



ASIC

Australian Securities & Investments Commission

REGULATORY GUIDE 165

Licensing: Internal and external dispute resolution

May 2009

About this guide

This guide explains what AFS licensees, unlicensed product issuers and unlicensed secondary sellers must do to have a dispute resolution system in place that meets ASIC's requirements.

This guide should be read in conjunction with RG 139 *Approval and oversight of external dispute resolution schemes* (RG 139).

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 on 18 May 2009 and is based on legislation and regulations as at 18 May 2009.

Previous versions:

- Superseded Policy Statement 165, issued 28 November 2001 and rebadged as Regulatory Guide 165 on 5 July 2007.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.

Contents

| | | |
|----------|---|-----------|
| A | Overview—dispute resolution requirements | 4 |
| | Dispute resolution in the Australian financial system | 4 |
| | Internal dispute resolution procedures | 6 |
| | External dispute resolution | 6 |
| | New licensees..... | 6 |
| | ASIC’s role..... | 7 |
| | AFS licensees..... | 8 |
| | Unlicensed secondary sellers and unlicensed product issuers | 8 |
| B | Guidelines for internal dispute resolution procedures | 9 |
| | Interpreting these guidelines | 9 |
| | Time frames for adopting the new and updated IDR requirements | 10 |
| | Our requirements for internal dispute resolution procedures | 11 |
| | Reviewing IDR procedures..... | 12 |
| | Coverage and benefits of IDR procedures | 12 |
| | Outsourcing | 13 |
| | AS 4269-1995..... | 13 |
| | AS ISO 10002-2006..... | 14 |
| | Internal dispute resolution time frames..... | 15 |
| | Other matters..... | 16 |
| | Applying for an AFS licence—self-certification..... | 18 |
| C | Guidelines for membership of one or more ASIC-approved EDR schemes | 19 |
| | EDR scheme membership..... | 19 |
| | Confirming EDR scheme membership | 20 |
| | Changes to EDR scheme membership—notification and consequences..... | 20 |
| | Appendix 1: IDR procedures and the standards | 22 |
| | Key terms | 29 |
| | Related information | 31 |

A Overview—dispute resolution requirements

Key points

AFS licensees, unlicensed product issuers and unlicensed secondary sellers are required to have a dispute resolution system in place that consists of:

- internal dispute resolution (IDR) procedures that meet the standards or requirements made or approved by ASIC; and
- membership of one or more ASIC-approved external dispute resolution (EDR) schemes.

This regulatory guide sets out AFS licensee, unlicensed product issuer and unlicensed secondary seller obligations in relation to IDR and membership of one or more ASIC-approved EDR schemes.

Dispute resolution in the Australian financial system

RG 165.1 Under the *Corporations Act 2001* (Cth) (Corporations Act), if you are an:

- (a) Australian financial services (AFS) licensee (s912A(1)(g) and 912A(2)); or
 - (b) unlicensed product issuer or an unlicensed secondary seller (s1017G),
- you must have a dispute resolution system available for your retail clients that meet certain requirements.

RG 165.2 This dispute resolution system must consist of:

- (a) internal dispute resolution (IDR) procedures that—
 - (i) comply with standards and requirements made or approved by ASIC; and
 - (ii) cover complaints made by retail clients in relation to the financial services provided; and
- (b) membership of one or more ASIC-approved external dispute resolution (EDR) schemes that covers, or together cover, with complaints that are dealt with by the Superannuation Complaints Tribunal (SCT), complaints made by retail clients in relation to the financial services provided.

See: RG 139 for further guidance on EDR schemes.

Superannuation Complaints Tribunal

- RG 165.3 As the SCT is a statutory tribunal, established under the *Superannuation (Resolution of Complaints) Act 1993* (Cth), it operates differently to ASIC-approved EDR schemes in that:
- (a) the SCT is not subject to ASIC's approval and thus *RG 139 Approval and oversight of external dispute resolution schemes* does not apply to it; and
 - (b) AFS licensees, unlicensed product issuers and unlicensed secondary sellers are not required to be members of the SCT in the same way as an ASIC-approved EDR scheme as the SCT has jurisdiction to handle certain types of superannuation related complaints by virtue of the relevant provisions of the legislation.
- RG 165.4 The requirement to be a member of an ASIC-approved EDR scheme does not apply in relation to complaints made by retail clients that may be dealt with by the SCT: see s912A(2)(b)(ii) and 1017G(2)(b)(ii).
- RG 165.5 So, where the SCT can deal with *all* retail client complaints about the financial products and services you provide, you will not need to join an ASIC-approved EDR scheme.
- RG 165.6 However, if the SCT cannot deal with complaints about *all* the financial products and services you provide, you must belong to an ASIC-approved EDR scheme that can deal with those complaints that fall outside the SCT's jurisdiction.
- RG 165.7 For example, if you are a trustee of a regulated superannuation fund, you will satisfy your dispute resolution obligations by complaints being subject to the jurisdiction of the SCT.
- RG 165.8 As the SCT does not have jurisdiction to deal with complaints about other (non-superannuation) products or services that do not relate to a decision of a trustee in relation to the fund, where you are a trustee who gives advice about products that are available outside your superannuation fund (i.e. banking products or post-retirement products), membership of an ASIC-approved EDR scheme will be required. This is because broader financial product advice is beyond the jurisdiction of the SCT.
- RG 165.9 It should be noted that in handling a complaint, the SCT may refer the whole or part of a complaint to an ASIC-approved EDR scheme (s22A of the *Superannuation (Resolution of Complaints) Act 1993*).

Internal dispute resolution procedures

- RG 165.10 Under reg 7.6.02(1) and 7.9.77(1) of the Corporations Regulations 2001 (the regulations) ASIC must take:
- (a) Australian Standard 4269-1995 *Complaints handling* (AS 4269-1995); and
 - (b) any other matter ASIC considers relevant,
- into account when considering whether to make or approve standards or requirements relating to IDR.
- RG 165.11 ASIC may also:
- (a) vary or revoke a standard or requirement that it has made in relation to an internal dispute resolution procedure; and
 - (b) vary or revoke the operation of a standard or requirement that it has approved in its application to an internal dispute resolution procedure: see reg 7.6.02(2) and 7.9.77(2).
- RG 165.12 This regulatory guide addresses our requirements for IDR in anticipation of the Government removing the reference to AS 4269-1995 at reg 7.6.02(1) and 7.9.77(1) and inserting a reference to AS ISO 10002-2006 *Customer satisfaction—Guidelines for complaints handling in organisations* instead, with effect from 1 July 2009.
- RG 165.13 Our guidelines for compliant internal dispute resolution procedures are at Section B of this regulatory guide.

External dispute resolution

- RG 165.14 Our guidelines about membership of ASIC-approved EDR schemes are at Section C of this regulatory guide.
- RG 165.15 See RG 139 for information on how ASIC approves and oversees EDR schemes.

New licensees

- RG 165.16 This regulatory guide anticipates that the Australian Government will extend mandatory EDR scheme membership and licensing requirements to margin lenders and—under the national credit laws—to credit providers and those who provide credit related broking services and advice. We also anticipate that these new licensees will be subject to the IDR requirements. We will update our regulatory guidance as necessary, in the light of these changes, in due course.

ASIC's role

- RG 165.17 The objectives of Chapter 7 of the Corporations Act are to promote:
- (a) the confident and informed participation of consumers and investors in the Australian financial system (also an objective of ASIC under s1 of the *Australian Securities and Investments Commission Act 2001* (Cth) (ASIC Act));
 - (b) fairness, honesty and professionalism by those who provide financial services;
 - (c) fair, orderly and transparent markets; and
 - (d) the reduction of systemic risks: see s760A.
- RG 165.18 Within this framework, ASIC is responsible for:
- (a) setting or approving standards for IDR procedures; and
 - (b) approving and overseeing the effective operation of EDR schemes.
- RG 165.19 In respect of complaints resolution, we are mindful of the need to ensure that consumers and investors are treated fairly and consistently by the relevant complaints handling procedures. We also need to ensure that financial service providers, regardless of their size or business, are able to handle complaints internally, in an efficient, timely and effective manner.
- RG 165.20 We consider IDR to be an important and necessary first step in the complaints handling process, as it gives the financial service provider the opportunity to hear client concerns and expressions of dissatisfaction and address them genuinely, efficiently and effectively. Addressing complaints at IDR in this way can also assist in improving business systems and products/services, which is integral to growing a successful business.
- RG 165.21 Independent research commissioned by ASIC also indicates that the timely resolution of complaints, particularly at IDR can be instrumental in consumers and investors being satisfied with the complaints handling process.
- Note: See paragraphs 15–21 of Consultation Paper 102 *Dispute resolution—review of RG 139 and RG 165*.
- RG 165.22 We also consider it important that financial service providers' IDR systems interface smoothly with EDR scheme processes and those of the SCT to ensure that the overall dispute resolution system is working effectively.
- RG 165.23 We believe that industry-supported EDR schemes play a vital role in the broader financial services regulatory system. The existence of these schemes provide:
- (a) a forum for consumers and investors to resolve complaints that is quicker and cheaper than the formal legal system; and

- (b) an opportunity to improve industry standards of conduct and to improve relations between industry participants and consumers.

RG 165.24 As a result of continuing law reforms, an increasing number of industry participants will be, or are likely to be, required to have IDR processes that meet the requirements of this regulatory guide and be required to join an ASIC-approved EDR scheme as a condition of carrying on their business.

RG 165.25 In light of this, we consider it necessary that financial service providers have reference to a common set of guidelines for internal and external dispute resolution requirements.

Note: RG 139 contains further information about our common set of guidelines for the approval and oversight of ASIC-approved EDR schemes.

RG 165.26 These guidelines and RG 139 set out our dispute resolution requirements.

AFS licensees

RG 165.27 If you wish to become, or already are, an AFS licensee, you must ensure that you have a dispute resolution system that meets the requirements of this regulatory guide. The steps you can take to ensure this include:

- (a) reviewing your IDR procedures against the requirements discussed at Section B; and
- (b) assessing whether you meet the EDR scheme membership requirements discussed at Section C.

Unlicensed secondary sellers and unlicensed product issuers

RG 165.28 If you are an unlicensed secondary seller or unlicensed product issuer, you must ensure that you have a dispute resolution system that meets the requirements of this regulatory guide. The steps you can take to ensure this include:

- (a) reviewing your IDR procedures against the requirements discussed at Section B;
- (b) assessing whether you meet the EDR scheme membership requirements discussed at Section C; and
- (c) ensuring that you self-certify when you first lodge a product disclosure statement (PDS) or give notice that a PDS is in use with ASIC.

B Guidelines for internal dispute resolution procedures

Key points

ASIC is required to take AS 4269-1995 and any other matter ASIC considers relevant into account when considering whether to make or approve standards or requirements relating to IDR.

From 1 July 2009, ASIC anticipates that it will be required to take AS ISO 10002-2006 (instead of AS4269-1995 which has been superseded) into account.

This section outlines our requirements for IDR procedures, including transitional arrangements with regard to AS ISO 10002-2006.

Interpreting these guidelines

RG 165.29 Table 2 summarises the principles and the requirements discussed in this regulatory guide. Table 2 also identifies whether a requirement is ongoing, new or has been updated for ease of reference: see Table 1 for an explanation of the types of requirement.

Table 1: Explanation of types of requirement

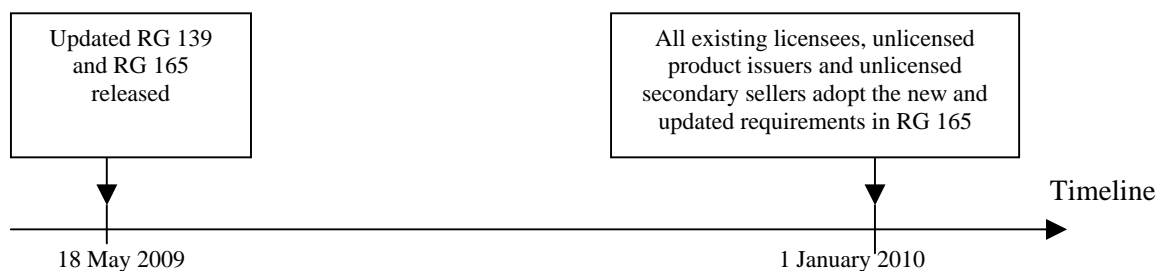
| Types of Requirement | Explanation |
|----------------------|--|
| Ongoing requirement | This is a requirement that has not changed since Superseded Regulatory Guide 139 (SRG 139) was first issued on 8 July 1999. |
| Updated requirement | This is a requirement that was included in SRG 139 when it was issued on 8 July 1999, but has been revised/updated when this regulatory guide was reissued on 18 May 2009. |
| New requirement | This is a requirement that was not previously included when SRG 139 was issued on 8 July 1999, but has since been included on 18 May 2009. |

Table 2: IDR requirements in this guide

| IDR requirements | See | New, updated or ongoing requirement |
|--|---------------------|---|
| Tailoring IDR procedures | RG 165.45 | Ongoing requirement |
| Coverage and benefit of IDR procedures | RG 165.46-RG 165.50 | Ongoing requirement |
| Outsourcing | RG 165.51 | New requirement |
| AS 4269-1995 | RG 165.52-RG 165.53 | |
| AS ISO 10002-2006 | RG 165.54-RG 165.60 | New requirement (replaces AS 4269-1995) |
| IDR time frames | RG 165.61-RG 165.68 | Updated requirement |
| Multi-tiered IDR procedures | RG 165.69-RG 165.70 | New requirement |
| Other matters—Documenting IDR procedures | RG 165.72-RG 165.75 | Ongoing requirement |
| Other matters—Links between IDR procedures and EDR schemes | RG 165.76–RG 165.78 | Ongoing requirement |
| Compliant IDR procedures—self-certification | RG 165.79-RG 165.83 | Ongoing requirement |

Time frames for adopting the new and updated IDR requirements

Figure 1: Timeline for AFS licensees, unlicensed product issuers and unlicensed secondary sellers to adopt the new and updated requirements



RG 165.30 AFS licensees, unlicensed product issuers and unlicensed secondary sellers will be required to:

- (a) adopt the new and updated requirements in this regulatory guide from 1 January 2010. This timeline coincides with the timeline for schemes to adopt the new and updated requirements in RG 139; and
- (b) continue to meet the ongoing requirements set out in Table 2.

RG 165.31 When the national credit law comes into force, we anticipate that credit providers and those who provide credit related broking services and advice, will be required to adopt the requirements in this regulatory guide.

Our requirements for internal dispute resolution procedures

- RG 165.32 Under the dispute resolution provisions, financial service providers subject to the dispute resolution requirements must have IDR procedures that comply with our requirements. These requirements are made by us in accordance with the regulations and are set out in this regulatory guide.
- RG 165.33 The regulations provide that when making or approving standards or requirements for IDR procedures, ASIC must take AS 4269-1995 into account, as well as any other matter we consider relevant: see reg 7.6.02(1) and 7.9.77(1).
- RG 165.34 We anticipate that the Government will update reg 7.6.02(1) and 7.9.77(1) to refer to AS ISO 10002-2006 instead of AS 4269-1995 from 1 July 2009. This is because AS ISO 10002-2006 has superseded AS 4269-1995.
- RG 165.35 We also anticipate that once the national credit law comes into force, credit providers and those who provide credit-related broking services and advice will also become subject to the dispute resolution requirements.
- RG 165.36 Under the regulations we also have the powers, in relation to IDR procedures, to:
- (a) vary or revoke a standard or requirement that we have made; and
 - (b) vary or revoke the operation of a standard or requirement that we have approved (see reg 7.6.02(2) and 7.9.77(2)).
- RG 165.37 AS 4269-1995 is a well recognised and useful starting point for establishing and assessing IDR procedures. However, as AS 4269-1995 has been superseded by AS ISO 10002-2006 and will be replaced by this new standard in the regulations, we now consider AS ISO 10002-2006 to be the starting point for establishing and assessing IDR procedures.
- RG 165.38 Neither AS 4269-1995 nor AS ISO 10002-2006 apply exclusively to financial services. Both have been drafted broadly so they can:
- (a) apply to any industry in which consumers participate; and
 - (b) be implemented by a business of any size.
- RG 165.39 This guide provides guidance on the application of AS 4269-1995 and AS ISO 10002-2006 to the financial services industry, as well as outlining other matters we consider necessary for IDR procedures to be compliant.
- RG 165.40 Currently, our requirements for IDR procedures are that you:

- (a) satisfy the Essential Elements of Effective Complaints Handling in Section 2 of AS 4269-1995 (see RG 165.52–RG 165.53);
 - (b) appropriately document the IDR procedures (see RG 165.72–RG 165.75); and
 - (c) have a system for informing complainants about the availability and accessibility of the relevant EDR scheme (see RG 165.76).
- RG 165.41 Once AS ISO 10002-2006 becomes the standard referred to in the regulations that ASIC must have regard to, our requirements for IDR procedures will be that you:
- (a) adopt the definition of complaint in AS ISO 10002-2006 (see RG 165.54–RG 165.55);
 - (b) satisfy the Guiding Principles at Section 4 and follow Section 5.1—Commitment, Section 6.4—Resources, Section 8.1—Collection of Information and Section 8.2—Analysis and evaluation of complaints in AS ISO 10002-2006 (see RG 165.58–RG 165.60); and
 - (c) have a system for informing complainants about the availability and accessibility of the relevant EDR scheme (see RG 165.72).
- RG 165.42 Our requirements for IDR procedures are also reflected in Class Order [CO 09/339] *Internal dispute resolution procedures*.
- RG 165.43 We will review our requirements having regard to AS ISO 10002-2006 in this section of the regulatory guide in consultation with industry, consumer representatives and other interested stakeholders.
- RG 165.44 After January 2010, we will update this regulatory guide to remove obsolete requirements and references.

Reviewing IDR procedures

- RG 165.45 Whether you are reviewing your existing IDR procedures, or establishing new IDR procedures, it is appropriate to take into account:
- (a) the size of your business;
 - (b) the range of financial services you offer;
 - (c) the nature of your customer base; and
 - (d) the likely number and complexity of complaints.

Coverage and benefits of IDR procedures

- RG 165.46 The majority of complaints that your clients make about you will be dealt with under your IDR procedures. We believe that it is essential for you to have effective IDR procedures in place so that complaints are dealt with genuinely, promptly, fairly and consistently.

- RG 165.47 IDR procedures can be used to deal effectively with, and monitor, all forms of consumer inquiry or complaint. The benefits of effective IDR procedures with broad coverage include:
- (a) the opportunity to resolve complaints quickly and directly;
 - (b) the ability to identify and address recurring or systemic problems (which can then lead to product or service improvements);
 - (c) the capacity to provide solutions to problems rather than have remedies imposed by an external body; and
 - (d) improved levels of customer confidence and satisfaction.
- RG 165.48 Wherever possible, you should seek to resolve complaints directly with your clients through your IDR procedures. It is better for all parties that a complaint is dealt with at the earliest possible stage because it:
- (a) prevents complaints from becoming entrenched;
 - (b) preserves customer relationships;
 - (c) is often the most efficient and cost-effective way for an organisation to deal with complaints; and
 - (d) may improve customer satisfaction.
- RG 165.49 As a minimum, any IDR procedure must be able to deal with complaints made by ‘retail clients’ as defined in s761G and its related regulations, and this includes small businesses. A ‘small business’ is defined in s761G as a business employing fewer than:
- (a) 100 people (if the business is or includes the manufacture of goods); or
 - (b) 20 people (otherwise).
- RG 165.50 We encourage you to develop IDR procedures that have broader coverage consistent with the nature of your business and your dealings with consumers.

Outsourcing

- RG 165.51 A financial service provider that outsources its IDR procedures to a third party service provider remains responsible for ensuring that its IDR procedures comply with the requirements in this regulatory guide.

AS 4269-1995

- RG 165.52 Section 2 of AS 4269-1995 sets out the Essential Elements that your IDR procedures must contain. To give context to our IDR requirements you should read AS 4269-1995.

- RG 165.53 In Appendix 1 of this guide we provide guidance on how we consider the Essential Elements of AS 4269-1995 apply. There is additional guidance for implementing the Essential Elements in Section 3 of AS 4269-1995.

AS ISO 10002-2006

Definition of ‘complaint’

- RG 165.54 As part of our IDR requirements, you will be required to adopt the following definition of ‘complaint’ in AS ISO 10002-2006 when handling complaints:
- An expression of dissatisfaction made to an organisation, related to its products or services, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected.
- RG 165.55 This definition of complaint will promote consistent treatment of complaints. It will also help in the identification of complaints earlier in the complaints handling process.
- RG 165.56 We recognise that applying this definition may result in increased administrative burdens and compliance costs in relation to capturing and maintaining records of minor expressions of dissatisfaction. Therefore, where a complaint is resolved to the customer’s satisfaction by the *end of the next business day* from when the complaint was received, you will not be required to apply the full IDR process, that is capture and record the complaint as set out in the Appendix 1 under ‘Data collection/Collection of information and Confidentiality’.
- RG 165.57 Where possible, we encourage the adoption of the full IDR process, as having accurate and complete complaints data can be invaluable to improving products, services and business systems.

Guiding Principles

- RG 165.58 Section 4 of AS ISO 10002-2006 sets out the Guiding Principles that your IDR procedures must satisfy. We also require that your IDR procedures comply with the following sections in AS ISO 10002-2006:
- (a) Section 5.1—Commitment;
 - (b) Section 6.4—Resources;
 - (c) Section 8.1—Collection of information; and
 - (d) Section 8.2—Analysis and evaluation of complaints.
- RG 165.59 To give context to our IDR requirements you should read AS ISO 10002-2006.
- RG 165.60 In Appendix 1 of this regulatory guide, we provide guidance on how we consider the Guiding Principles and Sections 5.1, 6.4, 8.1 and 8.2 of AS ISO

10002-2006 apply. Our guidance in Appendix 1 also enables a comparison with our guidance on the Essential Elements of AS 4269-1995.

Internal dispute resolution time frames

- RG 165.61 Timeliness in responding to complaints is a key element of successful internal complaints handling.
- RG 165.62 While AS 4269-1995 remains the Australian Standard referred to in the regulations that ASIC must have regard to, you should:
- (a) establish reasonable target time limits for the internal resolution of complaints; and
 - (b) where you are required to be a member of an ASIC-approved EDR scheme, substantially respond to a complainant, under your IDR procedures, within a maximum of 45 days. If you are unable to respond to a complaint within 45 days, or any shorter time frame as required by an EDR scheme's Terms of Reference or by any applicable industry codes of conduct or practice, then you should inform the complainant of the reasons for the delay.
- RG 165.63 Once AS ISO 10002-2006 becomes the standard referred to in the regulations that ASIC must have regard to, you should:
- (a) in accordance with the Guiding Principle of 'responsiveness', immediately acknowledge the receipt of complaints and address complaints promptly in accordance with their degree of urgency; and
 - (b) where you are required to be a member of an ASIC-approved EDR scheme, provide a final response to a complainant within a maximum of 45 days.
- RG 165.64 The pursuit of 'best practice' procedures should result in time frames shorter than 45 days being regularly achieved.
- RG 165.65 A 'final response' requires that you write to the complainant within 45 days informing them of:
- (a) the outcome of their complaint;
 - (b) their right to take their complaint to EDR; and
 - (c) the name and contact details of the relevant EDR scheme to which they can take their complaint.
- RG 165.66 If you are required to be a member of an ASIC-approved EDR scheme and you are unable to respond to a complaint within 45 days, or any shorter time frame as detailed in the EDR scheme's Terms of Reference or under an applicable industry code of conduct or practice, then you should:
- (a) inform the complainant of the reasons for the delay;

- (b) advise the complainant of their right to complain to EDR; and
- (c) provide the complainant with the name and contact details of the relevant EDR scheme to which they can complain.

RG 165.67 The 45-day time frame to provide a final response:

- (a) does not re-commence where new information is provided in respect of the complaint. We are of the view that this will encourage financial service providers to ensure they have sufficient facts and information to handle the complaint at an early stage of the IDR process;
- (b) does not affect shorter time frames for IDR required under applicable industry codes of conduct or practice; and
- (c) does not affect the maximum 90-day time limit applicable to complaints about superannuation where either s101 of the *Superannuation Industry (Supervision) Act 1993* or s47 of the *Retirement Savings Accounts Act 1997* apply.

RG 165.68 We also encourage you to consider ways of improving your handling of complex complaints within the 45-day time frame, so errors in complaints handling can be avoided.

Multi-tiered IDR procedures

RG 165.69 The time frame of 45 days discussed at RG 165.61-RG 165.68 also applies to financial service providers that operate multi-tiered IDR procedures, that is, IDR procedures that include internal appeals or escalation mechanisms.

RG 165.70 We believe that complainants should have the same rights to access EDR whether or not the financial services provider they complain to uses a multi-tiered complaints procedure.

Other matters

RG 165.71 The regulations also expressly state that we may have regard to any other matter we consider relevant when making requirements for IDR procedures: see reg 7.6.02(1)(b) and 7.9.77(1)(b). After reviewing AS 4269-1995 and AS ISO 10002-2006 for the purposes of this guide, we believe that there are two other specific requirements with which your IDR procedure must comply.

Documenting IDR procedures

RG 165.72 IDR procedures need to be documented to:

- (a) enable the relevant staff to understand and follow the procedures;
- (b) promote accountability and transparency of the procedures;

- (c) facilitate the ease of understanding and accessibility of the procedures for consumers (i.e. via the production of user-friendly guides); and
 - (d) facilitate the self-certification process for AFS licence applicants.
- RG 165.73 The need to document IDR procedures and the process for doing so also ensures that effective procedures are properly thought out and established.
- RG 165.74 The requirement to document IDR procedures includes setting out in writing:
- (a) the procedures and policies for:
 - (i) receiving complaints;
 - (ii) investigating complaints;
 - (iii) responding to complaints within appropriate time limits;
 - (iv) referring unresolved complaints to an EDR scheme;
 - (v) recording information about complaints;
 - (vi) identifying and recording systemic issues;
 - (b) the types of remedies available for resolving complaints; and
 - (c) internal structures and reporting requirements for complaint handling.
- RG 165.75 You should provide a copy of the procedures to all relevant staff. A simple and easy-to-use guide to the procedures should also be made available to consumers, either on request or when they want to make a complaint.

Links between IDR procedures and EDR schemes

- RG 165.76 For a dispute resolution system to be fully effective, you need to establish appropriate links between individual IDR procedures and the relevant EDR scheme for those complaints that you cannot resolve directly. Your IDR procedures must therefore provide that if a complaint has been through the IDR process but remains unresolved, or is not resolved within the appropriate time limits, the relevant complaints handling staff will:
- (a) inform the complainant that they have a right to pursue their complaint with an EDR scheme; and
 - (b) provide details about how to access the relevant EDR scheme.
- RG 165.77 You are also required to provide details about how a consumer can access the relevant EDR scheme in any Financial Services Guide (s942B(2)(h) and 942C(2)(i)) or Product Disclosure Statement (PDS) (s1013D(1)(g)) that you issue.
- RG 165.78 Informing consumers and investors about the availability of the EDR scheme in this way ensures that they know what further steps they may take to pursue an unresolved complaint.

Applying for an AFS licence—self-certification

- RG 165.79 To obtain an AFS licence, an entity that is subject to the dispute resolution provisions must self-certify that its IDR procedures comply with our requirements.
- RG 165.80 You will also need to provide us with details of the position within your organisation that is responsible for the operation of the IDR procedures.
- RG 165.81 To self-certify you will have to answer a series of questions about your IDR procedures and about how you have satisfied yourself that your IDR procedures comply with our requirements.
- RG 165.82 The self-certification and further information will be obtained:
- (a) from licensees during the licence application process; and
 - (b) from unlicensed product issuers and unlicensed secondary sellers either when they lodge a PDS under s1015B or give notice that a PDS is in use under s1015D.

Note: We can cancel an AFS licence if information in an application was false in a material particular or materially misleading: see s915C(2).

- RG 165.83 You may have existing IDR procedures that you rely on to meet current licensing obligations or industry standards. If so, you should review these procedures against this guide before you provide us with your self-certification.

C Guidelines for membership of one or more ASIC-approved EDR schemes

Key points

AFS licensees, unlicensed secondary sellers and unlicensed product issuers are required to be members of one or more ASIC-approved EDR schemes, that covers, or together cover complaints made by retail clients (other than complaints that may be dealt with by the SCT).

Under the national credit laws, we anticipate that credit providers and brokers will also be required to be a member of one or more ASIC-approved EDR schemes.

EDR scheme membership

RG 165.84 If you are an AFS licensee, unlicensed product issuer or unlicensed secondary seller, you are required to be a member of one or more ASIC-approved EDR schemes that covers, or together cover complaints made by retail clients in relation to the financial services provided (other than complaints that may be dealt with by the SCT): see s912A(2)(b) and 1017G.

See RG 165.3–RG 165.9 for further information on the jurisdiction of the SCT.

RG 165.85 Unlicensed product issuers and unlicensed secondary sellers are also required to notify us of their EDR scheme membership details at the time they lodge a copy of their first PDS with us (see s1015B) or at the time they issue their first PDS (see s1015D).

RG 165.86 Under the national credit laws, we anticipate that credit providers and brokers will also be required to be a member of one or more ASIC-approved EDR schemes. We will update our regulatory guidance as necessary, in light of these changes, in due course.

When will an entity subject to the dispute resolution provisions be required to join more than one ASIC-approved EDR scheme?

RG 165.87 Some EDR schemes are limited in coverage to a particular industry or industries. This means that an entity subject to the dispute resolution provisions and that provides a broad range of financial products or services to retail clients, may need to join more than one scheme to meet its EDR obligations.

Confirming EDR scheme membership

AFS licensees

RG 165.88 If you are an AFS licensee, you must show us that you are a member of an ASIC-approved EDR scheme or schemes as required under the dispute resolution provisions. This means that when applying for an AFS licence you will need to provide us with:

- (a) proof of your membership of an ASIC-approved EDR scheme or schemes, including proof of the date you became a member; and
- (b) details of the position(s) within your organisation with primary responsibility for dealing with the EDR scheme(s) in respect of complaints.

Unlicensed product issuers and unlicensed secondary sellers

RG 165.89 If you are an unlicensed product issuer or an unlicensed secondary seller, you must show us that you are a member of an approved EDR scheme or schemes as required under the dispute resolution provisions. This means that when you first issue a PDS you will need to provide us with:

- (a) proof of your membership of an ASIC-approved EDR scheme or schemes, including proof of the date you became a member; and
- (b) details of the position(s) within your organisation with primary responsibility for dealing with the EDR scheme(s) in respect of complaints,

either when you first lodge a PDS under s1015B or give notice that a PDS is in use under s1015D.

Changes to EDR scheme membership—notification and consequences

AFS licensees

RG 165.90 If your membership of an approved EDR scheme is not renewed, or is terminated, and you are not a member of an alternative ASIC-approved EDR scheme that can deal with all relevant complaints, you will fail to comply with one of your AFS licence obligations. We may consider taking action against you.

RG 165.91 If you are an AFS licensee you must provide us with a written report as soon as practicable, and no later than three days, after becoming aware that the status of your EDR scheme membership has changed. This may arise when:

- (a) you fail to renew your membership of an ASIC-approved EDR scheme or schemes;
- (b) you change your membership from one ASIC-approved EDR scheme to another; or
- (c) your membership of an approved EDR scheme is terminated because of non-compliance with the Terms of Reference or a decision of that scheme.

The written report should set out the reasons for the circumstances in (a), (b) or (c) above.

Note: Under s912D, a licensee must provide ASIC with a written report as soon as practicable, and in any event no later than three days, after becoming aware that it can no longer meet, or has breached, an obligation under s912A or 912B.

RG 165.92 It is a condition of approval of an EDR scheme that the operators of the scheme inform us of any non-compliance by a scheme member and of any membership that is terminated. Under RG 139 operators of the scheme must inform us of systemic issues and serious misconduct. As a condition of approval under RG 139, we can require the Terms of Reference of the EDR scheme to allow the scheme to terminate the membership of a non-compliant member. RG 139 further stipulates that a scheme should not terminate a member's membership without informing us. This is important because we may need to consider further action against the member.

RG 165.93 We want to prevent a member whose membership has been terminated by one scheme from simply joining another scheme without our knowledge. Upon being informed that a member has:

- (a) been non-compliant with the rules of a scheme;
- (b) been terminated from membership of a scheme; or
- (c) failed to renew membership of a scheme,

we have a number of options for dealing with the matter. Where that member is an AFS licensee we can, in the most serious cases, convene a hearing to determine whether the licence should be suspended or cancelled.

Unlicensed product issuers and unlicensed secondary sellers

RG 165.94 If you are an unlicensed product issuer or an unlicensed secondary seller, you must make sure that you have a dispute resolution system in place as required under the dispute resolution provisions at the time that you first issue a PDS: see RG 165.85. Failure to have such a system in place for your retail clients is an offence.

Appendix 1: IDR procedures and the standards

This Appendix provides guidance on how ASIC will apply the Australian Standard on Complaints Handling to IDR procedures.

Table 3 shows:

- the Essential Elements of AS 4269-1995;
- the Guiding Principles of Section 4 of the Australian Standard on Complaints Handling (AS ISO 10002-2006) and Sections 5.1—Commitment, Section 6.4—Resources, Section 8.1—Collection of information and Section 8.2—Analysis and evaluation of complaints of AS ISO 10002-2006 (which will supersede the Essential Elements of AS 4269-1995 once ASIC must have regard to AS ISO 10002-2006);

and enables a comparison of similar requirements where possible.

Where possible, we give examples of how the Essential Elements of AS 4269-1995 and the Guiding Principles and relevant Sections of AS ISO 10002-2006 might operate in practice. These Essential Elements, Guiding Principles and relevant Sections may apply differently depending on the size and nature of your business.

You will need to obtain a copy of the relevant standard and be aware of its requirements. Copies can be obtained from the Standards Australia website at www.standards.com.au.

Table 3: Application of Standard provisions to the financial services industry

| AS 4269-1995 | AS ISO 10002-2006 |
|---|---|
| <p>Commitment</p> <p>AS 4269-1995, 3.2</p> <p>There should be commitment to IDR procedures at all levels of an organisation, particularly the higher levels. In larger organisations, for example, commitment at the level of the board or other relevant governing body is essential to ensuring IDR procedures are integrated into the culture of the organisation.</p> <p>Such commitment can be demonstrated by:</p> <ul style="list-style-type: none"> • ensuring all relevant staff are aware of, and educated about, IDR procedures; • ensuring that adequate resources are allocated to IDR; and • implementing management systems and reporting procedures to ensure timely and | <p>AS ISO 10002-2006, section 5.1</p> <p>The organisation should be actively committed to effective and efficient complaints handling.</p> <p>It is particularly important that commitment be shown by, and promoted from, the organisation's top management.</p> <p>Such commitment should be reflected in the definition, adoption and dissemination of complaints handling policies and procedures.</p> <p>Management commitment should be shown by the provision of adequate resources, including training.</p> <p>This commitment can be demonstrated by:</p> <ul style="list-style-type: none"> • ensuring all relevant staff are aware of, and educated about, IDR procedures; |

AS 4269-1995

effective complaints handling and monitoring.

AS ISO 10002-2006

- ensuring that adequate resources are allocated to IDR (see Resources); and
- implementing management systems and reporting procedures to ensure timely and effective complaints handling and monitoring.

Fairness and Remedies/Objectivity**AS 4269-1995, 3.3 (Fairness)**

In the interests of ensuring that complaints are dealt with fairly, IDR procedures should allow adequate opportunity for both parties to make their case. Wherever possible, a complaint should be investigated by staff not involved in the subject matter of the complaint.

In responding to complaints, you should give reasons for reaching a decision on the complaint and adequately address the issues that were raised in the initial complaint. ASIC considers that, where practicable, reasons for a decision should be in writing and should refer to applicable provisions in legislation, codes, standards or procedures.

AS 4269-1995, 3.10 (Remedies)

As a general rule, remedies should be fair and may be non-financial as well as, or instead of, financial. Where a financial remedy is considered appropriate, the aim should be to provide fair compensation. As a minimum, compensation should be given for any direct loss or damage caused as a result of a breach of your obligations when providing a financial service.

ASIC considers that when determining the appropriate remedy and the extent of loss or damage, you should consider relevant legal principles, relevant codes of conduct, concepts of fairness and relevant industry best practice.

AS ISO 10002-2006, Guiding Principle 4.5 (Objectivity)

Each complaint should be addressed in an equitable, objective and unbiased manner through the complaints handling process.

This requires that:

- IDR procedures should allow adequate opportunity for both parties to make their case.
- Wherever possible, a complaint should be investigated by staff not involved in the subject matter of the complaint.

In responding to complaints, you should give reasons for reaching a decision on the complaint and adequately address the issues that were raised in the initial complaint. ASIC considers that, where practicable, reasons for a decision should be in writing and should refer to applicable provisions in legislation, codes, standards or procedures.

Resources**AS 4269-1995, 3.4**

Determining whether a licensee has allocated sufficient resources to its IDR procedures will depend in part on the size of the organisation, the products and services provided and the retail client base of the financial services provider.

ASIC considers that, at a minimum, when implementing IDR procedures you should:

- establish a contact point for complainants;
- nominate staff to handle complaints who have sufficient training and competence to deal with those complaints, including the

AS ISO 10002-2006, section 6.4

Top management should ensure that the complaints handling process operates effectively and efficiently.

Top management should also assess the need for resources and provide them without undue delay. This assessment should include having sufficient resources to offer some complainants assistance to make their complaint if needed.

The selection, support and training of personnel involved in the complaints handling process is particularly important.

AS 4269-1995

authority to settle complaints or ready access to someone who has the necessary authority; and

- ensure adequate systems are in place to handle complaints promptly, fairly and consistently.

For larger organisations with a large retail client base, ensuring adequate resources might include such matters as providing a toll-free/local call facility where complaints can be logged and appointing sufficient staff to deal with complaints.

For smaller organisations, adequate resources might include ensuring a senior staff member is available to deal with complaints.

AS ISO 10002-2006

The adequacy of resources also relates to documentation, specialist support, materials and equipment, computer hardware and software, and finances.

ASIC considers that, at a minimum, when implementing IDR procedures you should:-

- establish a contact point for complainants;-
- nominate staff to handle complaints who have sufficient training and competence to deal with those complaints, including the authority to settle complaints or ready access to someone who has the necessary authority; and-
- ensure adequate systems are in place to handle complaints promptly, fairly and consistently.

For larger organisations with a large retail client base, ensuring adequate resources might include such matters as providing a toll-free/local call facility where complaints can be logged and appointing sufficient staff to deal with complaints.

For smaller organisations, adequate resources might include ensuring a senior staff member is available to deal with complaints.

Visibility**AS 4269-1995, 3.5**

You should take reasonable steps to ensure that consumers know about the existence of your IDR procedures and how to make a complaint.

This information should be readily available, not just at the time a consumer wishes to make a complaint.

It is a requirement under the Corporations Act to include information about IDR procedures in Financial Services Guides and PDSs, including how the procedures can be accessed.

You should make details about your IDR procedures available in a convenient and accessible form.

The details could be on your website or in a short document that is handed to customers when a complaint is made or on request. The document could set out what a complainant must do to lodge a complaint and how you undertake to deal with the complaint.

All staff who deal with customers, not just complaints handling staff, should also have an understanding of the IDR procedures.

AS ISO 10002-2006, Guiding Principle 4.2

You should take reasonable steps to ensure that consumers, investors and other interested parties (i.e. consumer representatives) know about the existence of your IDR procedures and how to make a complaint.

This information should be readily available, not just at the time a consumer or investor wishes to make a complaint.

It is a requirement to include information about IDR procedures in Financial Services Guides and PDSs, including how the procedures can be accessed.

You should make details about your IDR procedures available in a convenient and accessible form.

The details could be on your website or in a short document that is handed to customers when a complaint is made or on request. The document could set out what a complainant must do to lodge a complaint and how you undertake to deal with the complaint.

All staff who deal with customers, not just complaints handling staff, should also have an understanding of the IDR procedures.

AS 4269-1995**AS ISO 10002-2006****Access and Assistance/Accessibility****AS 4269-1995, 3.6 (Access)**

You should have simple and accessible arrangements for making complaints.

Complaints do not need to be in writing and, in some cases, insisting that complaints are in writing can be a disincentive to the complainant, for example if the complainant has poor writing skills.

The IDR procedure should enable complainants to make a complaint by any reasonable means, for example letter, telephone, in person or email.

AS 4269-1995, 3.7 (Assistance)

You should have the resources to offer complainants some assistance with making their complaint if required.

AS ISO 10002-2006, Guiding Principle 4.3 (Accessibility)

You should have simple and accessible arrangements for making complaints.

Complaints do not need to be in writing and, in some cases, insisting that complaints are in writing can be a disincentive to the complainant, for example if the complainant has poor writing skills. Where a complainant has limited literacy skills, the complainant should be assisted with filling in forms or given help in expressing their complaint more clearly.

The IDR procedure should enable complainants to make a complaint by any reasonable means, for example letter, telephone, in person or email.

To enable complaints to also be made orally, a toll-free or local call fee facility could be made available.

Where complainants have special needs, the availability of interpreters and staff who are cross-culturally trained or trained to cater for special needs should be provided.

Information about making and resolving complaints should be easy to understand and in plain English. So as not to disadvantage complainants, the information should also be made available in alternative formats, such as translated into other languages, printed in large print, Braille or made available on audiotape.

Responsiveness**AS 4269-1995, 3.8**

Your IDR procedures should include clear response times for dealing with a complaint and the complainant should be made aware of these response times.

As a general rule, you should aim to respond to a complaint as soon as possible, and where a complaint is not resolved at the time of complaint, you should acknowledge the complaint promptly.

ASIC considers that you should substantially respond to a complaint within a maximum of 45 days,* but in a shorter period if possible.

If you cannot respond to the complainant within 45 days, you should inform the complainant of the reasons for the delay and of their right to refer the matter to the relevant EDR scheme.

By substantially responding to a complaint, ASIC means that you should:

AS ISO 10002-2006, Guiding Principle 4.4

Your IDR procedures should include clear response times for dealing with a complaint and the complainant should be made aware of these response times.

As a general rule, you should aim to acknowledge receipt of a complaint immediately.

Where immediately acknowledging receipt of a complaint is not possible, acknowledgement should be made as soon as possible.

You should respond to complaints promptly in accordance with the urgency of the complaint. This involves prioritising complaints.

ASIC considers that you should provide a final response to a complaint within a maximum of 45 days.*

If you cannot provide a final response to the complainant within 45 days, you should inform the complainant of the status of the complaint, the

AS 4269-1995

- accept the complaint and, where appropriate, offer redress; or
- offer redress without accepting the complaint; or
- reject the complaint with reasons.

It is important that consumers are kept informed of the progress of their complaints. If you are unable to substantially respond to the complaint, a holding response should be sent to the complainant which explains why you are not in a position to respond and gives an indication of when a further response will be made.

It may be reasonable for you to consider shorter time frames for different types of complaints (e.g. administrative complaints, performance-related complaints and advice-related complaints) depending on the size of the organisation, the client base and the types of products and services offered under the AFS licence. You should also take into account any time frames for responding to complaints as set out in relevant industry codes of conduct.

* The time limit of 45 days will not apply in those instances where either s101 of the *Superannuation Industry (Supervision) Act 1993* or s47 of the *Retirement Savings Accounts Act 1997* applies. Each of these provisions allows a maximum time limit of 90 days for responding to a complaint or inquiry.

AS ISO 10002-2006

reasons for the delay, the right to complain to an ASIC-approved EDR scheme and provide the name and contact details of the relevant scheme.

By providing a final response to a complaint, ASIC means that you should accept the complaint and, where appropriate, offer redress.

It is important that consumers are kept informed of the progress of their complaints.

It may be reasonable for you to consider shorter time frames for different types of complaints (e.g. administrative complaints, performance-related complaints and advice-related complaints) depending on the size of the organisation, the client base and the types of products and services offered under the AFS licence.

You should also take into account any time frames for responding to complaints as set out in relevant industry codes of conduct.

Where the complaint is resolved by the end of the next business day on which the complaint was received, you will not be required to apply the full IDR process (i.e. in terms of capturing and recording complaints). However, ASIC encourages you to apply the full IDR process where possible.

* The time limit of 45 days will not apply in those instances where either s101 of the *Superannuation Industry (Supervision) Act 1993* or s47 of the *Retirement Savings Accounts Act 1997* applies. Each of these provisions allows a maximum time limit of 90 days for responding to a complaint or inquiry.

Charges**AS 4269-1995, 3.9**

ASIC considers that material explaining IDR procedures should be provided free of charge to complainants.

AS ISO 10002-2006, Guiding Principle 4.6

ASIC considers that:

- material explaining IDR procedures should be provided free of charge to complainants; and
- complainants should not have to pay to access the complaints handling process.

Data collection/Collection of information and Confidentiality**AS 4269-1995, 3.11 (Data collection)**

Your procedures and management systems should include provisions for keeping details about the complaints received. Complaints handling data is a useful means of tracking compliance issues or risks. ASIC may require you to produce complaints data in certain circumstances. You should, therefore, keep this data in accessible form.

To use complaints data effectively, it will be important to be able to analyse complaints according to

AS ISO 10002-2006, section 8.1 (Collection of information)

You should establish a recording system for managing complaints, while protecting and personal information and ensuring complainant confidentiality.

The system should specify the steps for identifying, gathering, maintaining, storing and disposing of records.

You should record your complaints handling and take utmost care in maintaining and preserving such items as electronic files and magnetic recording media. Complaints

AS 4269-1995

categories, such as type of complainant, subject of complaint, outcome of complaint, and timeliness of response.

AS ISO 10002-2006

handling data is a useful means of tracking compliance issues or risks. ASIC may require you to produce complaints data in certain circumstances. You should, therefore, keep this data in an accessible form.

Your recording system should at least be able to identify the number of complaints which were resolved by the end of the next business day after the day on which the complaint was received.

AS ISO 10002-2006, Guiding Principle 4.7 (Confidentiality)

Personally identifiable information concerning the complaint should not be disclosed, unless it is needed for the purposes of addressing the complaint. This type of information should be actively protected from disclosure.

Disclosure can only otherwise be made if the customer or complainant expressly consents.

Systemic and recurring problems/Analysis and evaluation of complaints**AS 4269-1995, 3.12 (Systemic and recurring problems)**

You should ensure that the IDR procedures enable you to address systemic issues or recurring complaints identified in the complaints data. This will encourage the identification of compliance issues or risks, which can be investigated to determine their causes and then rectified.

Complaints, for example, might be classified according to breaches of law, such as:

- failure to provide a Financial Services Guide, Statement of Advice and/or PDS;
- failure to disclose remuneration;
- failure to provide appropriate advice;
- failure to meet consumer protection standards or codes of conduct;
- fraud; and
- other.

We note that breaches of the licensee obligations must be reported to ASIC within 3 days: see s912D.

AS ISO 10002-2006, section 8.2 (Analysis and evaluation of complaints)

All complaints should be classified and then analysed to identify systemic, recurring and single incident problems and trends. This will help eliminate the underlying causes of complaints.

To do this, it will be important to be able to analyse complaints according to categories, such as type of complainant, subject of complaint, outcome of complaint, and timeliness of response.

Accountability**AS 4269-1995, 3.13**

Reports about complaints should be prepared for the senior management of your organisation.

Data about your complaints should also be available for inspection by ASIC in certain situations, for example during surveillance.

AS ISO 10002-2006, Guiding Principle 4.9

Reports about complaints should be prepared for the top management of your organisation. These reports should also include the actions taken and decisions made in respect of complaints.

Data about your complaints, including the actions taken and decisions made should also be available

AS 4269-1995**AS ISO 10002-2006**

for inspection by ASIC in certain situations, for example during surveillance.

Reviews/Continual improvement**AS 4269-1995, 3.14 (Reviews)**

You should review your IDR procedures at least every 2–3 years to ensure that the complaints systems are operating effectively. A larger organisation might benefit from an independent review.

AS ISO 10002-2006, Guiding Principle 4.10 (Continual improvement)

The continual improvement of the complaints handling process and the quality of products and services should be an ongoing objective of the organisation.

This involves conducting regular reviews of IDR procedures to identify areas for improvement. The frequency of reviews may vary according to the size of the organisation and their complaints volume. We consider that reviews should be conducted at least every 2–3 years to ensure that the complaints system is operating effectively. We consider that a larger organisation might benefit from an independent review.

Other relevant matters**AS ISO 10002-2006, Guiding Principle 4.8, (Customer-focused approach)**

The organisation should adopt a customer-focused approach (including being helpful, user-friendly and communicating in plain English), be open to feedback and show commitment to resolving complaints by its actions.

Key terms

| Term | Meaning in this document |
|--------------------------|---|
| AFS licence | An Australian financial services licence under s913B that authorises a person who carries out a financial services business to provide financial services Note: This is a definition contained in s761A. |
| AS 4269-1995 | The Australian Standard AS 4269-1995 <i>Complaints Handling</i> |
| AS ISO 10002-2006 | The Australian Standard, AS ISO 10002-2006 <i>Customer satisfaction—Guidelines for complaints handling in organizations</i> |
| ASIC | The Australia Securities and Investments Commission |
| ASIC Act | The <i>Australian Securities and Investments Commission Act 2001</i> |
| EDR scheme or scheme | An ASIC-approved external dispute resolution scheme: see s912A(2)(b) and 1017G(2)(b). |
| Corporations Act | The <i>Corporations Act 2001</i> (as amended by the FSR Act) and includes regulations made for the purposes of the Act |
| EDR | External dispute resolution |
| 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) Note: see Div 3 or Part 7.1 for the exact definition. |
| Financial Services Guide | A document that must be given to a retail client in relation to the provision of a financial service in accordance with Div 2 of Part 7.7 Note: See s761A for the exact definition. |
| IDR | Internal dispute resolution |
| IDR procedure | Internal dispute resolution procedure: see s912A(2)(a) and 1017G(2)(a) |
| licensee | A person who holds an AFS licence |
| licensee obligations | The obligations of a licensee as set out in s912A, 912AB, 912B and the requirement to be of good fame and character as included in s913B |

| Term | Meaning in this document |
|-----------------------------|--|
| multi-tiered IDR procedures | IDR procedures that include internal appeals or escalation mechanisms |
| PDS | Product disclosure statement |
| regulations | Corporations Regulations 2001 |
| retail client | A client defined as under s761G and Chapter 7 Part 7.1 Div 2 of the Regulations |
| RG 139 (for example) | An ASIC regulatory guide (in this example numbered 139) |
| SCT | The Superannuation Complaints Tribunal established under the <i>Superannuation (Resolution of Complaints) Act 1993 (Cth)</i> |
| unlicensed product issuer | An issuer of a financial product who is not a licensee |
| unlicensed secondary seller | A person who offers the secondary sale of a financial product under s1012C(5), (6) or (8) and who is not a licensee |

Related information

Headnotes

AFS licensees; unlicensed product issuers; unlicensed secondary sellers, internal dispute resolution; IDR processes; EDR scheme membership.

Class orders and pro formas

Class Order [CO 09/339] *Internal dispute resolution procedures*

Class Order [CO 09/340] *External dispute resolution schemes*

Regulatory guides

RG 139 *Approval and oversight of external dispute resolution schemes*

Legislation

Australian Securities and Investments Commission Act 2001, s1, 33

Corporations Act 2001, s760A, 761G, 912A, 912B, 912D, 915C(2), 942B(2)(h), 942C(2)(i), 1013D(1)(g), 1015B, 1015D, 1017G

Corporations Regulations 2001, reg 7.6.02, 7.9.77

Retirement Savings Accounts Act 1997, s47

Superannuation Industry (Supervision) Act 1993, s101

Superannuation (Resolution of Complaints) Act 1993, s22A

Cases

Australian Timeshare and Holiday Ownership Council Limited v Australian Securities and Investments Commission [2008] AATA 62 (23 January 2008)

Consultation papers and reports

Consultations Paper 102 *Dispute resolution—review of RG 139 and RG 165*

REP 156 *Report on submissions to CP 102 Dispute resolution—review of RG 139 and 165*

Media and information releases

AD08-05 *ASIC proposes new financial services EDR claim limit of \$280,000* (Monday 8 September 2008)