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## A Compliance by portfolio

**In 2005-06, 21 departments and agencies developed regulatory proposals that triggered the Government's RIS requirements. Of these, ten were fully compliant at the decision-making stage.**

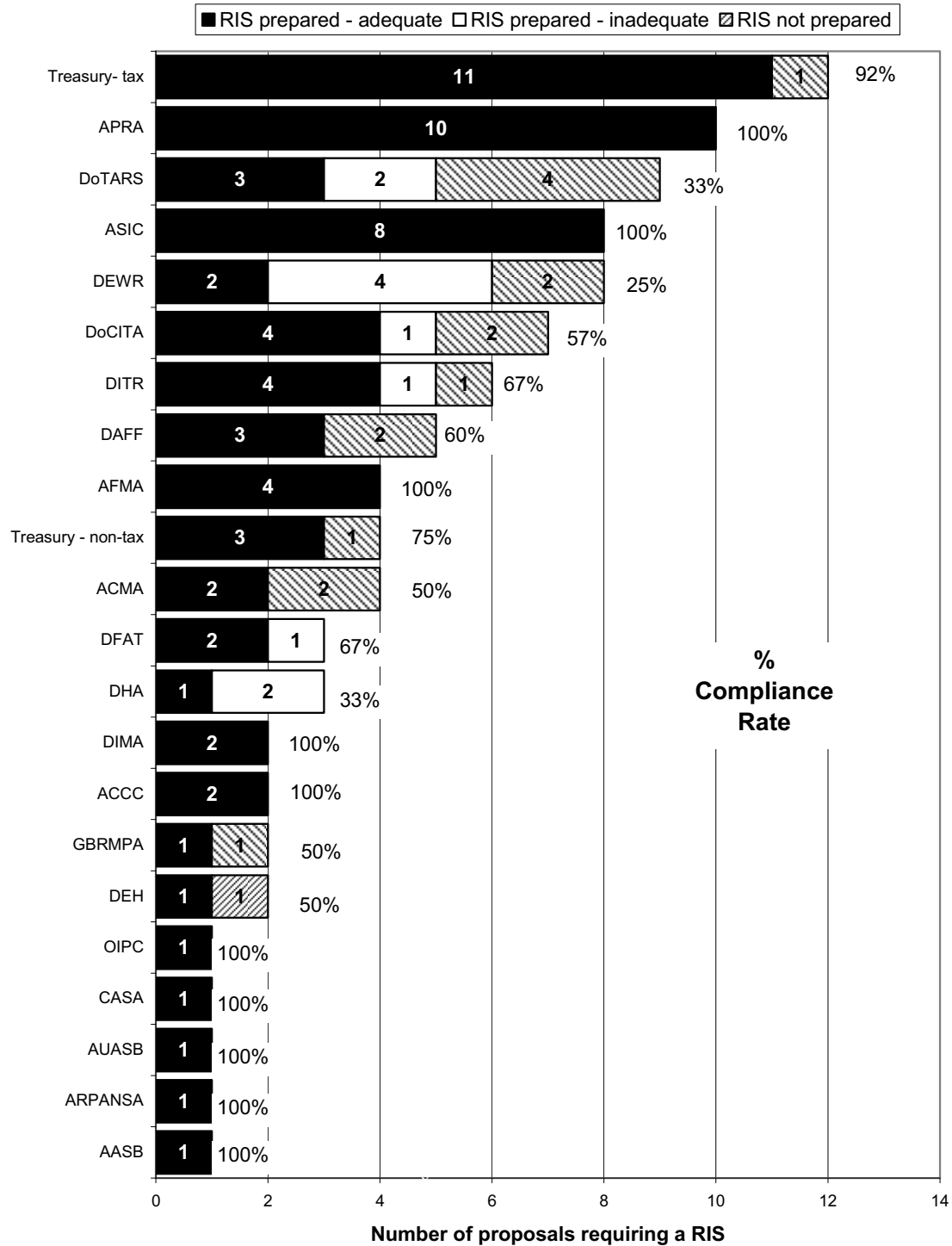
Compliance by departments and agencies with the Australian Government's RIS requirements at the decision-making stage in 2005-06 is illustrated in figure A.1.

- The total length of each bar indicates the number of RISs required to be prepared.
- The area in black denotes RISs that were prepared and assessed as adequate by the ORR.
- The area in white shows the number of RISs that were prepared but assessed as containing an inadequate level of analysis.
- The shaded area shows the RISs that should have been prepared but were not.

The compliance rate for each department and agency, as a percentage of the number of RISs required for that department/agency, is shown at the end of each bar.

Detailed compliance results for departments and agencies follow. A brief description of several significant regulatory proposals is also provided.

**Figure A.1 Compliance with RIS requirements at the decision-making stage, 2005-06 <sup>a</sup>**



<sup>a</sup> When the Government's RIS requirements became mandatory, the Government introduced a modified RIS process for tax proposals. Compliance by the Department of the Treasury is accordingly reported for both tax RISs and non-tax RISs.

Source: ORR estimates.

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## **A.1 Agriculture, Fisheries and Forestry**

The Agriculture, Fisheries and Forestry portfolio includes the Department of Agriculture, Fisheries and Forestry (DAFF) and the Australian Fisheries Management Authority (AFMA).

### **Department of Agriculture, Fisheries and Forestry**

For the five RISs required to be prepared by the Department for legislative instruments in 2005-06, two were assessed by the ORR as inadequate at the decision-making stage, whereas all five were assessed as adequate at the tabling stage, resulting in compliance rates of 60 and 100 per cent respectively.

### **Australian Fisheries Management Authority**

In 2005-06, the Australian Fisheries Management Authority (AFMA) was fully compliant with the Government's RIS requirements for legislative instruments made within the period, preparing four RISs for legislative instruments that were assessed as adequate by the ORR, at both the decision-making and tabling stages.

## **A.2 Communications, Information Technology and the Arts**

Within this portfolio, the Department of Communications, Information Technology (DoCITA) and the Arts and the Australian Communications and Media Authority (ACMA) were required to prepare RISs in 2005-06.

### **Department of Communications, Information Technology and the Arts**

The Department of Communications, Information Technology and the Arts was responsible for preparing seven RISs at the decision-making stage for regulatory proposals introduced in 2005-06. Five RISs were prepared, of which four were assessed as adequate by the ORR. RISs were not prepared, before entry into negotiations, or before signature, for one treaty ratified in 2005-06. Six RISs, all assessed as adequate by the ORR, were tabled in the Parliament.

**Table A.1 DoCITA: RIS compliance by type of regulation, 2005-06**

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>Prepared</i>	<i>adequate</i>
Bills	3/3	2/3	3/3	3/3
Legislative instruments	2/2	2/2	2/2	2/2
Treaties <sup>a</sup>	0/2	0/2	1/1	1/1
<b>Total</b>	<b>5/7</b>	<b>4/7</b>	<b>6/6</b>	<b>6/6</b>
<i>Percentage</i>	<i>71</i>	<i>57</i>	<i>100</i>	<i>100</i>

<sup>a</sup> RISs are required at three stages of the treaty-making process – before entry into negotiations (decision-making stage), before signature (decision-making stage) and before ratification (tabling). In this case, the Department did not contact the ORR until after signature.

Source: ORR estimates.

### Significant matters

In 2005-06, significant matters included the introduction of an ‘operational separation’ regime for Telstra to provide equivalence and transparency of Telstra’s wholesale and retail operations. A RIS was prepared for the decision-making stage, which did not contain a Cost Recovery Impact Statement agreed with the Department of Finance and Administration.

### Australian Communications and Media Authority

The Australian Communications and Media Authority was responsible for preparing RISs for four regulatory proposals introduced via legislative instruments and quasi-regulations in 2005-06. While adequate RISs were prepared for two proposals, RISs were not prepared for the development/registration by the Authority of two industry codes that had a direct impact on business.

**Table A.2 ACMA: RIS compliance by type of regulation, 2005-06**

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Legislative instruments	2/2	2/2	2/2	2/2
Quasi-regulations	0/2	0/2	n/a	n/a
<b>Total</b>	<b>2/4</b>	<b>2/4</b>	<b>2/2</b>	<b>2/2</b>
<i>Percentage</i>	<i>50</i>	<i>50</i>	<i>100</i>	<i>100</i>

n/a - Not applicable. RISs are not required at the tabling stage for proposals introduced via quasi-regulations.

Source: ORR estimates.

## A.3 Employment and Workplace Relations

The Department of Employment and Workplace Relations (DEWR) was required to prepare eight RISs at the decision-making stage in 2005-06. Of these, six were prepared, two of which were assessed as adequate. At the tabling stage, five RISs were required. Four were prepared, of which one was assessed as adequate.

Table A.3 **DEWR: RIS compliance by type of regulation, 2005-06**

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills <sup>a</sup>	4/5	1/5	3/3	1/3
Legislative instruments	1/2	0/2	1/2	0/2
Quasi-regulations	1/1	1/1	n/a	n/a
<b>Total</b>	<b>6/8</b>	<b>2/8</b>	<b>4/5</b>	<b>1/5</b>
<i>Percentage</i>	75	25	80	20

<sup>a</sup> One of the Bills, the Workplace Relations Amendment (Workchoices) Bill 2005, involved three major decision points each of which was assessed as requiring a RIS. This Bill is discussed below.

n/a - Not applicable. RISs are not required at the tabling stage for proposals introduced via quasi-regulations.

Source: ORR estimates.

### Significant matters

Among significant matters in 2005-06, was the Workplace Relations Amendment (Workchoices) Bill 2005 (passed in 2005). This involved fundamental changes to the workplace relations system in Australia. Changes included using the corporations power to introduce, as far as possible, a unified national workplace relations system; establishing the Australian Fair Pay Commission (AFPC) to set minimum wages; establishing a set of minimum conditions which, along with the wages set by the AFPC, replace awards as the basis for the 'no disadvantage test' in agreement making; and further restricting allowable matters in awards. The development of the Workchoices reforms was a multi-staged decision-making process, with RISs required at three significant decision points, as well as at tabling of the legislation. RISs were prepared at two decision points and at tabling, but a RIS was not prepared at the third decision point. Overall, the level of cost-benefit and other analysis in the RISs was not considered commensurate with the magnitude of the impacts of the regulatory reforms.

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## A.4 Environment and Heritage

Within the Environment and Heritage portfolio, the Department of the Environment and Heritage (DEH) and the Great Barrier Reef Marine Park Authority (GBRMPA) were required to prepare RISs in 2005-06.

### Department of the Environment and Heritage

The Department of the Environment and Heritage was required to prepare RISs for two proposals. An adequate RIS was prepared for the decision-making stage for one proposal, although it was not tabled. An adequate RIS was prepared at the tabling stage for the other proposal.

Table A.4 DEH: RIS compliance by type of regulation, 2005-06

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills	0/1	0/1	1/1	1/1
Legislative instruments <sup>a</sup>	1/1	1/1	0/1	0/1
<b>Total</b>	<b>1/2</b>	<b>1/2</b>	<b>1/2</b>	<b>1/2</b>
<i>Percentage</i>	<i>50</i>	<i>50</i>	<i>50</i>	<i>50</i>

<sup>a</sup> While a RIS was prepared at the decision-making stage for the Environment Protection and Biodiversity Conservation Amendment Regulations 2005 (No. 2), a RIS was not included in the Explanatory Statement at the tabling stage.

Source: ORR estimates.

### Great Barrier Reef Marine Park Authority

The Great Barrier Reef Marine Park Authority was required to prepare RISs for two proposed legislative instruments. Only one RIS was prepared and assessed as adequate at the decision-making stage. At the tabling stage, RISs for both proposals were assessed as adequate.

## A.5 Foreign Affairs and Trade

The Department of Foreign Affairs and Trade (DFAT) was responsible for preparing RISs for one Bill and one treaty during 2005-06. The RIS for the Bill was assessed as adequate at the decision-making and tabling stages. For the treaty-making process, the Department prepared a RIS that was assessed as adequate at

entry into negotiations but the RISs for the signing and ratification stages were assessed as inadequate.

**Table A.5 DFAT: RIS compliance by type of regulation, 2005-06**

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills	1/1	1/1	1/1	1/1
Treaties <sup>a</sup>	2/2	1/2	1/1	0/1
<b>Total</b>	<b>3/3</b>	<b>2/3</b>	<b>2/2</b>	<b>1/2</b>
<i>Percentage</i>	<i>100</i>	<i>67</i>	<i>100</i>	<i>50</i>

<sup>a</sup> RISs are required at three stages of the treaty-making process – before entry into negotiations (decision-making stage), before signature (decision-making stage) and before ratification (tabling).

Source: ORR estimates.

## **A.6 Health and Ageing**

Within this portfolio, the Department of Health and Ageing and the Australian Radiation Protection and Nuclear Safety Agency were required to prepare RISs in 2005-06.

### **Department of Health and Ageing**

The Department of Health and Ageing (DHA) was required to prepare three RISs at the decision-making stage in 2005-06 for three proposed bills. Of these, three were prepared and one was assessed as adequate by the ORR. Three RISs were required at tabling, two of which were assessed as adequate by the ORR.

#### **Significant matters**

The ‘Fourth Community Pharmacy Agreement – Location Rules’ proposed a limited easing of the pharmacy location rules while retaining the key elements of the existing rules. The ORR considered the RIS at the decision-making stage was inadequate as it did not demonstrate that the proposal, which restricted competition, provided net benefits to the community and that the proposed restrictions were the only way to meet the Government’s objectives. The ORR considered the RIS at the tabling stage to be inadequate for the same reasons.

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## **Australian Radiation Protection and Nuclear Safety Agency**

In 2005-06, the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) was fully compliant with the Government's RIS requirements for legislative instruments made within the period, preparing one RIS that was assessed as adequate by the ORR, at both the decision-making and tabling stages.

### **A.7 Immigration and Multicultural Affairs**

The Department of Immigration and Multicultural Affairs (DIMA) was required to prepare two RISs for two proposed legislative instruments during 2005-06. For both proposals, adequate RISs were prepared at the decision-making and tabling stages.

### **A.8 Industry, Tourism and Resources**

In 2005-06, the Department of Industry, Tourism and Resources (DITR) was required to prepare six RISs at the decision-making stage for proposed bills. Five RISs were prepared and four were assessed as adequate. Five RISs were required to be prepared at the tabling stage. Of the five prepared by the Department, four were assessed as adequate.

#### **Significant matters**

In 2005-06, significant matters included the proposal to repeal the *Petroleum Retail Marketing Sites Act 1980* and the *Petroleum Retail Marketing Franchise Act 1980*. The repeal of these two Acts was introduced in the *Petroleum Retail Legislation Repeal Bill 2006*, which forms part of the Government's Downstream Petroleum Reform Package (the reform package). As part of this reform package, a mandatory industry code, to be known as the Oilcode, will also be introduced under Section 51 AE of the *Trade Practices Act 1974*.

The RIS prepared for the reform package at the decision-making stage was assessed as inadequate. The RIS did not adequately demonstrate the existence and/or magnitude of the problem and the objectives were not adequately specified. The impact analysis section failed to adequately analyse the costs and benefits of the proposal and suffered from a lack of quantitative information (for example, data on the regulatory compliance costs for the implementation of the Oilcode were not included in the RIS for refiner/marketers, importer/marketers or small businesses). It was not clear from the RIS how the community as a whole would benefit from the Oilcode.

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## **A.9 Prime Minister and Cabinet**

Within the portfolio of the Prime Minister and Cabinet, the Office of Indigenous Policy Co-ordination (OIPC) was required to prepare a RIS in 2005-06.

### **Office of Indigenous Policy Co-ordination**

The Office of Indigenous Policy Co-ordination was fully compliant with the Government's RIS requirements in 2005-06, preparing one RIS at the decision-making stage for one proposal for a legislative instrument. The RIS was assessed as adequate by the ORR, and was tabled in the Parliament.

## **A.10 Transport and Regional Services**

Within the Transport and Regional Services portfolio, the Department of Transport and Regional Services (DoTARS) and the Civil Aviation Safety Authority (CASA) were required to prepare RISs in 2005-06.

### **Department of Transport and Regional Services**

The Department of Transport and Regional Services was required to prepare RISs for nine regulatory proposals at the decision-making stage in 2005-06. Five RISs were prepared, of which three were assessed as adequate. At the tabling stage, of the eight RISs required, the Department prepared five RISs and four were assessed as adequate.

The Department was responsible for preparing two RISs for two treaties. For one of the treaties, the entry into negotiations stage occurred prior to the introduction of the RIS requirements and therefore RISs were only required for the latter two stages. Of the three RISs required at the decision-making stage, one was prepared and assessed as adequate. At the tabling stage, the Department was fully compliant.

Table A.6 **DoTARS: RIS compliance by type of regulation, 2005-06**

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills	2/2	0/2	1/2	0/2
Legislative instruments	2/4	2/4	2/4	2/4
Treaties <sup>a</sup>	1/3	1/3	2/2	2/2
<b>Total</b>	<b>5/9</b>	<b>3/9</b>	<b>5/8</b>	<b>4/8</b>
<i>Percentage</i>	<i>56</i>	<i>33</i>	<i>63</i>	<i>50</i>

<sup>a</sup> RISs are required at three stages of the treaty-making process – before entry into negotiations (decision-making stage), before signature (decision-making stage) and before ratification (tabling). The entry into negotiations stage for one of the RISs occurred prior to the introduction of the RIS requirements.

Source: ORR estimates.

### Significant matters

In 2005-06, significant matters included increasing security measures for air cargo on passenger transport aircraft which were introduced in the *Aviation Transport Security Amendment Bill 2006*. The Department prepared a RIS at the decision-making stage, which was assessed as inadequate. The RIS did not provide a convincing case that increased air cargo security on international passenger transport aircraft provided a net benefit to the community. The RIS did not define the problem adequately, did not provide a rigorous risk analysis, and did not provide sufficient information on the costs (including compliance costs) and benefits of the various regulatory options. A RIS for this matter was not tabled with the Bill.<sup>1</sup>

### Civil Aviation Safety Authority

In 2005-06, the Civil Aviation Safety Authority was required to prepare one RIS at the decision-making and tabling stages. The RIS was assessed as adequate at both stages.

## A.11 Treasury

Within the Treasury portfolio, the Department of the Treasury, the Auditing and Assurance Standards Board (AUASB), the Australian Accounting Standards Board (AASB), the Australian Competition and Consumer Commission (ACCC), the

<sup>1</sup> The RIS that was tabled with this Bill was for a proposal to create two separate classes of cargo businesses: regulated air cargo agents; and accredited air cargo agents. This proposal has been separately reported in the Department's compliance figures.

Australian Prudential Regulation Authority (APRA) and the Australian Securities and Investments Commission (ASIC) were responsible for preparing RISs during 2005-06. The Department was required to prepare RISs for both tax and non-tax proposals. Tax and non-tax proposals are reported separately here as tax RISs are subject to slightly different requirements.

### Department of the Treasury (non-tax proposals)

In 2005-06, the Treasury was required to prepare two RISs for non-tax proposals introduced via legislative instruments at both the decision-making stage and the tabling stage. Both RISs were assessed as adequate against the Government's requirements. In addition, one proposal involved a treaty. In this case a RIS was not prepared at the entry into negotiations stage in 2001. However, an adequate RIS was prepared for the signing and ratification stages.

Table A.7 **Treasury (non-tax): RIS compliance by type of regulation, 2005-06**

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Legislative instruments	2/2	2/2	2/2	2/2
Treaties <sup>a</sup>	1/2	1/2	1/1	1/1
<b>Total</b>	<b>3/4</b>	<b>3/4</b>	<b>3/3</b>	<b>3/3</b>
<i>Percentage</i>	75	75	100	100

<sup>a</sup> RISs are required at three stages of the treaty-making process – before entry into negotiations (decision-making stage), before signature (decision-making stage) and before ratification (tabling). In this case a RIS was prepared for only the second of the two decision-making stages.

Source: ORR estimates.

### Department of the Treasury (tax proposals)

Tax proposals are subject to separate RIS requirements. These requirements take the policy as given and focus on identifying administrative options for implementation that maximise effectiveness and minimise compliance burdens. The Treasury was required to prepare 12 RISs for tax proposals at the decision-making stage and the tabling stage in 2005-06. For the decision-making stage, RISs assessed as adequate by the ORR were prepared in 11 cases. In the case of non-compliance at the decision-making stage, part of the proposal was considered to be minor or machinery in nature, therefore not requiring a RIS. However, the Treasury's public consultation process prompted changes to the nature and significance of the

proposal and, consequently, broadened the requirements for a RIS. Adequate RISs were prepared for all 12 proposals at the tabling stage.

**Table A.8 Treasury (tax): RIS compliance by type of regulation, 2005-06**

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills	9/10	9/10	10/10	10/10
Legislative instruments	2/2	2/2	2/2	2/2
<b>Total</b>	<b>11/12</b>	<b>11/12</b>	<b>12/12</b>	<b>12/12</b>
<i>Percentage</i>	92	92	100	100

Source: ORR estimates.

### **Auditing and Assurance Standards Board**

In accordance with a Strategic Direction from the Financial Reporting Council, the Auditing and Assurance Standards Board developed a package of 35 auditing standards for the purposes of the *Corporations Act 2001*. A RIS was prepared, and assessed as adequate by the ORR at the decision-making stage for the package of standards, and was made publicly available on the Board's website.

### **Australian Accounting Standards Board**

The Australian Accounting Standards Board was fully compliant with the Government's RIS requirements in 2005-06, preparing one RIS at the decision-making stage for one proposal introduced via a legislative instrument. The RIS was assessed as adequate by the ORR, and was tabled in the Parliament.

### **Australian Competition and Consumer Commission**

The Australian Competition and Consumer Commission was required to prepare RISs for two regulatory proposals in 2005-06 in respect of legislative instruments. Both RISs were assessed as adequate at the decision-making and tabling stages.

### **Australian Prudential Regulation Authority**

The Australian Prudential Regulation Authority was assessed to be fully compliant with the Australian Government's RIS requirements for regulatory proposals

involving legislative instruments. APRA prepared 10 RISs, each of which was assessed as adequate for the decision-making stage and the tabling stage.

### **Australian Securities and Investments Commission**

The Australian Securities and Investments Commission was assessed to be fully compliant with the Australian Government's RIS requirements in 2005-06. ASIC finalised eight regulatory proposals for which RISs were required at the decision-making stage, all of which were assessed as adequate. The RISs prepared for each proposal were also tabled with the relevant legislative instruments in six cases. In one other case, the RIS was not tabled with the legislative instrument but was published on the ASIC website. The remaining proposal was introduced by way of an ASIC Policy Statement, which has been classified as quasi-regulation but is not required to be tabled. A RIS for that proposal was also published on the ASIC website, in line with regulatory best practice.

**Table A.9 ASIC: RIS compliance by type of regulation, 2005-06**

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Legislative instruments	7/7	7/7	7/7	7/7
Quasi-regulations	1/1	1/1	n/a	n/a
<b>Total</b>	<b>8/8</b>	<b>8/8</b>	<b>7/7</b>	<b>7/7</b>
<i>Percentage</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>

n/a - Not applicable. RISs are not required at the tabling stage for proposals introduced via quasi-regulations.

Source: ORR estimates.