

# ASIC Continues Increased Scrutiny Into AFS Licensees For Hire

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ASIC has accepted a court enforceable undertaking (CEU) from Private Wealth Pty Ltd (Sanlam) after it admitted that it failed to discharge its general Australian financial services (AFS) licensing obligations in connection with its authorised representatives.

ASIC's investigation into Sanlam centred around its failure to adequately supervise the large number of corporate authorised representatives (CARs) and authorised representatives (ARs) operating under Sanlam's AFS license. At one point, Sanlam had appointed 42 CARs and 71 ARs, including operators of online trading platforms and crypto-based investment products. In addition, some of the CARs managed large pools of investor assets and serviced large retail client bases.

ASIC stated that Sanlam's internal frameworks were not adequately tailored to the specific risks associated with products offered through its AFS licence and were insufficient to supervise the number of CARs and ARs appointed. ASIC was particularly concerned that Sanlam's representatives used its AFS licence to offer risky financial products to retail clients.

Under the CEU, Sanlam must appoint an independent compliance expert to review Sanlam's systems, processes and controls in respect of the general AFS licensee obligations and to implement appropriate remedial action plans.

## ASIC Action Against Lanterne

In April 2024, the Federal Court ordered that Lanterne Fund Services Pty Ltd (Lanterne) pay a \$1.25 million penalty after failing to comply with the general AFS licensee obligations.

Similarly to Sanlam, Lanterne had appointed over 60 CARs and 205 ARs spanning a wide range of financial services businesses. Given the lack of any formal documented risk management systems and having only one full-time employee, ASIC Commissioner Alan Kirkland remarked that the compliance arrangements "were woefully inadequate for a business of this scale and posed significant risk to investors".

In addition to the large penalty handed down, the Federal Court also ordered that Lanterne appoint an independent expert to review and report on Lanterne's systems, processes and controls, and implement the expert's recommendations.

## **What Should You Do?**

These ASIC actions show that ASIC is focusing on AFS licensees that make available their AFS licence to product issuers by way of CARs. Accordingly, AFS licensees that appoint such authorised representatives should ensure that they review their procedures, risk management systems and resources to ensure they comply with the applicable obligations.

In addition, product issuers that rely on a CAR from an AFS licensee should ensure that their AFS licensee has appropriate procedures and sufficient resources in place as ASIC action against the licensee poses significant risks for the issuer's business.

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