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NEWS

AFS licence applications – some lessons learned

In the current regulatory environment, it is more important than ever to ensure a new AFS licence (AFSL) application or variation application is prepared and lodged with the highest quality information, is appropriate for the applicant's financial services business, and complies with the AFS laws and regulatory policy.

Here, partner Elliott Stumm takes a close look at ASIC's recent licensing activity report which makes for interesting reading, particularly in relation to the AFSL regime. The report sets out the regulatory outcomes for the period 1 July 2018 to 30 June 2019.

OUTCOMES

The report highlighted the following outcomes for the period:

- ASIC received fewer AFS and credit licensing applications in 2019 (1504) than the previous financial year (1819).
- Of the 1504 applications, 439 related to new AFSLs and 589 related to variations to existing AFSLs.
- ASIC approved 327 new licences and varied 495 s of which 467 were approved with additional regulatory outcomes (ie different authorisations from those applied for or with additional conditions).
- ASIC cancelled 342 AFSLs and suspended 11s.

ASIC reminded applicants that being granted a licence is a privilege and not a right, and ASIC cannot grant a licence unless it is satisfied about each of the matters it is required to consider under legislation. For this reason, applicants should be aware that ASIC cannot grant a licence, or approve a variation, unless an applicant provides all relevant information requested and ASIC is satisfied the applicant meets all standards imposed by law.

The types of additional outcomes in the relevant period included imposing a key person condition, changing the authorisations granted, tailoring authorisations, appointing an additional responsible manager, imposing additional conditions and rejecting a responsible manager.

CANCELLATION

ASIC also pointed out that it may cancel an AFSL for a range of reasons, including where the licensee:

- enters into external administration
- becomes deregistered
- has not complied with the conditions on its licence

- ceases to carry on a financial services business
- applies to ASIC for a suspension or cancellation.

Also, ASIC cancelled/suspended four AFSLs for a failure to obtain membership of the Australian Financial Complaints Authority scheme.

WE CAN HELP

Our **Funds Management lawyers** are recognised leaders in AFS licensing and can help with all aspects of your AFSL application or variation.

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