



ASIC



INFORMATION RELEASE

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APRA ASIC WORKING GROUP STATUS REPORT

The Australian Prudential Regulation Authority (APRA) and the Australian Securities and Investments Commission (ASIC) continue to work together to identify ways to reduce the regulatory burden on entities regulated by ASIC and APRA.

Over the past year, the agencies worked with the Treasury to remove some of the legislative sources of regulatory overlap, inconsistency or duplication. The agencies are now reviewing their administrative practices for unnecessary regulatory burden and evaluating how any overlaps, inconsistencies or duplication might be reduced.

The agencies also invited the Finance Industry Council of Australia (FICA) to regular meetings with APRA Members and ASIC Commissioners to discuss emerging industry and supervisory issues and regulatory coordination as a means to strengthen consultation on regulatory issues with the financial services industry.

Achievements

In summary, over the past year the agencies have:

- contributed to the Government's *'Streamlining Prudential Regulation: Response to Rethinking Regulation'* discussion paper to streamline the agencies' breach reporting requirements and processes;
- worked on Standard Business Reporting (SBR) with the Treasury to provide a significant and sustained reduction in business to government reporting burden;
- identified possible overlaps in financial data reported to each agency;
- identified possible overlaps in the agencies' Australian Financial Services (AFS) and superannuation licensing requirements and post-licensing processes;
- identified possible duplication in the agencies' audit requirements and audit reporting requirements; and
- matched the agencies' respective responsible person populations.

Proposals for law reform

To date, ASIC and APRA have worked with the Treasury to identify legislative sources of regulatory overlap, inconsistency or duplication for jointly-regulated entities, as legislation determines the context in which ASIC and APRA apply their administrative practices and policies. Legislative amendments are an important step towards reducing regulatory overlap and inconsistency, and lessening the burden of red tape for entities.

Legislative amendments are proposed in the Australian Government's *'Streamlining Prudential Regulation: Response to Rethinking Regulation'* discussion paper that was released for public comment on 4 December 2006. Specifically addressing the requirements

for jointly-regulated entities to report breaches to ASIC and APRA, the discussion paper recommends:

- i) Introducing a materiality test for reporting breaches to APRA. The materiality test will align APRA's requirements with the significance test for reporting breaches to ASIC under the Corporations Act 2001 (Corps Act).
- ii) Aligning breach reporting periods for AFS licensees and APRA-regulated entities.
- iii) Removing the requirement to report breaches of prudential requirements to both ASIC and APRA. APRA will collect information about breaches and share it with ASIC where appropriate.

Public comments on the discussion paper are invited by 15 February 2007. Industry will be provided with further guidance about the legislative changes when they are finalised.

As noted above, ASIC and APRA have also worked with the Treasury on the SBR programme - a whole of government programme to reduce reporting burden for business through eliminating unnecessary or duplicated reporting and improving the interface between businesses and government agencies.

Next steps

ASIC and APRA will continue their work with the Treasury on the SBR programme.

Consistent with the proposed legislative amendments, the Group will continue its review of the agencies' administrative practices and policies in the areas of data reporting, licensing, audit, breach reporting, and responsible persons.

Data Reporting

By comparing ASIC and APRA's data reporting requirements and reconciling their regulated entity populations¹, the Group has found that:

- i) Almost all APRA-regulated authorised deposit-taking institutions, general insurers and life insurers hold AFS licenses. It appears that around half of APRA's licensed superannuation trustees also hold AFS licences.
- ii) It appears that a number of entities have provided incorrect information to ASIC about their APRA-regulated status. ASIC will make enquiries in these cases and share its findings with APRA.
- iii) It also appears that different entities, mainly superannuation trustees and funds, have provided identical ABNs to ASIC and APRA.
- iv) There is some overlap between the reporting requirements prescribed under Chapter 7 of the Corps Act and the *Financial Sector (Collection of Data) Act 2001* (FSCoDA) for non-superannuation entities.
- v) There is some reporting duplication for AFS licensees subject to Chapter 2 and Chapter 7 of the Corps Act.

This exercise highlighted potential regulatory actions for ASIC and areas for improvement in the agencies' record keeping. ASIC and APRA will explore the extent to which reporting requirements can be consolidated for jointly-regulated entities and may consult industry during 2007 on the best way for the agencies to collect data from regulated entities.

¹ ASIC collects financial reports under Chapter 2M of the Corporations Act 2001 and AFS Licensee accounts under Chapter 7. APRA collects data under the Financial Sector (Collection of Data) Act 2001.

Licensing

By reviewing the agencies' AFS and superannuation licensing requirements and processes in the post-licensing environments, the Group has found that there is little overlap between the agencies' licensing obligations. This is as a result of existing legislative carve-outs.

The agencies will produce an industry guide to explain ASIC and APRA's licensing objectives, requirements and processes for jointly-regulated superannuation trustees. This guide will refer to the existing provisions and practices that reduce regulatory burden on jointly-regulated superannuation trustees, such as the exemption from the general AFS licensee obligations to maintain risk management and resourcing frameworks where the AFS licensee is an APRA-regulated entity.

Audit

By comparing the agencies' audit requirements and audit reporting requirements, the Group has found that:

- i) There is little overlap between the audit requirements prescribed under Chapter 2 of the Corps Act and by APRA as they fulfil two different purposes.
- ii) There is minimal overlap in the audit requirements prescribed under Chapter 7 of the Corps Act and by APRA as a result of legislative carve-outs.
- iii) There is some duplication in the collection of audit reports by the agencies.

The potential to reduce audit reporting requirements for some entities will be assessed as part of the more detailed review of reporting obligations to be conducted during 2007.

Responsible persons

By matching the agencies' data on their respective responsible person population, the Group has found that there is considerable overlap between the agencies' responsible persons populations, even though the obligations of these officers differ under ASIC and APRA administered legislation.

This exercise highlighted the potential to reduce responsible person reporting requirements. Public comments on responsible person reporting requirements are invited by 15 February 2007 as part of the Australian Government's '*Streamlining Prudential Regulation: Response to 'Rethinking Regulation'*' discussion paper.

Background

ASIC is the corporate, markets and financial services regulator. As part of its financial services regulatory role, ASIC licenses and monitors over 4,000 financial services businesses to ensure they operate efficiently, honestly and fairly. These businesses typically deal in superannuation, managed funds, shares and company securities, derivatives, and insurance.

APRA is the prudential regulator of the Australian financial services industry. Excluding small APRA funds, it oversees more than 1,900 entities, including banks, credit unions, building societies, general insurance and life insurance companies, friendly societies and superannuation trustees. It establishes and enforces prudential standards and practices

designed to ensure that, under all reasonable circumstances, financial promises made by the institutions it supervises are met within a stable, efficient and competitive financial system. APRA also acts as the national statistical agency for the Australian financial sector.

ASIC and APRA jointly regulate fewer than 600 entities.

The APRA/ASIC joint working group was formed partly in response to the work of the Australian Government's *Rethinking Regulation Taskforce on Reducing the Regulatory Burden on Business*, which released its report in April 2006.

The Group's work adds to the existing close co-operation between ASIC and APRA on policy, compliance and enforcement issues common to both agencies. Senior ASIC and APRA officers meet regularly to discuss matters of joint interest; significant matters involving jointly-regulated institutions are subject to a separate process whereby supervision, surveillance and enforcement actions are coordinated.

ASIC and APRA often possess information that may be relevant to the jurisdiction of the other agency, and the agencies have signed a Memorandum of Understanding to streamline the processes whereby relevant information can be provided to the other agency.

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