

25 July 2017

ASIC Enforcement Review  
Financial System Division  
The Treasury  
[ASICenforcementreview@treasury.gov.au](mailto:ASICenforcementreview@treasury.gov.au)

**RE: ASIC Enforcement Review Position and Consultation Paper 3: Strengthening ASIC's Licensing Powers**

Thank you for the opportunity to comment on *Position and Consultation Paper 3 - Strengthening ASIC's Licensing Powers*.

The Financial Rights Legal Centre (**Financial Rights**) has long argued that regulators in Australia need a full toolkit of regulatory powers in order to do their job properly. ASIC should be sufficiently empowered to protect people who use financial services without having to keep going back to the Government for additional controls to fill loopholes and address new forms of misleading or dangerous conduct.

**Endorsement of Taskforce Positions**

Financial Rights strongly endorses all seven of the Taskforce's preliminary positions on reforms aimed at enhancing the current regimes and achieving greater uniformity between the AFS license and credit license regimes. We agree there should be uniformity between the two licensing regimes and license applicants in similar circumstances should be subject to the same assessment criteria and requirements.

Financial Rights is particularly concerned about ASIC's current inability to take decisive action when a licensee gets a new controller that ASIC does not believe to be fit and proper. Entities should not be able to take advantage of a regulatory loophole where they apply for a license with a competent controller and then the entity gets sold to a new controller who ASIC would never have granted the license to had they been on the initial application.

**Concluding Remarks**

Thank you again for the opportunity to comment. If you have any questions or concerns regarding this submission please do not hesitate to contact Financial Rights on (02) 9212 4216.

Kind Regards,



**Karen Cox**  
Coordinator  
Financial Rights Legal Centre  
Direct: (02) 8204 1340  
E-mail: [Karen.Cox@financialrights.org.au](mailto:Karen.Cox@financialrights.org.au)

## About the Financial Rights Legal Centre

The Financial Rights Legal Centre is a community legal centre that specialises in helping consumer's understand and enforce their financial rights, especially low income and otherwise marginalised or vulnerable consumers. We provide free and independent financial counselling, legal advice and representation to individuals about a broad range of financial issues. Financial Rights operates the National Debt Helpline, which helps NSW consumers experiencing financial difficulties. We also operate the Insurance Law Service which provides advice nationally to consumers about insurance claims and debts to insurance companies. Financial Rights took over 25,000 calls for advice or assistance during the 2015/2016 financial year.

Financial Rights also conducts research and collects data from our extensive contact with consumers and the legal consumer protection framework to lobby for changes to law and industry practice for the benefit of consumers. We also provide extensive web-based resources, other education resources, workshops, presentations and media comment.

This submission is an example of how CLCs utilise the expertise gained from their client work and help give voice to their clients' experiences to contribute to improving laws and legal processes and prevent some problems from arising altogether.

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