

Credit Union Industry Association (CUIA)

Corporate and Financial Services Regulation Review

Corporations and Financial Services Division
The Treasury

19 May 2006



Credit Union
Industry Association

Credit Union Industry Association (CUIA) welcomes the opportunity to comment on the Corporate and Financial Services Regulation Review Consultation Paper.

CUIA (formerly CUSCAL Industry Association) is the main industry body for Australian credit unions. Australia's 149 credit unions have 3.5 million members and \$34 billion in assets. Credit unions are Australian Financial Services Licensees and Authorised Deposit-taking Institutions.

As customer-owned institutions, we strongly support the Government's objectives of protecting consumers while minimising compliance costs. The steady ratcheting up of regulatory compliance costs over recent years is handicapping credit unions' capacity to provide competition and choice in the retail financial services market. The fixed costs of regulatory compliance always have a heavier impact on smaller players.

1.26 Policy Statement 146 – training requirements

CUIA agrees with the Consultation Paper comment: "Some aspects of [the PS 146] training requirements are excessive, particularly in relation to the level of training required for persons who deal in, or provide advice on, relatively straightforward financial products."

We recommend parity of training requirements for all Tier 2 products in line with the requirements applying to basic deposit products (BDPs).

ASIC last year modified PS 146 to ease the training burden on providers of BDPs:

- it is no longer mandatory for training courses for advisers on BDPs to cover the generic knowledge requirements contained in PS 146;
- training on BDPs need only cover the particular 'specialist' knowledge and 'skill' requirements in PS 146 that are relevant to the adviser's activities; and
- there might be situations where continuing training is not necessary for all persons who advise on BDPs. The licensee will first need to consider whether continuing training is required. It may be that there is no need if, for instance, the products have not changed.

The revised policy gives licensees greater flexibility to tailor training to suit their BDP advisory activities, without the cost of unnecessary mandatory generic knowledge training.

Credit unions providing advice about other relatively well understood financial products, such as general insurance and consumer credit insurance (CCI), in addition to BDPs should be permitted to tailor their overall training obligations in the most efficient and flexible way.

Advisers on BDPs can meet the training standards by successfully completing a training course which is not on the ASIC Training Register but which has instead been assessed by the licensee. This option should also be available for advisers on general insurance and CCI.

The provision of advice about general insurance, CCI and BDPs is a common business model for credit unions and other ADI AFS licensees. A consistent approach to training would help deliver a simpler regulatory system and lower compliance costs without reducing consumer protection.

The Government has already moved to ease the disclosure requirements for certain general insurance products, reflecting the fact that retail clients are relatively familiar with these products. For example, an adviser need not provide a SOA when giving advice about motor, home building, home contents and travel insurance.

The same policy approach should be adopted in relation to the training requirements for advisers on general insurance and CCI.

8.2 ASIC/APRA information exchange

All credit unions are licensed by, and subject to the regulatory oversight of, both ASIC and APRA. CUIA agrees with the Consultation Paper comment: "A significant amount of the information gathered by the regulators is either identical or very similar. It would simplify business operations if information provided to one Government agency were transferred to another in order to discharge a company's reporting obligations in relation to such information."

Examples of overlapping reporting requirements include 'fit and proper' obligations, audit reports and breach reporting.

Fit and proper

APRA's Prudential Standard APS 520 which takes effect on 1 October 2006 contains certain reporting requirements which overlap with the reporting requirements of the Corporations Act. They are:

Director/Secretary Appointments

- Paragraph 41 of APS 520
- Section 205B of the Corporations Act

Ceasing to be Director/Secretary

- Paragraph 41 of APS 520
- Section 205B of the Corporations Act

Change in details of directors/secretaries

- Paragraph 41 of APS 520
- Section 205B of the Corporations Act

Changes to Nominated Responsible Officers

- Paragraph 41 of APS 520
- Section 912A(1)(e) and ASIC Policy Statement 164

Audit report

ADIs are subject to APRA's Prudential Standard 310 Audit and Related Arrangements for Prudential Reporting. ADIs should not be required to also file an auditor's report with ASIC (s989B(3)).

Breach reporting

We are not convinced of the case to require AFSL holders to report to ASIC breaches of laws administered by APRA. The response to any breach of a law or prudential standard administered by APRA is best determined by the prudential regulator, APRA, rather than the disclosure-based regulator, ASIC.

It would be preferable for APRA to judge what "breaches" are relevant to ASIC and to notify ASIC about them.

8.3 Enhancing communication with ASIC

CUIA has no complaints about liaison with ASIC but we are concerned about the length of time the regulator can take to resolve issues.

For example, CUIA has for more than two years been seeking a resolution to a particular disclosure issue relating to periodic statements for term deposits.

The Parliamentary Joint Committee on Corporations and Financial Services (PJC) concluded in March 2004 that “the requirement to provide a termination value in periodic statements for fixed term deposits products may be a genuine case of where the dollar disclosure requirement does not produce the intended result. According to the evidence, the amount stated as the termination value is out-of-date when the customer receives the information and is likely to confuse the customer whose main interest is the value at maturity.”

After CUIA lodged a formal relief application, ASIC provided temporary relief. That temporary relief expires on 1 July 2006 and to date ASIC has not advised CUIA whether the relief will be made permanent or withdrawn.

Temporary relief for two other disclosure issues – dollar disclosure requirements for deposit product PDSs and disclosure of interest rates in deposit product PDSs - expire on 1 July with no indication yet from ASIC whether the relief will be extended.

8.4 Breach reporting requirements

In a welcome move, ASIC recently reissued its guide to reporting breaches, *Breach Reporting by AFS Licensees: An ASIC Guide*, with a new section explaining how it handles breach notifications.

CUIA would welcome further guidance from ASIC for licensees about the regulator’s expectations about breach reporting best practice and the meaning of “significant” in the context of the breach reporting obligation.

See item above on overlapping breach reporting to ASIC and APRA.

8.5 PDS in-use notices

CUIA raised with ASIC in April 2004 the pointless burden on ADIs of having to lodge PDS in-use notices with ASIC every time a PDS was changed to reflect a change in interest rates. The removal late last year of the PDS requirements for BDPs solves the problem for these products.

The in-use notice requirement continues to apply for non-basic deposits and other products, creating red tape and regulatory risk.

Credit unions choosing not to continue to provide a formal PDS for their BDPs are now running down stocks of existing PDSs, to limit costs. These PDSs will eventually be replaced with terms and conditions documents.

Please don’t hesitate to contact me on 02 6232 6666 or 0418 213 025 if you wish to discuss the matters raised in this submission.

Yours sincerely



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