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| <b>Committee</b>        | Parliamentary Joint Committee on Corporations and Financial Services                                |
| <b>Inquiry</b>          | Oversight of ASIC, the Takeovers Panel and the Corporations Legislation No.1 of the 46th Parliament |
| <b>Question No.</b>     | 015   |
| <b>Date</b>             | 26 November 2021  |
| <b>Topic</b>            | Australian Financial Services Licence (AFSL) cancellation   |
| <b>Reference</b>        | Spoken, 26 November 2021, Hansard page 26   |
| <b>Committee member</b> | Mr Georganas  |

## Question

Mr GEORGANAS: To relinquish a licence?

Mr Day: Absolutely. It's not just a case of relinquishing it. There need to be a number of checks to see if there are other claims or other matters on hand, because if their licence is cancelled then the membership of AFCA disappears as well—the ombudsman scheme. It may be that there are a number of matters still before the ombudsman that, if we cancelled the licence, would be interrupted by virtue of that. That's one example. There are a number of things that need to be considered before ASIC will grant the cancellation of a licence. You don't merely turn up and say, 'I'll stop business.' We have to do a number of checks and consider what is required.

CHAIR: Would you be able to assist the committee and provide us with some further information?

Mr Day: Absolutely. We can take it on notice and provide you with some detail. The problem when you use the word 'licence' is that you think it's like you're handing in your driver's licence and you're done.

CHAIR: But it's the obligations that attach to it.

Mr Day: There are a whole range of obligations that attach.

Mr GEORGANAS: So that fee they pay for the relinquishment of that licence is to do the checks and balances?

Mr Day: Yes, absolutely.

Mr GEORGANAS: It is much lower than the—

Mr Day: Absolutely, but there is a range of work. Again, the model is a fee-for-service model. So, because there's work involved with considering to grant the cancellation of a licence, there's a fee as a result. I'm more than happy to provide you with a briefing on notice.

## Answer

Please also refer to the [ASIC's response to QoN 15 taken on notice at the PJC on Corporations and Financial Services public hearing on 27 August 2021](#).

In order to request the cancellation of an Australian Financial Services Licence (AFSL) the licensee must complete a form and cover letter which advises ASIC of the reasons for cancellation and includes additional information required to be assessed before ASIC can cancel the licence. A fee of \$899 must be paid before we complete our assessment of the cancellation request. ASIC does not have the power to waive this fee.

In addition to confirming payment, ASIC undertakes a number of checks before proceeding to cancel (or refuse cancellation of) a licence. These include:

- a. confirming that the application is complete, accurate and duly authorised;
- b. conducting intelligence searches and making related inquiries to identify if there are any reasons not to cancel the licence;
- c. if the licensee is APRA-regulated, consulting with APRA;

- d. if authorised to provide financial services to retail clients, contacting AFCA and considering any open disputes;
- e. confirming there are no other outstanding ASIC invoices;
- f. confirming there no outstanding financial statements or auditor's reports.

ASIC may determine to impose conditions on cancellation as a result of its assessment. Section 915H of the *Corporations Act* provides that ASIC may specify that the licence continues in effect as though the cancellation had not happened for the purposes of specified provisions of this Act in relation to specified matters, a specified period, or both. For example, in consideration of open disputes with AFCA, absent refusing the application ASIC may require an entity to continue to maintain AFCA membership and adequate compensation arrangements for a 12 month period.

When an in-principle decision is made to cancel the licence, a letter and Notice of Cancellation is prepared for delegate review prior to being given to the licensee. The Notice of Cancellation is also published in the ASIC Gazette.