



ASIC

Australian Securities & Investments Commission

REGULATION IMPACT STATEMENT

ASIC implementation of the National Credit Act: Financial resource requirements for licensees

December 2009

About this Regulation Impact Statement

This Regulation Impact Statement (RIS) addresses ASIC's proposals for new regulatory obligations for financial resource requirements for credit licensees under the *National Consumer Credit Protection Act 2009*.

What this Regulation Impact Statement is about

- 1 This Regulation Impact Statement (RIS) addresses ASIC's proposals for new regulatory obligations for financial resource requirements for credit licensees under the *National Consumer Credit Protection Act 2009*.
- 2 In developing our final position, we have considered the regulatory and financial impact of our proposals. We are aiming to strike an appropriate balance between:
 - maintaining, facilitating and improving the performance of the financial system and entities in it;
 - promoting confident and informed participation by investors and consumers in the financial system; and
 - administering the law effectively and with minimal procedural requirements.
- 3 This RIS sets out our assessment of the regulatory and financial impacts of our proposed policy and our achievement of this balance. It deals with:
 - the likely compliance costs;
 - the likely effect on competition; and
 - other impacts, costs and benefits.

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A Introduction

Background

National Credit Act

- 4 The *National Consumer Credit Protection Act 2009* (National Credit Act), the *National Consumer Credit Protection (Transitional and Consequential Provisions) Act 2009* (Transitional Act) and the *National Consumer Credit Protection (Fees) Act 2009* (Credit Fees Act)—collectively the Consumer Credit Protection Reform Package—outline a new national consumer credit regime. The new regime:
- (a) gives effect to the Council of Australian Governments' (COAG) agreements of 26 March and 3 July 2008 to transfer responsibility for regulation of consumer credit, and a related cluster of additional financial services, to the Commonwealth; and
 - (b) implements the first phase of a two-phase Implementation Plan to transfer credit regulation to the Commonwealth, endorsed by COAG on 2 October 2008.
- 5 The Consumer Credit Protection Reform Package establishes the key components of the proposed national credit regime, which include:
- (a) a comprehensive licensing regime for those engaging in credit activities via an Australian credit licence (credit licence) to be administered by the Australian Securities and Investments Commission (ASIC) as the sole regulator;
 - (b) industry-wide responsible lending conduct requirements for credit licensees;
 - (c) improved sanctions and enhanced enforcement powers for the regulator; and
 - (d) enhanced consumer protection through dispute resolution mechanisms, court arrangements and remedies.

Obligations on licensees under the National Credit Act

- 6 The reforms introduce a comprehensive national licensing regime, which is to be distinguished from the current regulation of financial services under the *Corporations Act 2001* (Corporations Act).
- 7 Regulation of consumer credit in the new regime will be the responsibility of ASIC. A key component of the new credit regime is that businesses that

provide credit services or that are engaged in other 'credit activities' will be required to be licensed and meet a range of general conduct obligations.

8 Under s47(1) of the National Credit Act, credit licensees must meet 'general conduct obligations'.

9 These obligations require credit licensees to:

- (a) do all things necessary to ensure that the credit activities authorised by the licence are engaged in efficiently, honestly and fairly (s47(1)(a));
- (b) have in place adequate arrangements to ensure that clients are not disadvantaged by any conflict of interest that may arise wholly or partly in relation to credit activities engaged in by the credit licensee or their representatives (s47(1)(b));
- (c) comply with the conditions on the licence (s47(1)(c));
- (d) comply with the credit legislation (s47(1)(d));
- (e) take reasonable steps to ensure that their representatives comply with the credit legislation (s47(1)(e));
- (f) maintain the competence to engage in the credit activities authorised by the licence (s47(1)(f));
- (g) ensure that their representatives are adequately trained, and are competent, to engage in the credit activities authorised by the licence (s47(1)(g));
- (h) have an internal dispute resolution procedure that:
 - (i) complies with standards and requirements made or approved by ASIC in accordance with the regulations; and
 - (ii) covers disputes in relation to the credit activities engaged in by the licensee or their representatives (s47(1)(h));
- (i) be a member of an approved external dispute resolution scheme (s47(1)(i));
- (j) have compensation arrangements in accordance with s48 (s47(1)(j));
- (k) have adequate arrangements and systems to ensure compliance with the licensee's obligations under s47, and a written plan that documents those arrangements and systems (s47(1)(k));
- (l) unless they are a body regulated by APRA:
 - (i) have available adequate resources (including financial, technological and human resources) to engage in the credit activities authorised by the licence and to carry out supervisory arrangements (s47(1)(l)(i)); and
 - (ii) have adequate risk management systems (s47(1)(l)(ii)); and
- (m) comply with any other obligations that are prescribed by the regulations (s47(1)(m)).

Regulatory impact of the National Credit Act

- 10 The regulatory impact of the licence obligations established under the National Credit Act was assessed in the RIS attached to the Explanatory Memorandum to the National Consumer Credit Protection Bill 2009 (National Credit Bill).¹
- 11 In summary, that RIS found:
- (a) The main group affected is industry participants who will need to become holders of a credit licence in order to continue engaging in credit activities.
 - (b) The most significant impact will be on those who only conduct business in states or territories where there is currently no licensing or registration scheme. It can be anticipated that these businesses will face significant transitional costs.
 - (c) Licensing will involve one-off costs associated with applying for a licence, together with ongoing fees for lodging various documents. There will also be costs of complying with the ongoing obligations associated with the licence, including, in particular:
 - (i) training and supervision costs; and
 - (ii) maintaining adequate compensation arrangements (e.g. professional indemnity insurance).
- 12 The size of the affected population was also addressed in the RIS attached to the Explanatory Memorandum to the National Credit Bill. However, there is some degree of uncertainty about the size and structure of the market, as there is no nationally consistent registration or licensing framework to provide that information.
- 13 The licensing system existing in Western Australia provides some guidance as to the size of the regulated population. Western Australia has reported that there are approximately 190 credit providers registered in that jurisdiction, of whom approximately 100 operate nationally. These figures do not include approved deposit taking institutions (ADIs) registered under the *Banking Act 1959* (approximately 500 nationally) that may operate in Western Australia, as ADIs are not required to be licensed under the Western Australian legislation. However, ADI's are regulated by APRA and therefore under the National Credit Act they will be exempt from the financial resource requirements.
- 14 In addition to credit providers, the new regulatory framework also covers persons whose business involves providing credit services such as suggesting consumers enter credit contracts and consumer leases, and

¹

http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fr4180_ems_668afa2a-603f-4c9c-ba71-f405d60faad3%22

assisting them to enter credit contracts and consumer leases. Such participants are primarily (though not exclusively) comprised of finance brokers. There are approximately 3,000 licensed finance brokers in Western Australia, and of those, around 200 have addresses outside Western Australia.

- 15 Persons other than brokers that are part of the credit supply chain and may be covered by aspects of the new regulatory framework include aggregators and mortgage managers. It is estimated that between one and two hundred persons would fall into those groups. Persons whose business is the collection of debts (either as assignee or as agent of a credit provider) will also be subject to aspects of the proposed regime, including licensing.
- 16 Based on the above, the RIS attached to the Explanatory Memorandum to the National Credit Bill estimated that the affected population, in terms of industry participants, could be as high as 10,000 nationally.
- 17 There are some overlaps between the new credit licensing regime and the existing Australian financial services (AFS) licensing regime administered by ASIC. It is likely that some of the affected parties are already subject to regulation by ASIC in some way because they hold an AFS licence. To the extent that this affects the impact of each issue covered in the RIS, this is addressed in the relevant parts below.

What this RIS is about

- 18 This RIS assesses the regulatory impact of ASIC's proposals associated with implementation of the National Credit Act. It does not deal with the decision to require credit providers to be licensed, as this is an obligation imposed under the National Credit Act. Rather, this RIS assesses the regulatory impact of those decisions within ASIC's discretion which are necessary for implementation of the National Credit Act by ASIC.
- 19 Because the national credit regime is new, ASIC will continue to monitor the impact of our regulation on the industry, and will revise our approach if necessary.

Assessing the problem

- 20 The National Credit Act will introduce a licensing regime for all persons engaging in credit activities. After the commencement of the new legislation, a credit licensee, among other obligations, must:
- (a) have adequate financial resources to—
 - (i) engage in the credit activities authorised by your licence; and
 - (ii) carry out supervisory arrangements (see s47(1)(i));

- (b) do all things necessary to ensure that the credit activities authorised by your licence are engaged in efficiently, honestly and fairly (see s47(1)(a)); and
- (c) have adequate risk management systems (see s47(1)(i)(ii)).

The financial resource requirements do not apply to a body regulated by the Australian Prudential Regulation Authority (APRA).

Current approach

- 21 Currently, the states and territories regulate credit and consumer lending through the Uniform Consumer Credit Code (UCCC). Victoria, New South Wales, Western Australia and the ACT have limited broker-specific regulation in addition to the UCCC. Only Western Australia imposes an obligation that a credit provider must have adequate financial resources. In Western Australia a Licensed Credit Provider is required to confirm in its application for a licence and on an annual basis that it has sufficient financial resources to carry on business pursuant to the authority conferred by a credit provider's licence. Western Australia, however, has not issued any policy guidance defining this obligation.
- 22 ASIC has given guidance on the financial requirements the holder of an AFS licence must meet in RG 166 *Licensing: Financial requirements* (RG 166). ASIC has considered whether it is appropriate to apply the existing policy in RG 166 to credit licensees or whether another approach to regulation is more appropriate.

Problems

- 23 The National Credit Act imposes the obligation on a credit licensee to have adequate financial resources and therefore the problems associated with introducing a financial resource requirement on credit licensees was considered as part of the RIS for the National Credit Bill. Under the National Credit Act a credit licensee must have adequate financial resources to engage in credit activities authorised by their licence and to carry out supervisory arrangements. This obligation is a high-level principle and ASIC considers that providing no explicit guidance may lead to confusion for industry in determining the behaviour required to comply with the obligation, particularly because for many credit providers it is a new obligation.
- 24 Imposing minimum financial requirements for all credit licensees, however, may, depending on their size and the nature of their business, impose an unreasonable burden on some licensees. Tailoring financial resource requirements to specific credit licensees according to the nature, scale and complexity of their credit activities may introduce an unnecessary level of complexity to the regime.

Objectives of government action

- 25 In relation to implementation of the Consumer Credit Protection Reform Package in general, ASIC's proposals seek to balance ASIC's objectives to:
- (a) maintain, facilitate and improve the performance of the financial system and entities in it;
 - (b) promote confident and informed participation by investors and consumers in the financial system;
 - (c) administer the law effectively and with minimal procedural requirements.
- 26 The financial resource requirements in the National Credit Act are designed to enhance consumer protection and market integrity by ensuring that credit licensees have sufficient financial resources to conduct their business in compliance with the National Credit Act.
- 27 The financial resource requirements help ensure that credit licensees demonstrate a necessary commitment to meeting expected standards of conduct of a licensee, and that a person who cannot do so, is excluded.

B Options and impact analysis

- 28 Possible options for the financial requirements ASIC could impose on an Australian credit licensee are:
- Option 1 (preferred option)—credit licensees self-assess whether they have adequate financial resources to conduct their business in compliance with the National Credit Act.
 - Option 2—apply similar financial requirements as currently apply to AFSL holders under Section C of RG 166.
 - Option 3—ASIC does not take any action.
- 29 The recommended approach in this RIS sets out our expectations on how a licensee might meet the obligations imposed by the National Credit Act . The National Credit Act imposes the obligation on a credit licensee to have adequate financial resources to engage in the credit activities authorised by its licence and to carry out supervisory arrangements. This licence obligation was assessed in the RIS attached to the Explanatory Memorandum to the National Credit Bill. In our recommended approach we are not imposing new obligations, we merely set out our expectations of how a licensee will meet the financial resource requirement under the National Credit Act.

Option 1: (preferred option) Credit licensees self-assess whether they have adequate financial resources

Description of option

- 30 Under this option, ASIC would not impose minimum financial resource requirements as part of the credit licence conditions. A credit licensee must self-assess whether it has adequate financial resources to conduct its business in compliance with the National Credit Act.
- 31 Under this option, we expect that a credit licensee will:
- (a) ensure that it has access to sufficient financial resources to be able to meet all of its debts as and when they become due and payable;
 - (b) plan and monitor cash flows to make sure they are sufficient to adequately meet its obligations as a licensee under the National Credit Act; and
 - (c) keep written records that demonstrate that its financial resources are being monitored on a regular basis.
- 32 An applicant for a credit licence will be required to confirm to ASIC that it can comply with the financial resource requirements. A credit licensee will

then be required to certify annually that it has adequate financial resources to engage in the credit activities authorised by its licence and to carry out supervisory arrangements.

Impact on industry

- 33 As noted above, under the National Credit Act, this option would affect only those credit licensees who are not prudentially regulated by APRA. APRA-regulated entities are required to maintain a minimum level of capital equal to 8% of risk weighted assets, that is maintain a minimum level of capital of 8% of their credit portfolio.
- 34 Under this option, ASIC does not impose a minimum financial resource requirement. This is intended to be flexible so that credit licensees can adopt practices that suit their organisation. This means that the obligations will vary according to the nature, scale and complexity of the credit activities the credit licensee engages in. The administrative costs to industry of complying with the financial resource requirements will also, therefore, be proportionate to the nature, scale and complexity of the business.
- 35 Although ASIC will not impose minimum financial requirements, we expect credit licensees to monitor their cash flows on an ongoing basis and be able to demonstrate that they have adequate financial resources to meet any debts as and when they become due and payable. This expectation is consistent with the obligation under the National Credit Act for a credit licensee to have adequate financial resources to engage in the credit activities authorised by its licence and therefore we do not believe we are imposing additional costs to industry beyond the costs of complying with the obligation under the National Credit Act.
- 36 We do not believe that this requirement is likely to impose a significant cost to business. Corporate credit licensees will already be subject to the solvency requirements under the *Corporations Act 2001*. Further, we believe that it is good business practice and therefore non-corporate credit licensees would also already monitor cash flows as part of their everyday financial management.
- 37 ASIC will also require that a credit licensee must document the process for determining whether the credit licensee has adequate financial resources, including how the financial resources are being monitored on a regular basis. Some credit licensees may not have previously documented these decisions and therefore this requirement may impose an additional administrative cost. However, we believe that this cost would be minimal and will vary in proportion to the complexity and size of the credit licensee's business.
- 38 A credit licensee will also be required to confirm on an annual basis that it has sufficient financial resources to engage in the credit activities authorised

by its licence and to carry out supervisory arrangements. This will not impose an additional cost to industry because this confirmation will form part of the annual compliance certificate, which under the National Credit Act, must be lodged with ASIC each license anniversary.

39 This option provides some certainty for industry without imposing the significant compliance costs associated with the minimum requirements under Option 2. Further our consultation has indicated that industry would appreciate some guidance from ASIC and therefore Option 3 is also inappropriate.

40 The industry submissions to Consultation Paper 111 *Compensation and financial resources arrangements for credit licensees* (CP 111) did not raise any concerns regarding the cost to industry of imposing the obligations under this option.

Impact on consumers

41 Consumers will also derive benefits from this option through improvements to standards of industry behaviour. The minimum expectations regarding monitoring cash flows and ability to meet liabilities reflect good business practice and if cash flow is properly planned it is less likely that credit licensees will feel pressured to cut costs on compliance arrangements or engage in non-complying behaviour.

Impact on government

42 This option will require ASIC to monitor compliance with the financial resource requirements. However, this would form part of ASIC's industry compliance efforts in respect of compliance with the credit licence conditions more generally and therefore would not impose any additional costs on ASIC. ASIC will be required to issue a new regulatory guide setting out the financial requirements the holder of an Australian credit licence must meet.

43 The imposition of the financial resource requirements will improve the likelihood of compliance with the National Credit Act and general licence obligations and therefore reduce the incidence of non-complying behaviour requiring regulatory action by ASIC.

Option 2: Apply similar financial requirements as currently apply to AFS licence holders under Section C of RG 166

Description of option

- 44 Under this option a credit licensee would be required to comply with base level financial requirements similar to those imposed under Regulatory Guide 166 *Licensing: Financial requirements* (RG 166). The credit licensee would be required at all times to:
- (a) be solvent;
 - (b) have assets that exceed liabilities as shown in the most recent annual balance sheet lodged with ASIC and have no reason to suspect that assets no longer exceed liabilities on a current balance sheet;
 - (c) meet cash flow requirements; and
 - (d) meet audit requirements.

Impact on industry

- 45 This option imposes considerably more compliance costs for industry than Options 1 and 3. Imposing minimum financial requirements for all credit licensees may, depending on their size and the nature of their business, impose an unreasonable burden on some licensees. This concern was raised by some of the respondents to CP 111.
- 46 We note that the National Credit Act does not impose an obligation on a credit licensee to prepare audited financial statements and therefore this would be a new obligation. The costs to industry of complying with these minimum financial requirements include the cost of preparing financial statements on a regular basis, including cash flow statements and the cost of meeting the audit requirement. We cannot estimate the cost of preparing audited financial statements because the cost to the credit licensee will vary according to the nature, size and complexity of the credit activities undertaken by the credit licensee. However, on balance, we believe that these costs are unnecessarily prohibitive, particularly for smaller businesses.

Impact on consumers

- 47 It is arguable that consumers will derive benefits from this option because prescribing minimum financial requirements for credit licensees will give greater assurance that the licensee will maintain sufficient levels of capital and liquidity to comply with the obligations under the National Credit Act. However, these obligations are more suited to an AFS licence holder because an AFS licensee provides financial services in relation to financial products that are of an investment or risk management nature and involve

managing funds for a client. By contrast, credit licensees generally provide funds to the consumer and do not manage client funds. Therefore, the risk to consumers of not maintaining a prescribed minimum level of financial resources is not as great for a credit licensee. This means that consumer protection considerations do not necessitate the same level of financial resources for a credit licensee. However, it is still necessary to provide guidance on how a credit licensee should comply with the financial resource requirements as outlined in Option 1 to ensure that inadequate financial resources do not place at risk the licensee's compliance with its obligations under the National Credit Act.

Impact on government

- 48 The audit requirement will provide a level of assurance about compliance with the financial resource requirements and this means that ASIC would need to devote fewer resources to surveillance in order to achieve the same outcomes. However, we do not believe that this option will deliver significant savings on administrative costs for ASIC in comparison to Option 1. Under Option 2, ASIC will still be required to conduct surveillance in respect of compliance with the credit licence conditions more generally and would still need to monitor compliance with the financial requirements. Therefore the increased surveillance required under Option 1 is unlikely to impose significant additional costs. Similarly to Option 1, to implement Option 2 ASIC would have to prepare and release a new regulatory guide for credit licensees explaining these obligations.
- 49 The imposition of the minimum financial resource requirements will improve the likelihood of compliance with the National Credit Act and general licence obligations and therefore reduce the incidence of non-complying behaviour requiring regulatory action by ASIC

Option 3: If ASIC took no action

Description of option

- 50 Under this option, ASIC would not provide any guidance on how a credit licensee would comply with the obligation under the National Credit Act to have adequate financial resources to engage in the credit activities authorised by the licence and to carry out supervisory arrangements. Instead, as part of its normal industry consultation and compliance work, ASIC would encourage industry to develop its own policies on how to comply with the financial resource requirements.

Impact on industry

- 51 In ASIC's view, this option is not realistic. The obligation under the National Credit Act is a high-level principle and providing no guidance would lead to a great deal of confusion for industry in determining the behaviour required to comply with the obligation. ASIC's consultation has indicated that industry requires guidance on how to comply with the financial resource requirements and issuing guidance will save industry the cost of developing its own policies.

Impact on consumers

- 52 The lack of clarity under this option also poses a risk to consumers because of the danger that credit licensees may hold inadequate financial resources to be able to comply with their obligations under the National Credit Act. Option 1 provides more certainty both for industry and consumers.

Impact on government

- 53 ASIC would not be required to issue a new regulatory guide but would be required to devote resources to assist industry to develop its own policies. We do not believe that this option would provide significant savings or impose additional costs to ASIC when compared to the above options.

Conclusion and recommended option

- 54 We recommend Option 1. The requirements under this option will help ensure that a credit licensee will satisfy the general conduct obligation under the National Credit Act to maintain adequate financial resources to engage in the credit activities authorised by the licence and to carry out supervisory arrangements. Unlike Option 2, however, the recommended option achieves the regulatory objectives without imposing the unreasonable burden on credit licensees of requiring them to prepare financial statements and meet audit requirements. We also believe that the cost to industry of developing its own policies under Option 3 is prohibitive when compared to Option 1 and 2.

C Consultation

55 On 15 July 2009, ASIC issued CP 111. In CP 111 ASIC consulted on the financial resource requirements we should impose on the holder of an Australian credit licence and our proposals regarding the requirement to have adequate compensation arrangements.

56 We received 15 responses to CP 111 from a variety of sources including credit providers and other participants in the credit industry (both large and small), relevant industry bodies, legal bodies and law firms.

57 The submissions we received in relation to the financial resource requirements were largely supportive of the proposals in CP 111. Most respondents only provided feedback on a small number of key issues of particular concern to them. In particular, most respondents did not object to any of the financial resource requirements considered in this RIS.

58 The main issues raised by respondents related to:

- (a) whether ASIC should impose any financial resource requirements on credit licensees; and
- (b) whether ASIC should impose more prescriptive requirements on how to comply with the financial resource requirement.

Should ASIC impose any financial resource requirements?

59 Subject to a small number of exceptions, the submissions ASIC received were almost unanimous in their support for the proposal that we impose some guidance on the financial resource requirements for credit licensees as outlined in CP 111. In the consultation paper we said that a credit licensee should self-assess whether it has adequate financial resources to comply with its credit licence obligations

60 Two respondents recommended that ASIC should not impose financial resource requirements because any risk is borne by the credit provider and not the consumer. According to this argument the financial resource requirements do not assist consumers because they will not suffer financial detriment if a credit provider fails. If the credit business fails the loans are either assigned pursuant to the contractual terms, or the receiver, if appointed, seeks to wind down the loan book according to the contractual terms.

61 One respondent suggested that if a lender does not have adequate financial resources then they will simply not lend and therefore consumers are not at risk of suffering loss.

ASIC's response

62 The financial resource requirement is imposed under the National Credit Act and not by ASIC. Further, while the financial resource requirements will contribute to a credit licensee's capacity to meet its financial commitments, including obligations to consumers they are not imposed for this reason. The financial resource requirements are concerned with ensuring that credit licensees have sufficient financial resources to conduct their business in compliance with the National Credit Act. A credit licensee can only conduct its business in compliance with the National Credit Act and its licence obligations if it has adequate resources, including financial resources, to do so.

Should ASIC impose more prescriptive requirements on how to comply with the financial resource requirement?

63 In CP 111 we proposed that we should not impose minimum financial resource requirements as part of the credit licence conditions. We also proposed that we expect that a credit licensee's financial manager will monitor cash flows and ensure that the credit licensee has access to sufficient financial resources to meet their obligations as they fall due.

64 One respondent supported these proposals but encouraged ASIC to provide more prescriptive guidance on how credit licensees would comply with the requirement to maintain adequate financial resources, particularly for small business.

65 By contrast, one respondent submitted that adopting a more prescriptive approach would be based on the incorrect assumption that all credit licensees are the same and therefore have the same financial requirements. According to this respondent, such an approach may discourage credit licensees from assessing what financial requirements are adequate for their particular needs. Imposing more prescriptive requirements would encourage credit licensees to simply satisfy the minimum requirement, regardless of whether this is appropriate to meet their obligations under the licence.

66 We did not receive any significant objections to our proposal that the credit licensee should monitor its cash flows and have sufficient cash to meet their obligations.

ASIC's response

67 We do not believe that we should prescribe minimum financial requirements because the general conduct obligations, including the financial resource

obligations, are intended to be principle-based so that credit licensees can be flexible in adopting practices that suit their organisation.²

68 We believe that because of the large range in the activities, the scale and types of credit licensees, each credit licensee is best placed to understand their business and the particular risks that business faces. Therefore, the credit licensee should be responsible for determining what constitutes adequate financial resources taking into account the nature, scale and complexity of their business in assessing what is adequate.

69 We will expect as a minimum that a credit licensee should ensure that they have access to sufficient financial resources to be able to meet their debts as and when they become due and payable. We also expect that a credit licensee will plan and monitor to ensure that have sufficient cash flow to adequately meet the obligations as a credit licensee under the National Credit Act

² National Consumer Credit Protection Bill 2009 – Explanatory Memorandum at paragraph 2.105.

D Implementation

- 70 An applicant for a credit licence will be required to confirm to ASIC as part of the application process that it has adequate financial resources available to engage in the credit activities authorised by the licence and to carry out supervisory arrangements. A credit licensee will also be required to confirm to ASIC on an annual basis that it has adequate financial resources to comply with its licence obligations and is able to meet any debts as and when they become due and payable. This confirmation will form part of the annual compliance certificate required under s53 of the National Credit Act and therefore will not impose an additional administrative burden on the credit licensee.
- 71 ASIC is developing the process for applying for a credit licence and for lodging an annual compliance certificate. There will be minimal adjustments required to ASIC's systems and processes to reflect the financial resource requirements recommended in Option 1.