Appendix 6

(Ref: Para.19(b))

CASH AND ASSURANCE REQUIREMENTS UNDER PF 209

This appendix summarises the cash and assurance requirements, that are detailed in ASIC PF 209, for Licensees that are not regulated by APRA or are not market or clearing participants and are not subject to tailored cash and assurance requirements as outlined in Appendix 4 and 5. Licensees that are not APRA regulated or market participants are also subject to the requirements for reasonable assurance in respect of other relevant financial conditions on their licence which may be applicable based on the nature of their business. This appendix may not be a complete summary of all legislative requirements. Practitioners are advised to refer to the current legislation and ASIC Regulatory Guides in place.

1. If the licensee is relying on satisfying the cash needs requirement by Option 1 or Option 2, then ASIC requires the following:

   (a) Reasonable assurance that the licensee had at all times a projection (covering at least the following three months) that purports to, and appears on its face to comply with, paragraph (a) of the definition of Option 1 or paragraph (a) of the definition of Option 2 (depending on which option the licensee purports to be complying with);

   (b) Reasonable assurance that the licensee has correctly calculated the projections on the basis of the assumptions the licensee adopted for the projections described above;

   (c) Limited assurance that the licensee is managing the risk of having insufficient financial resources to comply with the conditions of the licence;

   (d) Limited assurance over the cash needs requirement using either Option 1 or Option 2 except for paragraphs (a), (c) and (e) of the definition of Option 1 or paragraphs (a) and (c) of the definition of Option 2;

   (e) If the licensee relied on Option 1, limited assurance that the assumptions the licensee adopted for its projection were not unreasonable; and

   (f) If the licensee relied on Option 2, limited assurance that the basis for the selection of assumptions to meet the requirements for the projection adopted was not unreasonable.

2. If the Licensee is relying on satisfying the cash needs requirement with a financial commitment by an Australian ADI or comparable foreign institution under Option 3 of PF 209, then ASIC requires:

   (a) Reasonable assurance that the Licensee has obtained from an Australian ADI or a foreign deposit-taking institution approved in writing by ASIC as an eligible provider an enforceable and unqualified commitment to pay on demand from time to time an unlimited amount to the Licensee, or the amount for which the Licensee is liable to its creditors at the time of demand to the Licensee's creditors or a trustee for the Licensee's creditors;

   (b) Limited assurance that the Licensee is managing the risk of having insufficient financial resources to comply with the conditions of the licence;

   (c) Limited assurance that the basis for the selection of the assumptions adopted was not unreasonable.

3. If the Licensee is relying on satisfying the cash needs requirement by relying on licence condition 13(c)(iv) under Option 4 of PF 209, then ASIC requires:

(a) Reasonable assurance that the Licensee is a subsidiary of an Australian ADI or a corporation approved by ASIC in writing;

(b) Reasonable assurance that a responsible officer of the Licensee has documented that the officer has the reasonable expectation for at least the following three month period together with the reasons for forming the expectation, the contingencies for which the Licensee considers it is reasonable to plan, the assumptions made concerning the contingencies and the basis for selecting those assumptions;

(c) Limited assurance that the Licensee is managing the risk of having insufficient financial resources to comply with the conditions of the licence;

(d) Limited assurance that the basis for the selection of the assumptions adopted was not unreasonable.

(i) If the Licensee is relying on satisfying the cash needs requirement by relying on licence condition 13(c)(v) (Option 5), then ASIC requires:

(a) Reasonable assurance that the cash flows of the Licensee and each of its related bodies corporate, other than a body regulated by APRA ("Licensee group"), are managed on a consolidated basis and there is a body corporate within the Licensee group of which all members of the Licensee group are subsidiaries that is not a body regulated by APRA ("parent entity");

(b) If the Licensee is relying on Alternative A, reasonable assurance that the parent entity has provided an enforceable and unqualified commitment to pay on demand from time to time an unlimited amount to the Licensee or to meet the Licensee's liabilities;

(c) If the Licensee is relying on Alternative B:

(i) Limited assurance that the Licensee is managing the risk of having insufficient financial resources to comply with the conditions of the licence; and

(ii) Limited assurance that the basis for the selection of the assumptions adopted was not unreasonable; and

(d) Under subparagraph 13(c)(v)(D), a report by the parent entity's auditor to be given to ASIC with the Licensee's annual audit report under condition 28 of its licence, with respect to compliance by the parent entity with Option 1 or Option 2 as they would apply in accordance with subparagraph (c) reflecting the report that would be required from the auditor of a Licensee, for that period purporting to comply with Option 1 or 2.