



**Australian Government**  
**Australian Financial Security Authority**

## AFSA REGULATOR PERFORMANCE FRAMEWORK

In order to achieve the Government’s goal of reducing the burden of regulation, the Government seeks to improve the performance of regulators, including by supporting regulators to adopt consistent, risk-based approaches to administering regulation. The Government has developed a framework to measure the performance of regulators, being the Regulator Performance Framework (the Framework).

The Framework aims to encourage regulators to undertake their functions with the minimum impact necessary to achieve regulatory objectives and to effect positive ongoing and lasting cultural change within regulators. The Framework will allow AFSA to report objectively on its efforts to administer regulation fairly, effectively and efficiently. It will also be a useful tool for AFSA to identify opportunities for improvement and better target our resources for greater impact. The Framework will assist in highlighting where improvement of our regulatory framework could reduce compliance costs.

The Framework comprises of six outcomes based key performance indicators (KPIs); performance measures to assess the achievement of the KPIs; a process for an annual externally validated self-assessment against the framework; reporting on the outcomes of the annual self-assessment and a selective process for targeted external review every three years. AFSA is developing our performance measures to enable an assessment against the KPIs. The Framework must be in place by 1 July 2015 and will be reported upon for the 2015-16 financial year by AFSA through a process of self-assessment. It is proposed that the self-assessment of AFSA’s performance under this framework will be externally validated by the Bankruptcy Reform Consultative Forum (BRCF). The results of AFSA’s self-assessment and BRCF’s external validation will be published by 31 December 2016.

AFSA’s self-assessment of performance under the Framework for the 2015-16 and subsequent financial years will report on both quantitative and qualitative outcomes, and include an appropriate narrative, for each of the six KPIs. The assessment will report upon particular relevant activities and, as appropriate, may include summaries of stakeholder engagement, case studies and descriptions of examples of activity relevant to each of the six KPIs.

KPI NO	KPI DESCRIPTOR	MEASURES OF GOOD REGULATORY PERFORMANCE	AFSA’S PERFORMANCE MEASURES
1	<b>AFSA does not unnecessarily impede the efficient operation of regulated entities</b>	<ol style="list-style-type: none"> <li>Demonstrate understanding of operating environment of the industry, or the circumstances of individuals and the current and emerging issues that affect the sector.</li> <li>Take actions to minimise the potential for unintended negative impacts of regulatory activities or affected supplier industries and supply chains.</li> <li>Implement continuous improvement strategies to reduce the costs of compliance for those regulated.</li> </ol>	<ol style="list-style-type: none"> <li>AFSA’s risk based <a href="#">Insolvency Practitioner Compliance Program</a> is developed applying appropriate regulatory principles and using available data and intelligence, including taking into account consultation with the profession prior to the programs annual public release.</li> <li>AFSA raises awareness of regulatory activity and known compliance risks through targeted delivery of information, including through publishing the results of the Insolvency Practitioner Compliance Program and of material outcomes.</li> <li>Complaints about regulatory activity are investigated and responded to in accordance with AFSA’s complaints and compliments framework.</li> </ol>
2	<b>Communication with regulated entities is clear, targeted and effective</b>	<ol style="list-style-type: none"> <li>Regulators provide guidance and information that is up to date, clear, accessible and concise through media appropriate to the target audience.</li> <li>Regulators consider the impact on regulated entities and engage with industry groups and representatives of the affected stakeholders before changing policies, practices or service standards.</li> </ol>	<ol style="list-style-type: none"> <li>All guidance materials<sup>1</sup> for regulated practitioners will be monitored to ensure the provision of relevant and current information in the most accessible format for stakeholders.</li> <li>Consultation periods actively promoted, feedback considered and communicated by AFSA with relevant professional bodies prior to any regulatory changes.</li> </ol>

<sup>1</sup> These include Inspector-General Practice Statements, Practice Directions and Practice Guidelines.

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		<ol style="list-style-type: none"> <li>3. Regulators' decisions and advice are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions.</li> <li>4. Regulators' advice is consistent and supports predictable outcomes.</li> </ol>	<ol style="list-style-type: none"> <li>3. KPIs for completion of complaints and Inspector-General reviews support timely, clear and consistent decisions and advice.</li> </ol>
3	<p><b>Actions undertaken by AFSA are proportionate to the regulatory risk being managed</b></p>	<ol style="list-style-type: none"> <li>1. Regulators apply a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions.</li> <li>2. Regulators' preferred approach to regulatory risk is regularly reassessed. Strategies, activities and enforcement actions are amended to reflect changing priorities that result from new and evolving regulatory threats, without diminishing regulatory certainty or impact.</li> <li>3. Regulators recognise the compliance record of regulated entities, including using earned autonomy where this is appropriate. All available and relevant data on compliance, including evidence of relevant external verification is considered.</li> </ol>	<ol style="list-style-type: none"> <li>1. AFSA's risk based <a href="#">Insolvency Practitioner Compliance Program</a> is developed applying appropriate regulatory principles and using available data and intelligence, including taking into account consultation with the profession prior to the programs annual public release.</li> <li>2. AFSA raises awareness of regulatory activity and known compliance risks through targeted delivery of information, including through publishing the results of the Insolvency Practitioner Compliance Program and of material outcomes.</li> <li>3. AFSA maintains a risk-based process prior to initiating investigation about regulated practitioners.</li> </ol>
4	<p><b>Compliance and monitoring approaches are streamlined and coordinated</b></p>	<ol style="list-style-type: none"> <li>1. Regulators' information requests are tailored and only made when necessary to secure regulatory objectives, and only then in a way that minimises impact.</li> <li>2. Regulators' frequency of information collection is minimised and coordinated with similar processes including those of other regulators so that, as far as possible, information is only requested once.</li> <li>3. Regulators utilise existing information to limit the reliance on requests from regulated entities and share the information among other regulators, where possible.</li> <li>4. Regulators base monitoring and inspection approaches on risk and, where possible, take into account the circumstance and operational needs of the regulated entity.</li> </ol>	<ol style="list-style-type: none"> <li>1. AFSA's risk based <a href="#">Insolvency Practitioner Compliance Program</a> is developed applying appropriate regulatory principles and using available data and intelligence, including taking into account consultation with the profession prior to the programs annual public release.</li> <li>2. Stakeholder meetings, including with relevant professional associations, ASIC (as key co-regulator), and international regulators (including through IAIR) occur regularly throughout the year to inform updates to the risk based Insolvency Practitioner Compliance Program.</li> <li>3. Professional associations provided with various channels to provide feedback about AFSA's regulatory processes.</li> <li>4. AFSA maintains and participates in appropriate information sharing arrangements and relationships with relevant entities to enhance regulatory intelligence and coordinate regulatory activity where possible.</li> </ol>

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5	<b>AFSA is open and transparent in our dealings with regulated entities</b>	<ol style="list-style-type: none"> <li>1. Regulators' risk-based frameworks are publicly available in a format which is clear, understandable and accessible.</li> <li>2. Regulators are open and responsive to requests from regulated entities regarding the operation of the regulatory framework, and approaches implemented by regulators.</li> <li>3. Regulators' performance measurement results are published in a timely manner to ensure accountability to the public.</li> </ol>	<ol style="list-style-type: none"> <li>1. IGPS1 (regulatory compliance framework) is reviewed and updated at least annually. It is published on the AFSA website in accessible format.</li> <li>2. Practitioners provided with various channels to provide feedback about AFSA's regulatory practice. Feedback obtained is reported in the annual Personal Insolvency Practitioner Compliance Report.</li> <li>3. AFSA's annual Personal Insolvency Practitioner Compliance Report is publicly available and includes results for all regulatory performance measures.</li> </ol>
6	<b>AFSA actively contributes to the continuous improvement of regulatory frameworks</b>	<ol style="list-style-type: none"> <li>1. Regulators establish cooperative and collaborative relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.</li> <li>2. Regulators engage stakeholders in the development of options to reduce compliance costs. This could include industry self-regulation, changes to the overarching regulatory framework, or other strategies to streamline monitoring and compliance approaches.</li> <li>3. Regulators regularly share feedback from stakeholders and performance information (including from inspections) with policy departments to improve the operation of the regulatory framework and administrative processes.</li> </ol>	<ol style="list-style-type: none"> <li>1. Stakeholder meetings, including with AGD, relevant professional associations, ASIC (as key co-regulator), and international regulators (including through IAIR) occur regularly throughout the year to inform updates to the risk based Insolvency Practitioner Compliance Program.</li> <li>2. Feedback is provided to BRCF<sup>2</sup> (MAC) and professional associations at least annually on key regulatory outcomes and issues.</li> <li>3. Practitioners are provided with various channels to provide feedback to improve regulatory practice and procedure. Feedback used to inform AFSA regulatory practice and procedure amendments, with stakeholders informed about improvements made in response to feedback received.</li> </ol>

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<sup>2</sup> BRCF includes AGD which is the policy department for AFSA