consumer Credit Protection Act 2009* (National Credit Act)); or
- (r) within the last seven years and in relation to two or more corporations:
 - (i) the person was an officer of the corporation when the corporation was:
 - (A) carrying on a financial services business; or
 - (B) engaging in credit activities (within the meaning of the National Credit Act);
 - (ii) the corporation was wound up either:
 - (A) while the person was an officer of the corporation; or
 - (B) within the 12 months after the person ceased to be an officer of the corporation; and
 - (iii) a liquidator lodged a report under s533(1) (including that subsection as applied by s526-35 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*) about the corporation's inability to pay its debts.

RG 98.53 ASIC's banning powers were amended by the *Financial Sector Reform (Hayne Royal Commission Response—Stronger Regulators (2019 Measures)) Act 2020*. For an explanation of the amendments, see Chs 1 and 5 of the Explanatory Memorandum to the Financial Sector Reform (Hayne Royal Commission Response—Stronger Regulators (2019 Measures)) Bill 2019.

When we will make a banning order

Our approach

RG 98.54 The foundation of ASIC's approach to taking administrative action to make a banning order is to take action where necessary or desirable to promote the objects of the financial services regime: see s760A.

RG 98.55 We are likely to take administrative action in instances where there is a need to protect investors and consumers, to deter misconduct, or where the person's conduct may result in investor or consumer detriment. Whether administrative action will be taken will depend on the facts of each matter. In general, we may consider banning a person where we have concerns about the person, or the way their business is being or has been conducted.

RG 98.56 We may ban a person even if the person has rectified breaches or has taken steps to prevent further non-compliant conduct, such as by completing additional training. We may do so to deter misconduct by the person or others. In deciding whether to do so we will consider, among other things, whether the person has been reactive rather than proactive in their approach to compliance. The person's attitude to compliance is an example of a factor we will take into account when forming a view about whether they have a reactive or proactive compliance approach.

Note: Consideration of deterring others from engaging in misconduct is fundamental in determining whether to impose a banning order: see *Australian Securities and Investments Commission v McCormack* [2017] FCA 672 at [47].

Relevant factors ASIC will consider

RG 98.57 While it is not possible to identify all factors relevant to a decision to ban a person from providing financial services, controlling an entity that carries on a financial services business or performing functions involved in the carrying on of a financial services business, Table 2 sets out factors that may be taken into account.

Note: The list in Table 2 is not exhaustive and there will be other factors or conduct that are not mentioned in this guide that could lead to a decision to ban a person from providing financial services.

Table 2: Key factors we consider in deciding to make a banning order

Factors	Relevant considerations
Nature and seriousness of the suspected misconduct	<ul style="list-style-type: none"> • Whether there is evidence that the contravention involved dishonesty or was intentional, reckless or negligent • The amount of any benefit gained or detriment suffered as a result of the misconduct • The amount of any loss caused to investors and consumers • The impact of the misconduct on the market, including potential loss of public confidence • Failing to discharge obligations on behalf of the financial services business • Whether the conduct is continuing or likely to recur • Whether the person has a poor compliance record (e.g. they have previously engaged in misconduct) • Failing to manage a material conflict of interest
Internal controls	<ul style="list-style-type: none"> • Whether the person complied with internal procedures

Factors	Relevant considerations
Conduct after the alleged contravention occurs	<ul style="list-style-type: none"> • When and how the breach came to the attention of ASIC • The level of cooperation with our investigation • Whether timely and effective remedial steps have been taken • If in a position to do so, whether the person has been proactive in making appropriate changes to policies and procedures and, where applicable, changing their approach to ensure the effective functioning of their dispute resolution systems • Whether the person has been proactive in compensating client losses and in communicating with clients about the contravention
The expected level of public benefit	<ul style="list-style-type: none"> • The protective effect for investors and consumers • The reinforcement of the integrity and reputation of the financial services industry • Whether the case is likely to help participants in financial markets to better understand their obligations and thereby promote compliance
Likelihood that: <ul style="list-style-type: none"> • the person's behaviour will change in response to a particular action; and/or • other industry participants will be deterred from engaging in similar conduct through greater awareness of the consequences 	<ul style="list-style-type: none"> • The compliance history of the person and their approach to compliance • Whether behaviour (of the person or broader industry) is more likely to change if the person is banned
Mitigating factors	<ul style="list-style-type: none"> • The extent to which there would be any personal hardship were a banning order to be made • Whether the misconduct relates to an isolated complaint • Whether investors or consumers have generally not suffered substantial detriment or been placed in a position of unacceptable risk • Whether the misconduct was inadvertent and the person undertakes to cease or correct the conduct

Banning periods

RG 98.58 Our primary purpose in making banning orders is to promote the objects of the financial services regime. Banning orders protect investors and consumers and deter misconduct. In determining the period of a banning order, deterring others from engaging in misconduct is fundamental.

Note: See *Australian Securities and Investments Commission v McCormack* [2017] FCA 672 at [47].

RG 98.59 It is also appropriate that we assess the risk that the person poses to investors and consumers if they are not banned. A longer banning period will apply to a person assessed as posing a higher risk.

- RG 98.60 In our risk assessment, we consider what the person's conduct shows about them, and about their motivation, if any, for engaging in the conduct. For example, we are likely to consider that a person who has acted dishonestly, or has chosen to engage in conduct despite knowing that it could potentially adversely affect others, poses a higher risk than a person who should have realised the potential for adverse consequences to others but did not, or a person whose misconduct is the result of being careless.
- RG 98.61 In our risk assessment, we also consider the actual or potential impact of the person's conduct on relevant persons (e.g. investors and consumers, licensees, ASIC and ASX). For example, conduct that has resulted in unfair enrichment—such as the person receiving excessive commissions—or that has the potential to lead to a loss of confidence in the integrity of a market for financial products is likely to lead to a longer banning period than conduct that has a minimal adverse impact. Actual investor or consumer loss is not a prerequisite for a period of banning.
- RG 98.62 Multiple instances of misconduct can increase the seriousness of risk that the person poses to investors and consumers if they are not banned and may lead to a longer banning period.
- RG 98.63 We emphasise that each case must depend on its particular circumstances and will be determined on a case-by-case basis.
- RG 98.64 We may ban a person if they are involved in another person's contravention or we have reason to believe that they are likely to become involved in another person's contravention: see s920A(1)(g) and 920A(1)(h). We may impose a banning period on them that is similar to the banning period that we would impose on the person who engaged in the conduct.
- RG 98.65 Table 3 sets out factors and examples of conduct and indicates the potential banning period that may follow from engaging in that conduct. These factors and examples are indicative only.

Table 3: Factors and examples of conduct relating to specific periods of banning

Outcome	Factors	Examples of conduct (indicative only)
Banning for less than 3 years	<ul style="list-style-type: none"> Conduct is the result of carelessness or inadvertence The person attempted to remedy the contravention and has fully cooperated with ASIC No loss (or minimal loss) to client 	<ul style="list-style-type: none"> Giving a complying disclosure document, but not within the required time Failing to lodge documents with ASIC as required Failing to notify ASIC about a representative's breach of the licensee's obligations Failing to perform the functions of an officer of a financial services business Failing to keep records that must be kept

Outcome	Factors	Examples of conduct (indicative only)
Banning for 3–10 years	<ul style="list-style-type: none"> • Conduct is inconsistent with the orderly operation of a financial market • Adverse impact on confidence in or the integrity of a financial market • False, misleading or deceptive, or unconscionable conduct • A deliberate course of conduct to enrich themselves at others' expense • Conduct shows incompetence, irresponsibility or a high level of carelessness, but with the possibility that the person may develop requisite skills and abilities • Disregard for the law and compliance with regulations 	<ul style="list-style-type: none"> • Insider trading • Market manipulation or other misconduct in relation to a financial product traded on a financial market (e.g. s1041A–1041E) • At least twice being linked to a refusal or failure to give effect to a determination made by AFCA relating to a complaint that relates to a financial services business or credit activities • Misconduct in relation to financial products or financial services (e.g. s1041F–1041H and Div 2 of Pt 2 of the <i>Australian Securities and Investments Commission Act 2001</i> (ASIC Act)) • Not acting in the best interests of the client in relation to any personal financial advice given (s961B–961F) • Failing, in relation to any personal financial advice provided, to give advice that is appropriate (s961G) • Failing, in relation to any personal financial advice provided, to prioritise the client's interests (s961J) • Failing to provide an advice warning where personal financial advice is based on incomplete or inaccurate information (s961H) • Failing to comply with fee and remuneration obligations in relation to any personal financial advice given (s962–964E) • Offering or recommending interests in a managed investment scheme that needs to be registered, but has not been • Carrying on a financial services business without holding an AFS licence • Failing to perform the functions of an officer of a financial services business • Controlling a financial services business without the requisite fitness and propriety • Providing unauthorised financial services • Providing financial services contrary to s911B • Failing to keep records that must be kept • Failing to comply with disclosure requirements, including not disclosing commissions and other benefits or relevant interests and associations • Unauthorised discretionary trading • Failure by an officer of the licensee to ensure the licensee complies with its obligations • Misleading clients about the nature of the products being acquired or disposed of on their behalf that are not for the clients' benefit

Outcome	Factors	Examples of conduct (indicative only)
Banning for 10 or more years and permanent banning	<ul style="list-style-type: none"> • Any dishonest conduct • Any intention to defraud • Continued, knowing and wilful contraventions of the law, including market integrity rules and disregard for legal obligations • Whether the person has previously contravened the law • Conduct shows serious incompetence and irresponsibility • Significant adverse impact on confidence in or the integrity of the financial services industry • Significant adverse impact on confidence in or the integrity of a financial market • Conduct is significantly inconsistent with the orderly operation of a financial market 	<ul style="list-style-type: none"> • Misappropriation of client funds or otherwise engaging in fraud or theft • Falsification, concealment or deliberate destruction of records required to be kept • Engaging in a pattern of persistent contraventions that indicates systemic failure or a general lack of understanding of and regard for compliance • Substantial or ongoing carrying on of a financial services business without holding an AFS licence • Substantial unauthorised discretionary trading • Substantial insider trading • Substantial market manipulation or other significant misconduct in relation to a financial product traded on a financial market (e.g. s1041A–1041E) • Failure to apply a client's funds in accordance with the client's instructions • Forging a client's signature • Providing clients with false documents • Providing unauthorised financial services • Providing ASIC with information that is false in a material particular or materially misleading, or omits material information • Failing to perform the functions of an officer of a financial services business

Scope of banning orders

- RG 98.66 ASIC has the power to impose a single banning order that prohibits a person from doing one or more of the things set out in RG 98.46: see s920B(1). We may also make more than one banning order against the same person, prohibiting different conduct. Thus, for example, a person may receive:
- a banning order that prohibits them from providing any financial services; and
 - a second order that prohibits them from controlling, whether alone or in concert with one or more other entities, an entity that carries on a financial services business.
- RG 98.67 When we make a banning order or orders prohibiting more than one type of conduct, we may impose a different banning period for each prohibition.
- RG 98.68 ASIC also has the power to impose a 'permissive' banning order. That is, we may impose a banning order that generally prohibits a person from doing an identified act, but also includes a provision allowing the person to perform specified acts, or specified acts in specified circumstances, that the order would otherwise prohibit them from doing: see s920B(3).

- RG 98.69 When determining the scope of a banning order under s920B(1) or (3), we seek to ensure the order addresses our concerns about the person in question. In considering which orders are appropriate to make in any individual matter, we will take into account:
- (a) the objects of the financial services regime;
 - (b) the factors set out in Table 2;
 - (c) whether such an order is consistent with deterring misconduct; and
 - (d) whether such an order is consistent with our priority of protecting investors and consumers.

Varying or cancelling banning orders

- RG 98.70 We may vary or cancel a banning order if we are satisfied that 'it is appropriate to do so because of a change in any of the circumstances based on which ASIC made the order': see s920D(1). We may do so on our own initiative or if the person against whom the order was made lodges an application for us to cancel or vary the banning order.
- RG 98.71 If we propose not to vary or cancel a banning order in accordance with an application lodged by a banned person, we must give the person an opportunity to appear or be represented at a private hearing and to make submissions: see s920D(3).
- RG 98.72 Examples of matters that may be relevant to a decision whether to vary or cancel a banning order include:
- (a) the seriousness of the misconduct that resulted in the order;
 - (b) the period that has elapsed since the order was made and whether the person continues to pose a risk to investors and consumers or to confidence in the financial system due to the conduct for which we made the banning order;
 - (c) any action taken by the person to remedy the misconduct or the cause of the misconduct (e.g. if the misconduct was the result of incompetence, the person may have remedied this by satisfactorily completing relevant training and obtaining relevant qualifications); and
 - (d) any information that, if it had been known to us at the time, would have been relevant to our decision to make the banning order.
- RG 98.73 If the person applying for the variation or cancellation of a banning order is doing so to work in the financial services industry, it is likely that we will want to take the following matters into account (as applicable):
- (a) the nature of the financial services the person proposes to provide or be involved in and the capacity in which they will do so;

- (b) the nature of any function the person proposes to perform in the carrying on of a financial services business and the capacity in which they will do so;
- (c) if the person proposes to act as a representative of an AFS licensee, the compliance record of the licensee; and
- (d) details of the compliance and supervisory regime under which the person would operate if their application is granted by ASIC, including details of any independent auditing of the person's activities.

D Publicising our decisions

Key points

We will make public our decisions to vary, suspend or cancel an AFS licence or to make, vary or cancel a banning order by publishing a notice in the [ASIC Gazette](#).

We will not publicly comment on these administrative actions before these decisions are gazetted, or the relevant registers are updated.

Public notification of decisions

RG 98.74 We are required to make public our decisions to vary, suspend or cancel an AFS licence or to make, vary or cancel an order banning a person by publishing a notice in the [ASIC Gazette](#): see s915F and 920E.

RG 98.75 Such a notice will be gazetted no earlier than the second business day after the person concerned has been given notice of the decision. For example, if the banning decision is given to the person on a Wednesday, the notice will be gazetted no earlier than the following Friday.

RG 98.76 Similarly, we will update our publicly accessible registers with the relevant details of our administrative actions no earlier than the second business day after the person concerned has been given notice of the decision.

Note: We are required to establish one or more registers relating to financial services: see s922A(1). A person may inspect the registers, and may make copies of or take extracts from them: see s922B. The registers must include details about licensees and people who have been banned: see regs 7.6.05 and 7.6.06 of the *Corporations Regulations 2001*.

RG 98.77 As a general principle, it is our view that there is significant public interest in ensuring that investors, consumers and the broader community are aware of and informed about action we take. Transparency and disclosure are important factors in market integrity and investor and consumer confidence. They serve to educate, deter misconduct and promote compliance by demonstrating the regulatory consequences of engaging in unacceptable conduct.

Note: The importance of the public being promptly informed about our banning decisions was confirmed by the Full Court of the Federal Court in *Australian Securities and Investments Commission v Administrative Appeals Tribunal* (2009) 181 FCR 130.

Public comment

RG 98.78 Our approach to public comment on our decisions to vary, cancel or suspend an AFS licence or to make, vary or cancel a banning order will be governed by our stated policy: see [Information Sheet 152](#) *Public comment on ASIC's regulatory activities* (INFO 152). As set out in INFO 152, we will not make a public comment before we gazette a notice of the decision or update the relevant register.

Key terms

Term	Meaning in this document
AFCA	Australian Financial Complaints Authority—the external dispute resolution scheme for which an authorisation under Pt 7.10A of the Corporations Act is in force
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 Australian financial services licence under s913B
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
Australian passport fund	A registered scheme that is also registered as a passport fund under Pt 8A.3 of the Corporations Act
banning order	A written order by ASIC that prohibits a person from engaging in one or more of the types of conduct set out in s920B
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
court enforceable undertaking	A court enforceable undertaking that may be accepted by ASIC under reg 7.2A.01 of the Corporations Regulations and s93A and s93AA of the ASIC Act
credit licensee	A person who holds an Australian credit licence under s35 of the National Credit Act
financial market	Has the meaning given in s767A of the Corporations Act, and includes a facility through which offers to acquire or dispose of financial products are regularly made or accepted
financial product	Generally, a facility through which, or through the acquisition of which, a person does one or more of the following: <ul style="list-style-type: none"> • makes a financial investment (see s763B); • manages financial risk (see s763C); • makes non-cash payments (see s763D) <p>Note: See Div 3 of Pt 7.1 of the Corporations Act for the exact definition. In addition to the general categories above, this specifies certain things as being included or excluded from the definition.</p>

Term	Meaning in this document
financial service	Has the meaning given in Div 4 of Pt 7.1 of the Corporations Act
financial services business	A business of providing financial services Note: This is a definition contained in s761A of the Corporations Act. The meaning of 'carry on a financial services business' is affected by s761C.
financial services law	Has the meaning given in s761A
financial services provider	A person who provides a financial service
foreign passport fund	A passport fund with a home economy other than Australia
infringement notice	An infringement notice issued under reg 7.2A.04 of the Corporations Regulations
market integrity rules	Rules made by ASIC, under s798G of the Corporations Act, for trading on domestic licensed markets
National Credit Act	<i>National Consumer Credit Protection Act 2009</i>
Passport Rules	The requirements in Annex 3 to the Memorandum of Cooperation on the Establishment and Implementation of the Asia Region Funds Passport , as incorporated into the domestic law of a participating economy
provide a financial service	A person provides a financial service if they: <ul style="list-style-type: none"> • provide financial product advice; • deal in a financial product; • make a market for a financial product; • operate a registered scheme; • provide a custodial or depository service; • provide a crowd-funding service; • provide a claims handling and settling service; • provide a superannuation trustee service; or • as a trustee company, provide traditional trustee company services Note: This is a definition contained in s766A.
reg 7.6.05 (for example)	A regulation of the Corporations Regulations (in this example numbered 7.6.05)
representative (of an AFS licensee)	Means: <ul style="list-style-type: none"> • an authorised representative of the licensee; • an employee or director of the licensee; • an employee or director of a related body corporate of the licensee; or • any other person acting on behalf of the licensee Note: This is a definition contained in s910A of the Corporations Act.

Term	Meaning in this document
RG 100 (for example)	An ASIC regulatory guide (in this example numbered 100)
s920A (for example)	A section of the Corporations Act (in this example numbered 920A), unless otherwise specified

Related information

Headnotes

administrative powers, AFS licensees, Australian financial services licence, banning orders, cancellation, licence conditions, licence variation, public comment, suspension

Regulatory guides

[RG 8](#) *Administrative hearings: Principles and conduct*

[RG 100](#) *Court enforceable undertakings*

[RG 216](#) *Markets Disciplinary Panel*

[RG 218](#) *Licensing: Administrative action against persons engaging in credit activities*

[RG 263](#) *Financial Services and Credit Panel*

Information sheets

[INFO 1](#) *Administrative hearings*

[INFO 9](#) *ASIC decisions: Your rights*

[INFO 107](#) *Guidelines for managing allegations of misconduct against ASIC officers*

[INFO 151](#) *ASIC's approach to enforcement*

[INFO 152](#) *Public comment on ASIC's regulatory activities*

Legislation

Australian Securities and Investments Commission Act 2001, Pt 2 Div 2

Corporations Act 2001, Ch 7; Pt 7.6 Div 8; Pt 7.10A; s533, 760A, 911A, 911B, 912A, 913A, 913B, 913BA, 914A, 914B, 915B, 915C, 915F, 915H, 920A, 920B, 920C, 920D, 920E, 921C, 921E, 921F, 922A, 922B, 961B–961H, 961J, 962–964E, 1041A–1041H

Corporations (Aboriginal and Torres Strait Islander) Act 2006, s526-35

Corporations Amendment (Future of Financial Advice) Act 2012

Corporations Regulations 2001, regs 7.6.05, 7.6.06

Explanatory Memorandum to the Corporations Amendment (Future of Financial Advice) Bill 2011, paragraphs 2.17–2.27

Explanatory Memorandum to the Financial Sector Reform (Hayne Royal Commission Response—Stronger Regulators (2019 Measures)) Bill 2019

Financial Sector Reform (Hayne Royal Commission Response—Stronger Regulators (2019 Measures)) Act 2020

National Consumer Credit Protection Act 2009

Cases

Australian Securities and Investments Commission v Administrative Appeals Tribunal (2009) 181 FCR 130

Australian Securities and Investments Commission v McCormack [2017] FCA 672

HIH Insurance Ltd and HIH Casualty and General Insurance Ltd, Re: ASIC v Adler (2002) 42 ACSR 80

Masu Financial Management Pty Ltd and Australian Securities and Investments Commission [2017] AATA 97

Sovereign Capital Limited and Australian Securities and Investments Commission [2008] AATA 901