

**Senate Standing Committee on Economics**

**ANSWERS TO QUESTIONS ON NOTICE**

**Treasury Portfolio**

Budget Estimates

1 June – 3 June 2010

**Question: BET 32**

**Topic: Financial Services Licence**

**Hansard Page: E139 (01/06/2010)**

**Senator EGGLESTON asked:**

**Senator EGGLESTON**—What investigation of an adviser does ASIC perform before granting a financial services licence? What sorts of background checks or qualifications do you look for?

**Mr D'Aloisio**—There is in the legislation a need to go through certain checks that our people go through before the licence is issued. I can take that notice and give you the exact framework that we go through.

**Ms Gibson**—It is fair to say that at this point the regime gives us very limited discretion. It is an experience test and it is not something that we test exhaustively in terms of each licence application. Another way of putting it is that it is very difficult for us to refuse a licence.

**Mr D'Aloisio**—We will set that out for you.

**Senator EGGLESTON**—I think in a general way the committee would be quite interested in that because of the other inquiry that we are doing, so I would be very grateful if you could provide that information on notice.

**Mr D'Aloisio**—Indeed. For the other inquiry we could give you a supplementary submission or a comparison of the registration system and the licensing system.

**Answer:**

ASIC has a statutory obligation under section 913B of the Corporations Act to form a view about:

1. the ability of an applicant for an Australian Financial Services Licence (AFSL) to comply with the obligations under s912A if the licence is granted (the licensee obligations);
2. the good fame and character of the people nominated by the applicant as being responsible for significant day-to-day decisions about its financial services business (Responsible Managers); and
3. the ability of an applicant to satisfy any other prescribed requirements.

The application form for an AFSL (form FS 01) asks a series of questions intended to allow ASIC to form a view about these criteria. ASIC then asks for more detailed supporting information that focuses on the applicant's organisational competence, the good fame and character of its Responsible Managers, and its financial statements and financial resources.

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In assessing the organisational competence of an applicant, ASIC looks at the individual competence of the Responsible Managers to determine whether they have an appropriate combination of qualifications and experience that are relevant for the nature of the business intended to be performed by the applicant under an AFSL. ASIC's policy approach to organisational competence is set out in Regulatory Guide 105 'Licensing: Organisational competence'.

ASIC's consideration of the good fame and character of each of an applicant's Responsible Managers is based on four elements, provided by the applicant:

- a Statement of Personal Information, which is a series of questions about the conduct of the person over the previous ten years;
- a national criminal history check;
- a bankruptcy check; and
- two business references.

ASIC also conducts searches of its internal databases, to determine whether any relevant information is already known.

Finally, ASIC assesses the applicant's ability to satisfy the financial requirements ASIC will place upon it by way of licence condition. ASIC's financial requirements are detailed in Regulatory Guide 166 'Licensing: Financial requirements'.

In addition, some applicants for an AFSL are also asked to provide additional supporting documentation, further probing the ability of the applicant to satisfy the licensee obligations. Applicants are chosen for this additional scrutiny through an assessment of the regulatory risk of the applicant.