

AFSA Regulatory Review

2024

Dr John Hamill
Managing Director Chronotope Consulting
Michael Kingston

Regulatory Review — Chief Executive response

I am pleased to provide my response to the 2024 Regulatory Review. I commissioned this review as an opportunity to reflect on our performance and effectiveness as a regulator. The recommendations provide a roadmap for tangible change, and I accept them in full.

Implementing the recommendations will build on work already underway to improve our performance as a regulator. We are already investing significantly in data capability, technology and people; building the capability of our internal legal function; and reforming our risk framework. For recommendations that are not already being implemented, AFSA will act swiftly. I anticipate all recommendations will be substantially addressed by the end of the 2024-25 financial year.

The Regulatory Review forms an integral part of AFSA's strategic shift from technical specialist to an influential and effective regulator and genuine partner of government. This shift is consistent with the Attorney-General's Statement of Expectations, aimed at improving regulator performance. AFSA is recognised as a steward of the personal insolvency and personal property securities systems, and we play an integral role in contributing to the strength of Australia's credit system. Lifting our performance as a regulator will achieve better social and economic outcomes for Australians.



I would like to thank Dr John Hamill and Mr Michael Kingston for undertaking the review. They took a consultative and constructive approach to ensure their recommendations were informed by the experiences of those who encounter AFSA as a regulator, our government stakeholders and our greatest asset: our people. I also thank the ASFA staff who supported the reviewers, particularly the Secretariat of Jessica Empson and Deb De Merlo.

I look forward to working with everyone at AFSA in achieving the review outcomes.

A handwritten signature in black ink that reads "Tim Beresford".

Tim Beresford

Chief Executive
Inspector-General in Bankruptcy
Registrar of Personal Property Securities

Contents

Executive summary	3
Summary of Recommendations	4
Review approach and methodology	7
Regulatory posture, strategy, and operating model	10
Regulatory posture, strategy, and operating model	11
Stakeholder feedback	11
Discussion	12
Consistent language about posture	13
Clarifying the operating model	14
Building evidence about the size and nature of the harm	16
Regulatory operations – capability and capacity assessment	17
Regulatory operations – capability and capacity assessment	18
Staff Survey Results - Capability	19
Staff Survey Results - Capacity	20
Regulatory Processes – Assessment	21
Intelligence	21
Education	22
Supervision and monitoring	22
Compliance	23
Investigation and enforcement	23
Enabling Services – Assessment	25
Governance	25
Corporate strategy and planning	27
Communications and engagement	27
Human resources	27
Legal	28
Risk and compliance	30
Finance	31
Technology	31
Appendices	32
Appendix A: AFSA Regulatory Review Terms of reference	32
Appendix B: An example of applying AFSA’s regulatory strategy to the approach to processed estates.	34
Appendix C: Stakeholders consultations	36
Appendix D: Abbreviations and acronyms	37

Executive summary

The Australian Financial Security Authority (AFSA) commissioned this review of its regulatory functions as part of an ongoing commitment to continuous improvement as a regulator consistent with the Australian Government's Statement of Expectations.

The review was conducted by Dr John Hamill, formerly Chief Executive of the Essential Services Commission of Victoria, and Michael Kingston, formerly the Australian Government Solicitor, (the panel).

The panel reviewed a substantial number of AFSA's public and internal documents relevant to regulatory functions, conducted a series of interviews with industry, consumer, and government stakeholders with an interest in AFSA's work and ran a series of internal staff workshops and meetings with the Executive team. A capability and capacity assessment of AFSA's regulatory and supporting functions identified key themes and messages which have informed recommendations of this review.

AFSA's core regulatory position is well articulated, and there is broad support from most external stakeholders in relation to AFSA's aspirations to take a stronger regulatory posture. AFSA's stakeholders largely agreed with AFSA's regulatory priorities – such as focussing on unlicensed pre-insolvency advisers and dealing with system misuse. The panel's recommendations in this context focus on ensuring consistency in language, and clarifying the core operating model that supports AFSA's ambitions.

The panel characterised AFSA's ideal operating model to be an intelligence led regulator which aspires to use data, intelligence, and the experience of its staff to intervene in, disrupt, and correct non-compliance within the field of its responsibilities. It has an important role in providing intelligence to Government partners and supporting AFSA partners' regulatory actions at the perimeter of AFSA's responsibilities.

It also needs to have an empathetic approach to dealing with people experiencing vulnerability within the personal insolvency system – whilst being willing to take strong enforcement action when necessary to provide specific and general deterrence.

The panel found that there is a strong culture within AFSA, and a good awareness of this regulatory ambition and shift in posture. The recommendations are designed to support AFSA's leadership team to build on recent leadership renewal and structural change with a view to delivering on the promises of this operating model.

The key recommendations focus on core elements of the supporting processes that will enable AFSA to strengthen its ability to be an intelligence led regulator that reduces non-compliance and takes effective enforcement action. There are recommendations to invest in data collection and knowledge management, build compliance and enforcement governance to provide oversight of AFSA's regulatory strategy and implementation, and review the legal function to increase its strategic capability.

Further recommendations include investment in core AFSA technical skills development for staff following the recent change process, and to review and potentially simplify the risk framework to ensure alignment with the Regulatory Strategy.

Summary of Recommendations



Summary of Recommendations

Recommendation 1



AFSA should refine the language used in relation to its regulatory posture and consistently deliver this message through all channels.

Recommendation 2



AFSA should look to define its operating model in connection with the preparation of the next Regulatory Action Statement by:

- Clarifying its intent to be an intelligence led regulator.
- Simplifying descriptions of its regulatory processes.
- Including performance measures focussed on outcomes and effectiveness, which provides more accountability for AFSA teams.
- Separating the description of process from impact/outcome to support developing performance measures focussing on effectiveness.
- Internally clarifying the roles of the Inspector-General, the Official Trustee, the Official Receiver, and the PPS Registrar in delivering on the regulatory strategy and actions.
- Ensuring that the Regulatory Action Statement preserves AFSA's options to take enforcement action whenever it is considered appropriate to do so.

Recommendation 3



Develop a programme to build evidence of the size, nature and significance of the regulatory harm across AFSA's priority areas.

Recommendation 4



Invest in building data and knowledge management systems, processes, and capability to support the development of AFSA as an intelligence led regulator. This should include:

- Establishing a senior knowledge manager/change agent to promote good knowledge management practices at an operational level.
- Renewed commitment to whole-of-agency data collection, storage and access standards and modernising the data, knowledge, and IT systems within AFSA.
- Establish a data, digital and IT governance committee focussed on assisting AFSA to ensure data and technology supports its development as an intelligence led regulator.

Recommendation 5



- Establish a compliance and enforcement committee within AFSA to provide oversight of compliance and enforcement decisions.
- Ensure that a decision not to take regulatory action is subject to comparable oversight by the compliance and enforcement committee to a decision to act.
- Provide clear written guidance about when a delegate holding compliance or enforcement powers needs to consult with a senior colleague before making a delegated compliance or enforcement decision.
- Provide clear comprehensive internal guidance on the regulatory tools available to AFSA, the legal conditions attached to their use, and the circumstances in which AFSA would generally expect these tools to be used.

Recommendation 6



Develop and deliver a programme of professional development in AFSA promoting:

- The provision of early induction on core AFSA skills and data collection and storage practices.
- Ongoing training and development in specialist AFSA knowledge.
- Core skills in regulatory expertise.
- Core skills in relation to knowledge management.

Recommendation 7



Review the delivery model for legal services with a view to increasing both the strategic oversight and educative and risk management functions of the legal team. This should include:

- Adopting a less transactional approach to requests for legal assistance by building a stronger partnership with the business teams allowing the legal team to play a risk mitigation and educative role.
- Making it easier to engage with the legal team and request their assistance, including by abolishing the requirement of a formal written request for legal advice.
- Establishing or re-establishing a legal opinions database and making it accessible, subject to necessary caveats, to AFSA staff.
- Considering broadening the scope of work of individual AFSA lawyers so that they are not confined to narrow areas of practice.
- Improving the oversight of civil litigation by the in-house legal team.
- Formulating clear guidance about avoiding or managing conflicts which may arise in respect of the different legal persons for whom the legal team acts.
- Producing guidance for the use of AFSA staff about the proper use and disclosure of information obtained or produced by different legal persons and functions within AFSA.
- Appointing a General Counsel to lead the legal team.

Recommendation 8



- Review and simplify AFSA's risk framework to ensure alignment with the regulatory strategy and posture.
- Reduce risk reporting to the bare minimum until the review is complete and AFSA is confident it has the appropriate controls in place for an agency of its size.
- Introduce streamlined reporting processes to support risk management.

Review approach and methodology



Review approach and methodology

This report provides advice to AFSA on how to position itself as a 'constructively tough' regulator looking to strengthen its relationships with co-regulators and criminal confiscation partners and deliver on this commitment through the effective use of regulatory tools and processes.

The approach is designed to provide practical guidance and support to AFSA to assist it to deliver on its aspirations as a regulator having regard to the strategic context that AFSA is operating in and an assessment of its current capacity and capability to deliver.

The approach involved:

- a. Reviewing AFSA's public statements about its regulatory posture and strategy. The panel looked at AFSA's Regulatory Strategy and Regulatory Action Statement, the extent to which it effectively responds to challenges in the external environment, stakeholders' understanding and support for the strategy, and alignment with regulatory operations.
- b. Reviewing the capability and capacity of AFSA's regulatory operations. This included reviewing strengths and weaknesses of core regulatory operations (intelligence, complaints management, compliance education, system design, supervision, investigation, and enforcement) and the supporting processes (governance, strategy and planning, communications, risk and compliance, legal, information management and technology, technology, human resources, and finance).
- c. Developing options for improving regulatory strategy and posture and improving capability and capacity to deliver on the strategy.

The panel created a working operating model that

Operating model underpinning the review



Outcome

A strong credit system for Australia.



Outputs

Personal Property Securities Register
Personal Insolvency System
Criminal Asset Management



Regulatory processes

Intelligence
Complaints management
Compliance education
System design
Supervision
Investigation
Enforcement



Supporting processes

Governance
Strategy and planning
Communications
Risk and compliance
Legal
Information management and technology
Human resources
Finance

mapped AFSA's core operational outputs (Personal Property Securities Register, the Personal Insolvency System, and Criminal Asset Management) against core regulatory processes and supporting processes.

This kind of map has the potential in the future to assist thinking about resourcing.

The panel looked at contemporary operating models from other regulators, taking insights from a range of regulators and their investment in various processes to achieve desired regulatory outcomes. This includes consideration of the nature of the regulated parties, the scope of regulatory responsibilities (the regulatory perimeter) the regulatory tools that are available, and the regulatory problems that are being solved.

For the purposes of this review, the panel notes that it is unclear whether AFSA's Criminal Asset Management function is a regulatory function (as there are no regulated parties, and AFSA's functions seem to be primarily administrative, although clearly important). However, there are important ways in which this function contributes to criminal deterrence in areas such as organised and financial crime. It may therefore to some degree enhance perceptions about the strength of AFSA's regulatory posture, and support creating strategic relationships relevant to its functions with other agencies (particularly police and financial crime agencies).

The review process involved:

- Designing the assessment framework,
- Reviewing internal documents including AFSA's Regulatory Strategy and Regulatory Action Statement, and the Attorney-General's Statement of Expectations,
- Reviewing key internal policies, procedures, and other internal documents,
- Interviewing stakeholders to better understand how AFSA's regulatory posture is perceived,
- Interviewing other Australian regulators to explore contemporary regulatory practices,
- Workshops with a cross section of staff from core regulatory operations and staff involved in delivering supporting processes, and
- Workshop with the Executive team to test findings and prioritise options.

The panel interviewed a broad range of regulators in the financial sector, key users of AFSA's systems, representatives of regulated parties and consumer advocacy groups. A full list of stakeholders interviewed is in [Appendix C](#).

The approach taken recognises and builds on work that is already underway. This includes most recently a capability review and an organisational restructure designed to support the development of AFSA's ability to meet its objectives and future challenges.

Regulatory posture, strategy and operating model

AFSA's Regulatory Strategy, Regulatory Action Statement 2023–24, State of the Personal Property Securities System and State of the Personal Insolvency System reports provide the core public facing basis for its regulatory posture and strategy.

Collectively these documents provide clear statements about AFSA's regulatory posture, strategy, priorities and operating model and provide a strong foundation for AFSA's commitment to delivering a strong credit system for Australia.

AFSA has a clear rationale for its priorities in the context of the current economic and social environment. AFSA has drawn a link between economic challenges associated with rising cost of living, rising interest rates and the disruption following fire, drought, flood and the pandemic, and core regulatory priorities including:

- Potential increases in personal insolvency.
- Increases in predatory or untrustworthy advisers, and
- Misuse of the PPSR.

The Regulatory Action Statement sets out how these regulatory priorities will be addressed through a range of types of regulatory actions – and hence comprises the core element of the operating model. The State of the Personal Insolvency System and the State of the Personal Property Securities System provide clear evidential support for the strategy.

Stakeholder feedback

There was a broad consensus amongst stakeholders about the importance of the regulatory harms that AFSA is focussing on, and a recognition that AFSA showed a willingness to act.

Stakeholders involved closely with AFSA were aware of and supported the focus on unlicensed pre-insolvency advisers and misuse of the PPSR. There is a broad recognition that AFSA is taking steps to be more visible and engage with stakeholders about issues of concern. This included positive responses to recent workshops and meetings with AFSA's Chief Executive.

Regulators noted more recent engagement by AFSA, particularly by the Chief Executive, and recognised potential cooperation and collaboration opportunities between AFSA and other agencies on their regulatory priorities. The panel also noted that there was interest in AFSA contributing more to intelligence in areas such as financial and organised crime, with a sense that many initiatives and opportunities are in the formative stage.

The panel did not identify any specific barriers to collaboration between AFSA and other regulators and note that some of the efforts for increased collaboration are in their early stages and some longstanding operational relationships may have been disrupted because of recent changes in personnel, both at AFSA and other regulators.

A key challenge is for AFSA to work out how to operate as a relatively small, specialised agency in relation to significantly larger agencies with broader mandates. Barriers in this context are typically about dealing with competing priorities and the scale of harm that larger agencies may be dealing with.

During the external interview process, stakeholders were very willing to provide us with key insights into the current environment. The discussion with stakeholders provided worthwhile information about the broader operating environment that supplements the high-level narrative in AFSA's strategy and the quantitative analysis that AFSA has undertaken.

Stakeholders provided valuable insights on a range of matters including:

- The decreased use of bankruptcy by the major banks except as a last resort or where there is concern about the integrity of a debtor's behaviour. There are parts of the market which are still problematic in this context (e.g., owners' corporations) where there are opportunities for more preventive approaches to dealing with financial hardship.
- Insights into the lived experience of vulnerable people within the personal insolvency system – including the potential for predatory behaviour by unlicensed pre-insolvency advisers, especially when dealing with people who have suffered mental illness, family violence, lack digital or financial literacy, or are from culturally and linguistically diverse backgrounds.
- Risks of financial and organised crime involvement in the insolvency system.
- Practices associated with registering false security interests and not removing security interests once the secured liabilities have been discharged within the PPSR system.
- Accessibility challenges for individual users of the PPSR.

There is an opportunity for AFSA to continue to develop its strategy through systemic insights from key stakeholders.

Discussion

While there was broad support for AFSA's senior leadership taking a more active approach to solving regulatory problems, there was also a broad perception that AFSA continues to have a relatively low profile as an organisation.

While there is a positive response to AFSA's current change in regulatory posture, stakeholders' understanding of that regulatory posture is not as clear as it might be in its application to actions against untrustworthy advisers. There is a need to continue to build an understanding with stakeholders about the strategy, posture, and operating model.

This should include:

- Settling on consistent language in relation to the overall posture in all documents
- Clarifying AFSA's operating model through future Regulatory Action Plans by:
 - Focussing on the key role that AFSA has in strengthening its capability in relation to intelligence led supervision and surveillance.
 - Simplifying descriptions of the regulatory processes and separating the description of process from impact/outcome to support the development of better performance measures focussing on effectiveness.
 - Ensuring that the action plan preserves AFSA's options to take enforcement action whenever it is considered appropriate to do so.
- Building evidence in relation to the size, nature and significance of the harm being addressed, and taking action.

Consistent language about posture

The panel noted some inconsistency and/or shifts in language that AFSA uses when describing its posture.

AFSA's Regulatory Strategy indicates that AFSA is a "visible, modern and contemporary regulator." The Terms of Reference for this review indicate that AFSA wants to position itself as a "constructively tough" regulator. The Corporate Plan and Insolvency Regulatory Strategy speak of AFSA as a firm and fair regulator. The Insolvency Regulatory Strategy provides a definition of firm and fair in the regulatory context. There are subtle shifts in language through a range of documents.

This may reflect a change in position between different documents, or it may just be that different language is used to convey the same meaning. Whichever the explanation, these changes have the potential to create confusion amongst stakeholders.

The panel also note that a similar phenomenon occurred in relation to the use of the term "untrustworthy advisers" - where different terms were being used, implying a different problem to be solved and a potential lack of clarity about where the issue sat in relation to AFSA's regulatory perimeter.

There is merit in adopting one headline description of regulatory posture e.g., firm and fair, possibly to be supplemented by subsidiary messages where they are appropriate e.g., visible, transparent, risk-based and data driven etc.

Recommendation 1



AFSA should refine the language used in relation to its regulatory posture and consistently deliver this message through all channels.

Clarifying the operating model

The AFSA Regulatory Action Statement 2023–24 provides:

- An overview of the anticipated specific harms that AFSA looks to address within the financial year (unlicensed pre-insolvency advisers, undisclosed debts on goods and a lack of awareness of security options for personal property, criminal syndicates distortion of markets).
- An overview of the enduring regulatory priorities with a specific description of how AFSA will act in relation to specific matters, and the kinds of regulatory tools it will use.

The review of contemporary regulatory practice identified several different operating models within the finance sector, market regulators and beyond. Each operating model in this typology has a lead function which it primarily relies on, often because of the context in which it operates, the nature of the harm, and/or the nature and number of the regulated parties.

Each operating model implies different approaches to resourcing and investment in core skills and supporting capabilities – with the highest level of investment likely to be in the “lead” functions.

- **Education and compliance led** regulator promoting continuous improvement. May operate in a confidential way to promote open reporting and continuous improvement in high-risk environments or be interested in the facilitation of the establishment of new markets based on agreed standards. Examples can occur with integral agencies within government where there may be limited enforcement powers, or some forms of high-risk safety regulation.
- **Intelligence or supervisory led** regulator using smart systems to intervene in, disrupt, and correct non-compliance within the perimeters of its responsibilities. May have a limited number of regulated parties. Provides intelligence to partners and supports their regulatory actions at the perimeter of its responsibilities. Uses government channels to influence. Takes enforcement action when necessary to provide specific and general deterrence.
- **Enforcement led** regulator that focuses on addressing systemic issues, harm and matters of public good across a market, economy, or large population. Takes appropriate risks in enforcement to deal with the harm. May put a high priority on general deterrence and undertakes public advocacy in support of law reform and public outcomes.

This typology is in practice a continuum with some regulators having a mix of operating models depending on their regulated population and other factors. When taking a strengths-based approach to delivering operational excellence it is important to understand the core focus of your regulatory practice to achieve regulatory outcomes.

Regulators provided valuable insights around contemporary practices for delivering stronger regulatory posture in both the supervisory and enforcement space. These included:

- Be clear about what you will not tolerate from a risk perspective and focus your resources and efforts on this. Where failure of a business that is regulated is not acceptable from a public good perspective, close surveillance and early intervention is important.
- Calibrate your regulatory posture so that it is sustainable over time. Avoid over-promising and under-delivering.
- Look for opportunities to increase the effectiveness of surveillance while making it easier for compliant businesses to comply. Focus on disrupting the business model of non-compliant entities, for example:
 - a. Making it easy for regulated business to comply using technology,
 - b. Increasing surveillance of all activity using artificial intelligence, followed by human inspection of potential non-compliance.
 - c. Relentlessly prosecuting non-compliance.
- Have strong governance and oversight of your compliance and enforcement actions, including decisions made not to act.
- Take appropriate risks with enforcement action where there is clearly significant and systemic harm, but the law may be unclear.
- Create performance indicators that are not activity focussed but are lead indicators of outcomes/ impacts you are trying to achieve e.g., reduction in recidivism in respect of harmful activities.
- Create a culture that is curious about the impact of what you are doing so that you avoid creating unintended effects.

AFSA's Regulatory Action Statement 2023-24 suggests that its aspirations are to be great at being an intelligence led regulator, and this was reinforced throughout the review.

The Regulatory Action Statement 2023-24 suggests that education and encouragement are the most likely tools to be used by AFSA followed by deterring and correcting.

Table 1

Regulatory Tool	Number of times used
Engage and influence	3
Education and encouragement	6
Monitoring and detecting	3
Reward and incentivise	1
Deterring and correcting	4
Enforcing and protecting	2

Priority for enforcement action is on misuse of the PPSR, and misuse of the personal insolvency system by untrustworthy advisers.

AFSA is transparent about the kinds of regulatory actions it will take in relation to different harms. It may want to reconsider the extent to which it is explicit about this in future documents unless it is clear why it will promote compliance by being transparent in this way. Documents outlining compliance and enforcement priorities will typically be clear that the regulator will always reserve the right to take strong enforcement action when the need arises.

It is recommended that AFSA consider simplifying its description of "regulatory tools" in future documents. The double-barrelled description of tools e.g., "deter and correct" appears to conflate consequence with action. Deterrence, for example, is usually thought of as an outcome of regulatory actions e.g., enforcement, rather than a regulatory tool. Most commonly enforcement is used to achieve deterrence – potentially in combination with active monitoring and communications.

The panel found this language confusing and felt that it could:

- mask the need for specific regulatory skills and processes – such as investigation skills,
- create problems with measuring effectiveness of core regulatory actions.

The current set of tools seem to miss some key well understood regulatory activities or functions, particularly intelligence, compliance, and investigation.

While the panel have not made specific recommendations about performance measurement, contemporary regulatory practice is primarily focussed on measurement of effectiveness rather than activity, which is the primary focus of AFSA's performance measures.

The regulatory performance measures in the Corporate Plan are somewhat outcomes focussed e.g., create an environment that minimises harm, influence stakeholders to act in accordance with expected standards, but they are too high level. For example, AFSA may want to measure the effectiveness of the use of a particular enforcement action by the level of deterrence that is achieved, and you might measure that by the extent to which re-offending rates have reduced.

It is recommended that AFSA consider simplifying its description of its regulatory tools/or processes to focus on more conventional descriptions – such as those "regulatory processes" in the review's operating model.

It was noted that the different legal persons within AFSA do not appear in the Regulatory Strategy or Regulatory Action Statement. The roles of the Inspector-General in Bankruptcy, the Official Trustee in Bankruptcy, the Official Receiver, and the Registrar of Personal Property Securities appear to be well understood within AFSA at a technical and administrative level.

There appeared to be some different views amongst staff about the implications of these roles in the context of the exercising of regulatory functions and information sharing.

Clarity about how these roles fit within the context of the regulatory strategy will be an important part of AFSA managing its regulatory "perimeter". This will be discussed below in the context of recommendations about regulatory governance.

Recommendation 2



AFSA should look to define its operating model in connection with the preparation of the next Regulatory Action Statement by:

- Clarifying its intent to be an intelligence led regulator.
- Simplifying descriptions of its regulatory processes.
- Including performance measures focussed on outcomes and effectiveness, which provides more accountability for AFSA teams.
- Separating the description of process from impact/outcome to support developing performance measures focussing on effectiveness.
- Internally clarifying the roles of the Inspector-General, the Official Trustee, the Official Receiver, and the PPS Registrar in delivering on the regulatory strategy and actions.
- Ensuring that the Regulatory Action Statement preserves AFSA's options to take enforcement action whenever it is considered appropriate to do so.

Building evidence about the size, nature and significance of the harm

AFSA's core strategic documents provide a sound starting point for understanding its regulatory priorities. The regulatory priorities were validated by external stakeholders.

There was some disagreement between stakeholders on the significance and size of the regulatory harm. Misuse of the PPSR for example was an area where it was characterised by some stakeholders as an issue at the margins, but by others as more material.

This suggests that there is significant value in AFSA building further its understanding of the materiality of the regulatory harms that it is seeking to deal with.

The panel's perception is that AFSA may have a wealth of data/information relevant to these risks that may be largely untapped because of limitations and constraints in the way data and systems are managed. This issue will be addressed later in the report.

Recommendation 3



Develop a programme to build evidence of the size, nature and significance of the regulatory harm across AFSA's priority areas.

Regulatory operations – capability and capacity assessment

The panel systematically reviewed each of the core regulatory functions within AFSA as well as the core supporting functions. This involved both an extensive review of internal documents and staff workshops.

This review found that there is an overall positive culture within AFSA with staff feeling that they have a strong sense of purpose and an understanding of the role that their team has in contributing to the regulatory outcomes.

There is a clear ambition within AFSA to be an intelligence led regulator that uses smart systems to intervene and disrupt non-compliance within the perimeter of its responsibilities.

AFSA is seeking to engage with other regulators actively and constructively about issues at the perimeter of its regulatory functions and provides important intelligence to other agencies within government.

The engagement with close stakeholders, such as government agencies, major users of the PPSR, and registered trustees, is largely good, but there is limited reach to the broader public and more difficult-to-reach stakeholders, such as potential bankrupts, or infrequent users of the PPSR.

There were several strong themes coming through from the discussion with staff, and from the review of materials.

- Limitations in documentation of core business processes, poor knowledge management, lack of investment in data architecture and management, all of which are significant constraints on AFSA’s capability to become an intelligence led regulator.
- The current approach to enforcement is relatively limited and primarily focussed on referrals of criminal matters through to the Commonwealth Director of Public Prosecutions.
- A lack of a governance forum for compliance and enforcement meaning that it is difficult to get an overall picture of how AFSA is delivering on its regulatory strategy.
- Unmet demand from staff for further professional development in core AFSA skills and knowledge as well as general professional development.

There was a strong sense from staff that there are challenges keeping up with the quantity of work and a sense of frustration about reporting – the value of which may be limited because of issues with the underlying data that is being relied upon.

These findings were reflected consistently in polls undertaken during staff workshops. The poll results were as follows:

Table 2 – Staff workshop poll results

Highest rated	Lowest rated
<ul style="list-style-type: none"> • Clarity of purpose • Understanding team’s contribution to AFSA’s functions • Effective oversight of decision making • Understanding key risks that AFSA needs to manage 	<ul style="list-style-type: none"> • Technology • Knowledge management • Skills and development • Adequacy of resources to meet work demands

Staff Survey Results - Capability

Table 3 – Staff Survey Results - Capability

	Internal stakeholder						Average (5)
	CAM ORN/ Compliance	E&PS	PPSR	EA and ASC	G&R	SC, SP&R, GE	
The purpose of my team is clear.	4.7	4.2	4.2	4.7	4.3	4.0	4.3
The contribution of my team to AFSA's functions is clear.	4.7	4.2	4.2	3.8	4.0	4.4	4.2
We are effective at prioritising work and focus on the important things.	4.2	3.2	3.0	3.7	4.5	3.8	3.7
We have clear accountability for decisions.	4.5	3.8	3.8	3.3	4.3	2.9	3.8
There are effective governance forums for our regulatory work.	2.8	3.2	3.0	3.2	3.3	2.8	3.0
Our decision-making processes are efficient.	3.8	3.2	3.4	2.7	2.8	3.3	3.2
I have access to other regulatory decisions that affect what I do.	2.8	3.0	3.4	3.2	4.0	4.0	3.4
We have effective regulatory tools to achieve our outcomes.	3.3	3.2	2.4	3.7	3.0	3.0	3.1
We use existing regulatory tools well.	3.8	3.2	3.2	4.7	3.8	3.2	3.6
The knowledge and skills required for my team's work are clear.	4.2	3.8	3.6	3.0	2.8	3.6	3.5
There is appropriate training and development available for regulatory work.	2.8	2.8	2.0	3.5	2.5	3.0	2.8
We have the information available and accessible to support our decision making.	3.7	3.2	3.0	3.5	2.8	2.8	3.1
There is effective oversight of decision making.	4.2	3.2	3.4	3.7	3.0	2.2	4.3
We have effective technology and knowledge management systems to support our regulatory work.	2.0	2.2	1.6	3.5	2.5	2.9	2.4

CAM	Criminal Asset Management Compliance
ORN	Official Receiver Notices
E&PS	Enforcement and Practitioner Surveillance
PPSR	Personal Property Securities Register
EA	Estate Administration
ASC	AFSA Service Centre
G&R	Governance and Risk
SC	Strategic Communication
SP&R	Strategy, Policy and Reporting
GE	Government Engagement

Staff Survey Results - Capacity

The panel acknowledges that AFSA is going through a significant transition leading to establishment of two new groups, the Regulatory Operations Group, and the Enabling Services Group, and recognises that some responses from staff may reflect their experience of the change process itself.

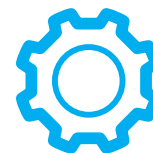
The establishment of the Regulatory Operations Group is designed to promote a single coherent approach to delivering on AFSA regulatory strategy. This is in principle a positive development and it will be important to monitor the effectiveness of this structural change in supporting the change objectives. The panel's approach is designed to complement this change process rather than to relitigate it.

Table 4 – Staff Survey Results - Capacity

	Internal stakeholder						Average (5)
	CAM ORN/ Compliance	E&PS	PPSR	EA and ASC	G&R	SC, SP&R, GE	
We have modern technology systems that enable us to operate efficiently.	1.8	2.8	1.2	1.5	2.5	2.8	2.1
Information my team needs is readily available and easy to access.	2.7	3.0	2.4	2.7	3.5	2.9	2.9
I understand the key risks that my team is needing to manage.	4.3	3.8	3.6	3.7	3.8	4.0	3.9
My team is able to take appropriate risks if it is important to achieve the key regulatory outcomes.	3.7	2.8	3.4	3.3	3.3	3.0	3.2
We have the right level of support in terms of regulatory guidance and legal advice.	3.5	3.2	2.8	3.0	3.3	2.8	3.1
We have the right level of technology support.	2.0	2.4	1.4	1.8	2.8	2.5	2.2
We are able to easily connect and work with other agencies.	2.7	2.6	2.4	2.0	3.5	3.7	2.8
We are able to measure whether we are being successful.	3.3	2.8	3.0	2.3	3.3	3.1	3.0

CAM	Criminal Asset Management Compliance
ORN	Official Receiver Notices
E&PS	Enforcement and Practitioner Surveillance
PPSR	Personal Property Securities Register
EA	Estate Administration
ASC	AFSA Service Centre
G&R	Governance and Risk
SC	Strategic Communication
SP&R	Strategy, Policy and Reporting
GE	Government Engagement

Regulatory Processes – Assessment



The panel’s assessment of the current state of the regulatory processes in AFSA identifies recommendations focussed on strengthening processes to support the development of a firm and fair regulator that is seeking to strengthen its intelligence led approach.

Intelligence

Developing an effective intelligence function is a priority and core to AFSA’s regulatory posture. There is a clear ambition to be an intelligence led regulator that uses smart systems to intervene and disrupt non-compliance with the perimeters of its responsibilities. There has also been positive investment in capability and a commitment to deliver on this ambition.

There have been recent successes with the “State of the Personal Property Securities System” and “State of Personal Insolvency System” reports which were well received and provide a clear data driven view of the strategic environment.

There are significant barriers to better use of the wealth of data and information within AFSA, to better understanding regulated parties, the nature of risk, and to better measures of effectiveness.

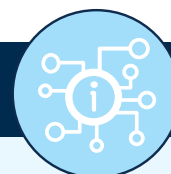
There are limitations in AFSA’s capability to systematically track complaints and gather insights

from complaint trends for intelligence purposes.

Progress is being constrained by the legacy of multiple information systems with limited interoperability, poor internal communication, and weak data and knowledge collection and management capability and practices. These issues will require dedicated effort to overcome.

There will need to be significant capability and cultural shift within AFSA to support greater understanding of the value of data as a regulatory tool to inform priorities and to drive investigations. It requires a culture that actively wants, first, to collect and store data in a uniform and systematic way and, secondly, to interrogate and use data (including through AI and other technologies) to deliver public value and to take regulatory action.

Recommendation 4



Invest in building data and knowledge management systems, processes, and capability to support the development of AFSA as an intelligence led regulator. This should include:

- Establishing a senior knowledge manager/change agent to promote good knowledge management practices at an operational level.
- Renewed commitment to whole-of-agency data collection, storage and access standards and modernising the data, knowledge, and IT systems within AFSA.
- Establish a data, digital and IT governance committee focussed on assisting AFSA to ensure data and technology supports its development as an intelligence led regulator.

Education

The three-year strategy signals a shift from interpretative guidance to practical guidance as a core part of the shift in regulatory posture.

The rationale for this approach in the strategy is that education will help reduce low level non-compliance associated with poor understanding of regulatory obligations.

This review did not identify a strong focus on either how this shift would be achieved or what the cultural change looks like, or how this shift would be measured, other than identifying that there have been some positive industry workshops.

There were no obvious indications from Registered Trustee representative bodies that there were significant gaps in the education of Trustees other than the need to continue to work on training and development for Trustees in relation to how they deal with vulnerable debtors. There was some indication that training on how Trustees could help debtors with mental health issues may have lapsed in recent times and that its reintroduction was being considered. There was also some evidence that there were positive aspirations from AFSA about training its staff members in areas such as family violence, and mental health, although this has not necessarily been delivered in recent times.

Training for both AFSA staff and Trustees in dealing with people experiencing vulnerability, including from mental illness, family violence or other causes, is important so that AFSA can ensure that it is delivering on its commitment in relation to its vulnerability framework and ensuring the effective operation of the personal insolvency system for those under the most stress.

Staff who are skilled in supporting vulnerable clients may also help in identifying more serious non-compliance behaviour and system abuse. This is because there may be circumstances in which the people who are participating in the bankruptcy system are themselves victims of system misuse, or of people who are offenders in different contexts, such as financial exploitation.

Stakeholders also highlighted the need for AFSA to broaden awareness and increase accessibility of the PPSR for non-institutional users. This should support protection for individual users needing to use the register to search for existing securities or to register a security which protects their position.

For institutional users there is a need to improve incentives for the removal of securities from the register once they are no longer current and to inform grantors once a security is registered.

Supervision and monitoring

The supervisory function is clearly core to AFSA's operations. This reflects the fact that it has regulatory oversight of a system that it also administers and reflects AFSA's renewed commitment to take a whole of system approach to its work.

There was some suggestion that within operational teams the establishment of supervisory and compliance priorities was ad hoc or achieved by 'seat of the pants' judgements which did not always take account of what other teams were doing and was not assisted by senior executive guidance.

There are significant opportunities for AFSA to increase the sophistication of its supervision and monitoring function by using smarter systems and better data. As outlined in other parts of this report, the underlying issues associated with weaknesses in knowledge management, data architecture, and aging software provide a significant constraint in AFSA's ability to make a step change in this area.

AFSA has more actively monitored its core systems for non-compliance. The sample audits of processed bankrupt estates are a good example of this. These audits, however, demonstrated a high level of non-compliance, a large proportion of which was minor non-compliance. This non-compliance does highlight the limitations in simple rule-based systems that rely on applicants accurately entering data into the system and the need to make compliance as simple as possible, especially for debtors under stress. This is potentially an area where smarter systems could avoid some levels of minor non-compliance so that more effort could be put into identifying and acting on more serious matters. [Appendix B](#) contains a further analysis of the approach to securing compliance in respect of processed bankrupt estates and the way in which AFSA has adopted a data driven and risk-based approach to that aspect of regulation.

AFSA has also recently created risk tiers for trustees which will affect the way in which they are supervised. This is a useful development for a regulator seeking to enhance its intelligence-based supervision. The new system of tiering Trustees and debt agreement administrators will help prioritise resources deployed in the supervision function.

It will be important to increase the sophistication of this model. Currently the tiering is based solely on quantitative measures related to caseloads and the value of debt managed. There is further work to be done to calibrate compliance risk connected to a qualitative assessment of business systems and culture, compliance history, or other factors that might increase the likelihood of compliance failure.

This might include, for example, better understanding the risks associated with sole or small operators in the insolvency sector. It is noted in that context that some stakeholders highlighted potential risks associated with phoenixing and organised crime associated with sole operators.

In respect of the PPSR there was a sense that only recently had AFSA become more active in monitoring issues associated with misuse of the system where the harm may not be obvious e.g., failure to remove securities once they have been extinguished, creation of meaningless securities by sovereign citizen groups, and other nuisance uses of the register. It was not clear that AFSA had a strong sense of the size of all these issues or the financial and social consequences of misuse.

Compliance

Effective systems to promote compliance, and to report, monitor and investigate non-compliance are core to effective regulatory action.

The panel notes in their assessment that there is no single place that provides oversight of decisions about how AFSA responds to non-compliance across all its regulatory functions, and no process for calibrating compliance decisions against the regulatory strategy and posture.

Registered Trustees have a key role within the insolvency system of reporting non-compliance by debtors. However, stakeholders in this area felt there was an inconsistent understanding by Trustees about their reporting obligations, including uncertainty about whether a high evidentiary standard needed to be met before reporting debtor non-compliance to AFSA.

System design can be an important part of promoting compliance. Good system design can promote positive compliance by making it easy to comply for those who want to comply, and to assist in the investigation and prediction of non-compliance.

However, some administrative systems rely on aging software that may be reaching the end of its life and there are significant constraints on the ability of these systems to be designed to eliminate non-compliance.

It will be therefore important as system improvements are rolled out, and AFSA moves to the Microsoft environment, that the need to develop smarter systems, including options for the use of AI in monitoring administrative aspects of the system, be factored into the design.

We have discussed earlier how better systems might reduce non-compliance by debtors when disclosing

information. Another area where smarter systems may be able encourage compliance is in the PPSR system where we heard that there may be opportunities to improve the extent to which grantors are notified that a security has been registered and, possibly, to clear expired securities.

Investigation and Enforcement

The Enforcement team within AFSA primarily focusses on bankruptcy and their primary activity appears to be focussed on referring matters to the CDPP.

The current Enforcement policies and procedures manual relates principally to criminal action in relation to debtors and processes for referrals to the CDPP, together with some discussion of alternatives to prosecution. The Enforcement policies and procedures manual should better reflect the full scope of AFSA's regulatory remit and needs updating to reflect the regulatory strategy. It would also be beneficial if the manual gave less of an impression that the Enforcement team was a separate entity within AFSA with, for example, its own mission statement and postal address and legal advice which is quarantined from the rest of the agency.

We have suggested elsewhere in this report there should be comprehensive internal guidance on the regulatory tools available to AFSA, the legal conditions attaching to their use and the circumstances in which AFSA would generally expect these regulatory tools to be used.

The broader culture within AFSA appears to focus on:

- Taking corrective actions where there is non-compliance (fixing things).
- Issuing formal warning notices.
- Some administrative actions (on the PPSR).
- Removing accreditations or registration (rarer).
- Beginning to use civil penalty proceedings.
- Referring for criminal prosecution (in the bankruptcy space – primarily debtors).

There is a significant amount of litigation within the broader AFSA work programme which is mostly outsourced. Much of this is defending decisions made by statutory officers when challenged in the Administrative Appeals Tribunal and civil litigation in state and federal courts that arises out the functions performed by AFSA, including the fact that it holds the assets of bankrupt estates and maintains the PPSR.

Debtors

Information on non-compliance of debtors comes from tip-offs, the compliance team, and mandatory reporting from Registered Trustees. As noted earlier, the Enforcement team places a high priority on criminal referrals to the CDPP in relation to non-compliance by debtors as evidenced by the most recent compliance and enforcement reports. Official warning letters and infringement notices are used as an alternative to prosecution.

The Enforcement policies and procedures manual states that the primary factors in deciding whether the Enforcement team will accept a matter for investigation are the sufficiency of evidence test and public interest factors in respect of prosecution as discussed in the Prosecution Policy of the Commonwealth. This language may be confusing as it might suggest that these factors must be satisfied before an investigation is undertaken. It is no doubt sensible for the manual to acknowledge that there needs to be a realistic prospect of these factors being satisfied before referral to the CDPP, but a different, and flexible, test should apply to accepting matters for investigation.

If AFSA want to make a case to broaden the range of enforcement options in this area beyond criminal cases, it may be important to have a record of debtor misconduct which was not able to be prosecuted but which warranted enforcement action of some type.

Registered Trustees and debt agreement administrators.

The culture of the surveillance team is focussed on issuing warning letters and corrective action with few stronger enforcement actions. Only one debt agreement administrator was de-registered in the last financial year as part of an enforcement action.

There may be options for AFSA to explore in this area associated with use of broader powers, and/or conditions on registration. AFSA can move to remove or suspend registration and direct a Trustee not to accept further appointments. For some contraventions, it can issue an infringement notice. It appears putting conditions on practice as a Trustee may be a useful tool.

PPSR

The PPSR team to date has managed all compliance and enforcement matters, although the panel understands that this will change.

The focus of the team is on warning letters as the first step in regulatory action, with some limited use of suspension of access to the Register, even when there is deliberate misuse of the Register.

The panel notes that, as a matter of principle, a warning letter may, on many occasions, be an inadequate response to someone who deliberately refuses to comply with their obligations.

It would also be prudent to confirm that the form of the official caution letter contained in the Enforcement policies and procedures manual has been the subject of considered legal advice. The essence of the letter is that it:

- States that AFSA has received an allegation that the recipient may have committed an offence and sets out what has been alleged.
- States that AFSA has decided that the most appropriate outcome is to issue the recipient with an Official Caution "related to the conduct above", wording which seems to accept that the allegation is true.
- Requests the recipient to contact AFSA to discuss the recipient's understanding of the matter.

Although this may not be the way things work in practice, the letter suggests that an Official Caution is being issued simply based on the allegation made by a third party. No indication is given that the allegation has been tested by AFSA and it also appears that the Official Caution can be issued without any prior contact with the recipient to put the allegations to them.

This does not seem to be an appropriate way for a regulatory agency to proceed. If it does not already exist, guidance should be developed by AFSA about when to use Official Cautions and the steps that should be taken by AFSA before doing so. We would have thought that testing the allegation and putting it to the person accused of wrongdoing would be the minimum steps required.

Enabling Services – Assessment



This review also looked at the core enabling functions that AFSA has in place to consider how aligned these supporting processes are with AFSA's regulatory strategy, and whether there is a need for capability and capacity uplift within this stream.

The panel found that staff in enabling functions had good awareness of the shift in the regulatory focus, and the nature of the risks being managed. The staff in enabling services workshops also produced similar themes in their capability and capacity assessments to those that arose in the regulatory operations workshops.

Key priorities that emerged in this assessment relate to:

- Establishing regulatory governance.
- Reducing internal reporting.
- Reviewing the operating model for the legal team, and
- Investing in documenting internal business processes, improving knowledge management, data architecture and management, and IT capability.

Governance

A compliance and enforcement committee which has oversight of the implementation of AFSA's regulatory strategy across the agency and provides guidance in respect of key regulatory decisions and approaches is likely to offer the following benefits:

- An improved consistency of approach and stronger adherence to AFSA's regulatory posture and strategy.
- Reinforcement internally and externally of AFSA's regulatory posture and strategy.
- Enhanced emphasis on information sharing and learning from the issues faced, and solutions developed, by the various teams within AFSA.
- Better preparation and consideration in respect of key regulatory decisions, in light of the discipline of bringing matters to the committee and the perspectives provided by different committee members.
- Potentially (depending on the standard of current record keeping), a better record of key regulatory decisions and the reasons for making them.

It might be argued that considering the different nature of AFSA's regulatory remit in personal insolvency, compared to that in personal property securities, different committees should provide oversight of the different areas of activity.

It is the opinion of the panel that AFSA should apply the same regulatory strategy across the agency, with different emphases and tools applied to different areas as required. This supports the concept of one, agency-wide, compliance and enforcement committee. Having more than one committee would dilute the information sharing and learning benefits to be gained from a compliance and enforcement committee. Further, a separate compliance and enforcement committee in respect of PPSR matters would reinforce the perception the function is siloed.

The remit of a compliance and enforcement committee could extend to:

- Contribution to the review and updating from time to time of the Regulatory Strategy.
- Contribution to the development of the annual Regulatory Action Statement, including by identifying new areas of regulatory concern.
- Oversight of the priorities adopted by relevant teams having regard to the Regulatory Action Statement and developments in the regulated areas.
- Review of progress against regulatory performance measures.
- Oversight of key regulatory decisions, which could be both general in nature (e.g., when to utilise infringement notices) and specific (the commencement or settlement of significant litigation or the referral of a brief to the CDPP where the prosecution would be significant).
- Oversight of the development of compliance and enforcement processes.
- Oversight of cooperation with other regulatory agencies, including on matters of particular interest (e.g., untrustworthy advisers).
- General encouragement of information sharing, learning from the experience of others and cross-team work where that was appropriate.

The criteria for when a decision about a specific matter should come to the compliance and enforcement committee for guidance are likely to vary over time having regard to factors such as novelty, sensitivity, impact on the regulated population, the resources required by the matter, inexperience in the area to which the matter relates and problems previously encountered in running the matter.

For example, it may be that currently any civil penalty proceeding would be subject to guidance from the committee, but that at some stage in the future more routine civil penalty matters would not normally be presented to the committee.

As at least one other regulator emphasised, a decision not to take regulatory action can be just as important as a decision to act. Deciding not to act in an identified regulatory matter can be subject to intense scrutiny and a mistaken decision not to act can undermine an agency's regulatory posture and strategy. Accordingly, the panel suggest that the criteria for when a decision about a specific matter should come to the regulatory committee provide for decisions not take a regulatory action.

The compliance and enforcement committee would not make the formal decision about a specific matter. The power to decide is likely to reside with the Inspector-General in Bankruptcy, Official Receiver, the Registrar of Personal Property Securities, the Chief Executive, or a delegate of one of them. The delegate is not likely to be a group of people on a committee acting by consensus or an assessment of the will of the majority. Rather, a decision on a specific matter would be informed by the views of the committee.

The composition of the compliance and enforcement committee is something that AFSA is best placed to consider in light of the committee's functions. The panel expresses the view that a representative from the practitioner surveillance team, practitioner engagement team, enforcement team, operational analytics and intelligence team and legal team would appear to be desirable. The committee should include a staff member with a good knowledge of the regulatory issues faced by the PPS program.

It is noted that several compliance and enforcement powers are delegated to a large variety of AFSA staff members of varying seniority.

Making broad delegations can be a prudent way of ensuring a formal decision is not made without power. When a decision formally lies within the power of a delegate, the panel assumes that, in addition to any role of a compliance and enforcement committee, there is internal guidance about when the delegate needs to consult with more senior staff members before the decision is made by the delegate. Such consultation helps achieve consistency and better-quality decision making. In the panel's view, the guidance about when a delegate needs to consult with more senior colleagues before making a delegated decision should be clearly stated in writing rather than being left solely to custom or the common sense of the delegate.

It may exist, but the panel has not seen comprehensive internal guidance on the regulatory tools available to AFSA, the legal conditions attaching to their use and the circumstances in which AFSA would generally expect regulatory tools to be used. The current Enforcement policies and procedures manual does this to some degree, but its focus is principally on prosecutions by the CDPP and infringement notices and official cautions as alternatives to prosecution.

Comprehensive internal guidance material would cover all AFSA's regulatory tools and the likely circumstances and consequences of their use. For example, when discussing the issue of an infringement notice, the guidance would cover AFSA's likely actions if the notice was not paid – which could be a commitment to working towards sending a referral to the CDPP or assessing afresh whether the matter was worth a referral or should be abandoned. The approach of a regulator when an infringement notice is not paid can affect the regulatory efficacy of an infringement notice. Comprehensive internal guidance on use of AFSA's regulatory tools would have many of the same benefits earlier ascribed to a compliance and enforcement committee.

Recommendation 5



- Establish a compliance and enforcement committee within AFSA to provide oversight of compliance and enforcement decisions.
- Ensure that a decision not to take regulatory action is subject to comparable oversight by the compliance and enforcement committee to a decision to act.
- Provide clear written guidance about when a delegate holding compliance or enforcement powers needs to consult with a senior colleague before making a delegated compliance or enforcement decision.
- Provide clear comprehensive internal guidance on the regulatory tools available to AFSA, the legal conditions attached to their use, and the circumstances in which AFSA would generally expect these tools to be used.

Corporate strategy and planning

AFSA has clear strategy documents and there is a strong sense of purpose within teams. The high-level elements of AFSA's strategy are supported by external stakeholders and staff. There is good awareness of leadership expectations around change and commitment by teams to deliver on it.

The panel notes, however, that the Regulatory Strategy and Regulatory Action Statement are relatively new, and the panel have not seen strong evidence of how this has translated into the operational planning of teams. It is recommended that this be made a priority in the next annual planning cycle.

Communications and engagement

As outlined in the earlier part of this report, AFSA's overall profile is low.

There is limited reach through current social media and general media and limited understanding of baseline visibility and awareness. The limited media reach may limit some of AFSA's ability to achieve regulatory outcomes in relation to the general public on issues such as untrustworthy advisers or occasional users of the PPSR.

There has, however, been positive feedback on the approach taken by AFSA recently in engagement with stakeholders, including the development of stakeholder forums, and that shift has been welcomed by the stakeholders interviewed – including in relation to the role that the CEO has played as the key representative of AFSA.

Human resources

AFSA's people strategy promotes a strategic shift involving a move to being a data/intelligence driven regulator and anticipates greater automation of process work. This intent is consistent with the regulatory strategy and the panel's understanding of AFSA's proposed posture although it is unclear as to whether the time frame for the strategy (three years) is consistent with the extent of the work needed in relation to AFSA's underlying data and information infrastructure.

There was consistent feedback from staff about concerns that recent departures have left key skill gaps in relation to specific AFSA-related expertise. In addition, there is a perception from staff that investment in professional development in relation to core regulatory skills has declined and there is a need to invest more in core knowledge and skills during induction.

The review is therefore recommending renewed investment by AFSA in core AFSA skills and knowledge as well as professional development in core regulatory practice skills.

Recommendation 6



Develop and deliver a programme of professional development in AFSA promoting:

- The provision of early induction on core AFSA skills and data collection and storage practices.
- Ongoing training and development in specialist AFSA knowledge.
- Core skills in regulatory expertise.
- Core skills in relation to knowledge management.

Legal

The legal team at AFSA has an important role to play in supporting AFSA's regulatory activities.

AFSA requires legal advice on specialist legal issues that can arise in respect of personal insolvency and personal property securities under the technically complex legislation that governs much of those operational areas.

AFSA is involved in a not insignificant amount of litigation and criminal prosecutions, including:

- Referrals to the CDPP for criminal prosecutions, principally for offences under the *Bankruptcy Act 1966*.
- Civil penalty proceedings.
- Defending decisions made by statutory officers when challenged in the Administrative Appeals Tribunal.
- Civil litigation in state and federal courts that arises out of the functions performed by AFSA, including the fact that it holds the assets of bankrupt estates and maintains the PPSR.

More broadly, beyond a specific piece of legal advice or court proceeding, the legal team has a valuable role to play in managing risk at the agency, identifying issues and helping deal with them at an early stage and contributing to the education of relevant parts of the agency about legal developments and ensuring that guides and processes are updated to reflect those developments. A well-functioning legal team can play an influential role in the adoption of AFSA's new regulatory posture and the implementation of its regulatory strategy.

There seems to be a current requirement that to engage with the legal team a request for legal advice must be submitted in a prescribed form. Some areas of AFSA feel that dealing with the legal team can be quite a formal process, which is not necessarily conducive to fully understanding the nature of a legal problem and producing a comprehensive and practical solution. In-house legal teams should have a close and flexible working relationship with business teams pursuant to which the appropriate amount of legal assistance is provided in the most appropriate way for the matter in hand.

The panel would suggest that the requirement of a formal written request for legal advice be removed. An AFSA staff member should be free, subject to whatever guidance on seeking legal advice applies within their team, to approach the legal team for assistance in whatever way is most appropriate in the case. There may be merit, at least for an initial period, in each AFSA team having a designated contact within the legal

team. Whether all requests for assistance from a team should be made to the team's designated contact in the legal area, or whether the designated contact need only be used when the requesting team is not sure whom else to approach, could be a matter for further discussion.

AFSA will have a wealth of legal knowledge contained within legal advice produced by its in-house legal team, external law firms and counsel over many years. Efficient access to the full range of that legal knowledge allows new advice to be produced more efficiently, often with a deeper understanding of the relevant legal and policy issues and assists AFSA to act consistently over time.

AFSA should create (or revive), and ensure the wide use of, a legal opinions database. In the panel's view, access to an opinions database should be available to all AFSA staff members, subject to normal caveats concerning matters such as confidentiality, seeking access for a proper purpose, maintaining legal professional privilege, and observing limitations that exist on the disclosure and use of information.

The panel appreciates that providing widespread access to an opinions database runs some risks. For example, an opinion may no longer be accurate because of developments in the law, or an opinion based on one set of facts may mistakenly be thought to apply fully in relation to a different set of facts. However, these risks are capable of being managed and are outweighed by the benefits of providing fuller access to the opinions database.

In this context, the Enforcement policies and procedures manual provides (page 28) that requests for advice about the *Bankruptcy Act 1966* or the *Personal Property Securities Act 2009* must be forwarded to the CDPP, and legal advice may not be sought from any other source without the approval of the Director Enforcement. The manual also states legal advice must not be disseminated outside Enforcement without the approval of certain staff members. It may be that these constraints are subject to implicit qualifications that are not apparent to the panel, but consistently with recommendations in respect of the legal team, the panel considers that the need for these constraints should be reviewed.

The panel understands that in respect of the advisory function performed by the legal team certain lawyers may confine themselves to advising on certain areas of law; for example, some lawyers may advise on PPSR issues, or personal insolvency issues, or information and privacy issues, and nothing else. Whilst there are some advantages to specialisation and no lawyer can be expected to cover all areas of legal knowledge, it would seem beneficial to consider whether advisory

lawyers should provide advice on a wider range of legal topics. Such a change would increase the knowledge and experience of a lawyer and could provide them with a richer working experience. It would also mean that what is a relatively small legal team can operate more flexibly and better adjust to surges in demand in one area or staff absences.

As noted above, AFSA is involved in wide range of litigation. The panel understands that AFSA's legal team has little or no involvement in respect of a material amount of the civil litigation to which AFSA is a party. That litigation is conducted by an external law firm with direction from an AFSA business team. It is considered desirable that an AFSA lawyer has some connection with each civil proceeding involving AFSA. The nature of that connection may vary considerably according to the size, complexity or importance of the litigation or other factors affecting the litigation. In most cases, the AFSA lawyer would potentially:

- have input into a decision to commence or join litigation.
- provide some oversight of the performance of the external lawyers conducting the case.
- liaise with the relevant business team about the direction of, and key decision points in, the litigation and help to ensure that AFSA's regulatory purposes are served by the way in which the litigation is conducted.
- strive to ensure that, except where a change is intended, the stances adopted in the litigation are consistent with AFSA's past actions in similar matters and that conduct of the litigation has regard to AFSA's longer term purposes and positioning and not just to short term tactical advantages.
- have some responsibility for AFSA's compliance with the obligations of the Commonwealth when a party to litigation, such as those in the Legal Services Directions and the broader model litigant obligation (to the extent that they apply to AFSA and related office holders and body corporates).

If this recommendation were to be adopted, AFSA may need to increase, whether by way of recruitment or training, the number of lawyers in its legal team with litigation knowledge and experience.

Involvement in litigation and more formal decisions or actions will often not actually be the responsibility of AFSA (an executive agency of the Commonwealth), but rather the party to the litigation, or the decision maker or actor, will often be a person holding the office of the Inspector-General, Official Receiver or Registrar of Personal Property Securities or the body corporate known as the Official Trustee in Bankruptcy. In any matter it is obviously important that an AFSA lawyer is

cognisant of the client for whom they are acting, the client's duties and whether there is any potential for conflict between the duties owed by the lawyer to the client in the matter and the duties it owes to another client. When information is obtained by an office holder or body corporate in the performance of their functions, an AFSA lawyer (and other AFSA staff) also need to understand any limitations that may apply to the disclosure or use of that information by another office holder or body corporate. In the context of the different AFSA office holders, it is not clear that there is clear and readily accessible guidance available to staff about avoiding or managing conflicts and the proper use of information.

A high performing in-house legal team does not just provide answers to the legal questions it is asked on a transactional basis. It is likely to:

- Work in partnership with the business teams, be aware of their priorities and processes and help them build legal advice into the way they work.
- Partly by reason of its knowledge of the work of the business teams, anticipate legal problems and take early action to resolve them.
- Actively educate other parts of the organisation about new legal stances or developments and assist them to adjust their behaviour.
- Review guides and manuals for legal correctness and practicality and suggest updates to them when needed.

To the extent that the AFSA legal team is not performing this broader risk management function, it should take steps to do so.

Given that much is expected of the legal team, it should, within the resource limits of the agency, be provided with the resources it needs to operate as a high performing team and the lawyers should be given the opportunity to learn and develop. At basic level, this extends to ensuring that all legal practitioners hold practising certificates and meet their annual continuing professional development obligations. It also means that the legal team should have access to resources in the form of legislation, cases, articles, texts, and search tools to enable it to accurately research the law.

Ideally, AFSA lawyers would have an opportunity to swap notes with lawyers from other Commonwealth regulatory agencies and AGS's civil regulation team and spend some time on secondment with another Commonwealth regulatory legal team. In the panel's view, the team is best led by a senior lawyer who performs the role of General Counsel. This is likely to assist the team to exercise influence within AFSA and allows AFSA to be better represented in external legal contexts.

Recommendation 7



Review the delivery model for legal services with a view to increasing both the strategic oversight and educative and risk management functions of the legal team. This should include:

- Adopting a less transactional approach to requests for legal assistance by building a stronger partnership with the business teams allowing the legal team to play a risk mitigation and educative role.
- Making it easier to engage with the legal team and request their assistance, including by abolishing the requirement of a formal written request for legal advice.
- Establishing or re-establishing a legal opinions database and making it accessible, subject to necessary caveats, to AFSA staff.
- Considering broadening the scope of work of individual AFSA lawyers so that they are not confined to narrow areas of practice.
- Improving the oversight of civil litigation by the in-house legal team.
- Formulating clear guidance about avoiding or managing conflicts which may arise in respect of the different legal persons for whom the legal team acts.
- Producing guidance for the use of AFSA staff about the proper use and disclosure of information obtained or produced by different legal persons and functions within AFSA.
- Appointing a General Counsel to lead the legal team.

Risk and Compliance

AFSA has a complex, extensive, and potentially resource intensive risk framework that primarily focuses on enterprise risk.

The regulatory parts of the risk framework, however, do not appear to align closely with the change in regulatory strategy and posture (with a single risk “regulatory failure” covering all the regulatory functions).

Significant work is required to align the risk framework with the regulatory strategy. This includes thinking about risk appetite statements and how they relate to regulatory posture and the willingness of AFSA to take necessary risks. It is also noted that risk and audit have become directly involved in “incident” management – which is more of a first line of defence activity.

The risk appetite has a strong focus on “cost benefit” analysis, and this is incorporated into individual decision-making principles. This has the potential to be an excessively narrow framework for regulatory decision making – particularly in a regulatory enforcement context where other factors

such as the level of harm involved, the value of deterrence, and other public goods are often involved.

The panel recommends considering reviewing the risk framework at some point in the future to ensure that it aligns more appropriately with AFSA’s new operating model and regulatory posture, and consequent risk appetite.

In this context it may also be worth reducing risk reporting to the bare minimum necessary while this process is underway and some of the key organisational improvements (such as regulatory governance, and reform of the legal function) are being put in place. An assessment could then be done of what risk reporting was required.

Recommendation 8



- Review and simplify AFSA's risk framework to ensure alignment with the regulatory strategy and posture.
- Reduce risk reporting to the bare minimum until the review is complete and AFSA is confident it has the appropriate controls in place for an agency of its size.
- Introduce streamlined reporting processes to support risk management.

Finance

The review did not identify any specific concerns about sufficiency of funding to deliver on AFSA's regulatory aspirations, however, it may be necessary to move resources to reflect changing priorities.

The panel anticipated mapping resources against core regulatory functions. However, the structure of AFSA does not enable staffing mapping to functions because of the mix of operational and functional teams. Such a map may be useful once the new structure beds in.

Technology

Staff almost universally saw this as a significant weakness for AFSA in support of the delivery of its regulatory strategy and posture.

The weaknesses are perceived to affect the full range of regulatory processes from the point at which complaints, referrals and tip-offs are received through to the completion of enforcement action.

The general concerns were that systems are old, cumbersome, and siloed and that there are technology barriers to sharing information.

The data and intelligence team identified significant weaknesses in knowledge collection and management, and data architecture and management. They perceived this as being connected to issues with the documentation and management of the core operational processes. While not specifically tested, the message was consistent from staff and with internal reports.

Effective business processes, knowledge collection and management and data management are critical to both AFSA's regulatory posture, and its reputation, including with Government stakeholders who have an expectation that comprehensive and accurate information can be delivered quickly. Staff perception is that it is also impacting on productivity because of the transaction costs associated with searching and finding information as part of AFSA's reporting processes.

The issues relating to technology and to information collection, management and accessibility are sufficiently important to suggest it may be worthwhile for AFSA to consider giving improvement in these areas greater priority than they currently have, even if that is at the short-term expense of other changes AFSA proposes.

Appendices

Appendix A: AFSA Regulatory Review Terms of reference

Purpose

1. AFSA's Regulatory Review will be a forward-looking examination of the authority's regulatory posture, toolkit and infrastructure and provide advice on what is necessary to achieve its vision of a strong credit system for Australia and maximising its ability to deter criminal activities when disposing of confiscated assets.
2. AFSA's approach to regulation must be appropriate for the various regimes it oversees, supported by its overarching regulatory posture.
 - a. Personal Insolvency: as a surveillance-led regulator, AFSA's primary focus should be on resolving issues before they cause problems for debtors or creditors rather than relying on backward-looking actions after harm has occurred. Where regulatory action is to be taken, it will be deliberate.
 - b. Personal Property Securities: the Register must be managed responsibly, made available to use and contain information that is reliable to both grantors and secured parties. Regulatory action should be focussed on preventing and responding to financial harms, particularly where power asymmetries exist between parties.
 - c. Criminal Asset Management: assets should be preserved and managed in a way that maximises returns to the Confiscated Assets Account, ensures innocent third parties experience minimal disruption, and delivers maximum impact to the criminal environment at the point of disposal.

Scope

3. The review will include all aspects of contemporary and modern regulatory practice, including, but not limited to:
 - a. Advocacy, engagement, and communications
 - b. Influencing drivers of demand (early intervention)
 - c. Ways in which non-financial risks, such as culture, can impact on regulatory outcomes
 - d. Public education
 - e. Intelligence
 - f. Compliance
 - g. Investigation
 - h. Regulatory action
4. The review will examine:
 - a. how regulatory action should interact with surveillance and intelligence-led activities
 - b. any legal, practical, or structural impediments to AFSA taking regulatory action where such action is appropriate
 - c. AFSA's relationships and partnerships with other agencies and co-regulators to achieve
 - d. the considerations in determining when AFSA should take regulatory action to hold entities and individuals to account, including public regulatory action, such as litigation, to achieve general deterrence effects in appropriate cases, and
 - e. AFSA's internal governance, organisation, regulatory strategy, resourcing, and any other factors relevant to AFSA's regulatory function.
5. The review may also consider whether AFSA should use its existing external accountability framework more effectively, including a more assertive use of the Statement of Intent and publication of a regular external accountability assessment.
6. The review will also consider any other relevant matters agreed by the Review Panel from time to time.

Part A – Posture

7. Without limiting or constraining the findings of the review, AFSA anticipates that the review will provide recommendations that will enable AFSA to:
 - a. position itself and behave with intent as a “constructively tough” regulator
 - b. support and empower decision-makers to hold institutions and individuals to account, and strengthen governance of regulatory-related decisions
 - c. take strong action early where individuals or entities are not cooperative or open, and be more willing to set public examples
 - d. strengthen cooperation with co-regulators and criminal asset confiscation partners at the Commonwealth and State levels on regulatory matters
 - e. work with Government on any recommendations related to legislative change.

Part B – Toolkit

8. The review will:
 - a. analyse the full suite of formal and informal regulatory and regulatory powers, penalties, and practices available to AFSA (it’s ‘Toolkit’)
 - b. consider whether AFSA requires different tools to support surveillance of the fitness and propriety of Registered Trustees and Registered Debt Agreement Administrators, for example through regular use of a practitioner performance tool
 - c. identify where there are gaps in the toolkit that constrain AFSA realising its full potential as a modern and contemporary regulator
 - d. identify a comprehensive list of tools that, if adopted in full or in part, would enable AFSA to achieve optimal and appropriate regulatory and regulatory outcomes

Part C – Infrastructure

9. AFSA must be both willing and able to use the full range of its formal powers to achieve regulatory outcomes and deter unacceptable practices i.e. use both ‘soft’ and ‘hard’ infrastructure. It should also make use of those powers it has in accordance with the intentions of Parliament in providing those powers and consistent with its vision to be a modern, visible, and contemporary regulator.
10. The review will assess whether the culture, systems, technology, processes, practices, policies, and capabilities/skill sets (it’s regulatory ‘infrastructure’) that are currently in place are adequate to achieve an appropriate level of regulatory action, with a particular focus on:
 - a. the relationship between the supervisory approach and regulatory action
 - b. the process for identifying candidate regulatory actions
 - c. the decision-making process on whether to take regulatory action
 - d. AFSA’s approach to breach reporting and whistle-blowers
 - e. the weight given to factors (including but not limited to cost, timeliness, remediation, precedential value) in determining whether to take regulatory action
 - f. AFSA’s approach to publicly disclosing regulatory priority areas
 - g. whether the current governance, culture, remuneration and accountability settings enable AFSA to achieve optimal and appropriate regulatory and regulatory outcomes, for example by increasing risk appetite and building organisational confidence and improving management support
 - h. AFSA’s approach to collaboration and information sharing with co-regulators, stakeholders, experts, and international peers when dealing with regulatory-related matters
 - i. whether there are gaps in AFSA’s infrastructure that constrain AFSA from realising its full potential as a modern and contemporary regulator
 - j. the infrastructure necessary that, if adopted in full or in part, would enable AFSA to achieve optimal and appropriate regulatory and regulatory outcomes

Appendix B: An example of applying AFSA's regulatory strategy to the approach to processed estates.

AFSA's regulatory strategy refers to it being risk based and data driven, prioritising areas of greatest potential economic and social harm within the system and promoting and encouraging positive behaviour. AFSA adopts a whole of system approach to regulation, "using data and intelligence to prioritise where we focus our resources and using a surveillance-based approach to monitor our regulatory systems".

It might be worthwhile to see how this regulatory approach is applied in respect of processed estates. A large number of bankrupt estates in any year will be treated by AFSA as processed estates. This usually means that those estates are not actively managed and at the end of the period of bankruptcy the bankrupt is discharged and is no longer liable for debts provable in their bankruptcy. The panel understands this approach is taken because there is unlikely to be any return (or anything more than a trivial return) to creditors from such estates, at least after the cost of administration is considered.

In 2022-2023 there were 5760 new bankruptcies, of which 4100 were treated as processed estates. 3,300 estates were automatically categorised as processed estates by reference to criteria AFSA employs for this purpose and the remainder were treated as processed estates after some limited investigation. Broadly speaking, the criteria for classification as a processed estate relate to: the type and value of assets in the estate; whether before bankruptcy there have been payments to creditors or a transfer of assets; the nature of the bankrupt's debts; the bankrupt's involvement in litigation; whether the bankrupt has dependants and may need to make a contribution from their income; and whether the bankrupt has an interest in gaming accounts.

It would seem to be consistent with AFSA's objective of "prioritising areas of greatest economic and social harm" in its regulatory activities to not expend limited resources on the administration of estates:

- in relation to which there has not been any misbehaviour (e.g., preferential payment to a creditor, disposal of assets at an undervalue, obtaining credit by deception); and
- which will not produce any distribution to creditors (or only a trivial distribution, bearing in mind that 1 cent in the dollar on a \$10 million debt still produces a distribution of \$100,000).

The regulatory risk in treating some bankrupt estates as processed estates arises in respect of:

- the appropriateness of the criteria used to allocate an estate to the processed estate category; and
- the accuracy of the information provided by the bankrupt, which is the information relied upon in applying the categorisation criteria.

The categorisation criteria need both to assess (i) whether, taking the information provided by the bankrupt at face value, there would be a distribution (or something more than a non-trivial distribution) to creditors and (ii) whether there are signs that the bankrupt's information should not be taken at face value and further investigation is warranted. The categorisation criteria should be reassessed from time to time having regard to new insights about what may point to misbehaviour or would otherwise warrant the active administration of a bankrupt estate. AFSA is in a good position to gain such insights in light of its dealings with Registered Trustees, its role as Official Trustee and the compliance assessments it carries out (referred to below). In time, it may be that technology can be deployed to analyse the data held by AFSA to identify circumstances that correlate with misbehaviour and the categorisation criteria can be adjusted accordingly. In order not to undermine AFSA's regulatory posture, the criteria also need to be readily capable of public defence given that they determine the things that AFSA will not be doing.

AFSA does adjust the criteria periodically, having done so in April 2021 and February 2022. The panel is not in a position to assess the efficacy of the criteria, but note that under the criteria:

- A large amount of debt does not of itself prevent an estate from being categorised as a processed estate. AFSA considers that such a criterion would add little to the existing criteria, including those relating to the value of assets held.
- A single debt above a threshold amount is no longer a basis for not categorising an estate as a processed estate. Apparently, this is because the creditor will speak up if there has been misconduct. Presumably AFSA has evidence which allows it to form the view that misconduct in these circumstances can reliably be identified by creditor complaint.
- Past insolvency is no longer a basis for keeping a bankrupt estate out of the processed estate category. Some

of AFSA's stakeholders may consider that the estate of a repeat bankrupt (or at least some types of repeat bankrupt) requires more scrutiny than that given to a processed estate.

- Most of the criteria do not extend beyond matters relatively directly related to the immediate bankruptcy. For example, they do not extend to past criminal offending by the bankrupt in relation to deception or financial affairs, or even past bankruptcy misconduct. Nor do they extend to whether the bankrupt has been an officer of a company that engaged in misconduct.

It may be that AFSA is not currently able to collect or use all the information that it would like to in categorising an estate as a processed estate. If AFSA is prevented from collecting or using information that it considers highly material to categorisation, it should consider seeking the necessary power.

To address the regulatory risk relating to the accuracy of information provided by the bankrupt, AFSA principally relies on compliance assessments of a random sample of bankruptcy matters to test the accuracy of the information provided by the bankrupt. (To be clear, that information is in turn used to determine whether the bankrupt estate will be treated as a processed estate). In the year 2022-2023 954 bankruptcies were subject to compliance assessments; all of them were randomly selected from the 3,300 estates that were automatically categorised as processed estates in that year.

The panel understands that, over time, of the processed estates assessed for compliance, about 80% have been regarded as non-compliant in some way. At first glance, that might be regarded as an alarming figure. However, most of the non-compliance has been regarded as minor, being unintentional and immaterial in its effect and could stem from things like not fully understanding the forms that need to be completed by a bankrupt. AFSA is looking at ways in which to decrease the rate of minor non-compliance through systems improvements and education of debtors about their disclosure obligations.

Of the estates assessed for non-compliance about 10% were assessed as showing moderate non-compliance and approximately 4% have been regarded as showing serious non-compliance, being non-compliance that was both intentional and material in its effect.

A 4% rate of serious non-compliance would mean approximately 38 of the 954 processed estates subject to compliance assessments exhibited serious non-compliance. If one applies that 4% rate of serious non-compliance to all 3,300 automatically categorised processed estates, about 132 estates would be seriously non-compliant, and in respect of about 94 of those estates the non-compliance would be likely to remain unidentified (subject to tip offs) as they would not be subject to compliance assessments. (Obviously the numbers would be higher if one included moderately non-compliant estates).

Knowing that in a financial year there are likely to be about 94 seriously non-compliant estates about which nothing will probably be done because the estates will not have been identified due to the absence of compliance assessment or active administration raises some interesting questions.

- Has AFSA consciously determined that this is an acceptable outcome (which it is prepared to defend) considering the cost of compliance assessment for all processed estates? (The answer may well be yes and for good reason, but it is the sort of decision that needs to be formally made with reasons documented).
- Given that in the last financial year about 38 estates have been identified as exhibiting serious non-compliance, is there anything more that can be done in respect of those estates to provide general deterrence, to debtors and unscrupulous advisers, against providing untruthful information in respect of bankrupt estates and especially those likely to be treated as processed estates?
- Can anything more be done to prevent unscrupulous advisers from learning (perhaps through repeated experience) the criteria for categorisation as a processed estate and using that knowledge to game the system by providing inaccurate information about the bankrupt's affairs?
- In addition to conducting compliance assessment for randomly selected processed estates, is there also merit in conducting targeted compliance assessments in respect of some estates? The targeting might be based on characteristics of the processed estates or - subject to applicable law - it might be based on broader criteria such as previous bankruptcy, past offending in the area of financial affairs or deception, or even the identity of the bankrupt's adviser.

Appendix C: Stakeholder consultations

External stakeholder interviewed

<i>Acronym / abbreviation</i>	<i>Stakeholders</i>
ABA	Australian Banking Association
ACCC	Australian Competition and Consumer Commission
AFCA	Australian Financial Complaints Authority
AFP	Australian Federal Police
AGD	Attorney-General's Department
AGO	Attorney-General's Office
AIIP	Association of Independent Insolvency Practitioners
ANZ	Australia and New Zealand Banking Group
APRA	Australian Prudential Regulation Authority
ARITA	Australian Restructuring Insolvency and Turnaround Association
ASBFEO	Australian Small Business and Family Enterprise Ombudsman
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
AUSTRAC	Australian Transaction Reports and Analysis Centre
CALC	Consumer Action Law Centre
CER	Clean Energy Regulator
DOF	Department of Finance
	Equifax
	James Shipton, University of Melbourne
NACC	National Anti-Corruption Commission
NDH	National Debt Helpline – Financial Counsellor
	Paul Shaw, Ex-National Manager AFSA
PIPA	Personal Insolvency Professionals Association
	Toyota Finance Australia
	Treasury Department
	Uniting (Victoria and Tasmania)

Internal stakeholders interviewed

<i>Acronym</i>	<i>Team</i>
ASC	AFSA Service Centre
CAM	Criminal Asset Management Compliance
EA	Estate Administration
E&PS	Enforcement and Practitioner Surveillance
GE	Government Engagement
G&R	Governance and Risk
	Legal
ORN	Official Receiver Notices
PPSR	Personal Property Securities Register
SA	Strategic Analytics
SC	Strategic Communication
SP&R	Strategy, Policy and Reporting

Appendix D: Abbreviations and acronyms

<i>Abbreviation / acronym</i>	<i>Description</i>
AFSA	Australian Financial Security Authority
ASC	AFSA Service Centre
CAM	Criminal Assets Management
OT	Official Trustee in Bankruptcy
PPS	Personal Property Securities
PPSR	Personal Property Securities Register

