

TREASURY/ASIC MEETING
9.30AM, 8 AUGUST 2014
SYDNEY

Outcomes of meeting

1. Report on the performance of ASIC
 - ASIC was working through the inquiry recommendations, categorising them into
 - a) Premise good but actual recommendation not well targeted
 - b) Can introduce without any modification
 - c) Would require further resources.
 - Treasury set out the current indicative timeline and the likelihood of having a final government response by 25 September.
 - ASIC is appearing before the PJC on 5 September and wanted to ensure they were clear on what they could say at that point in time. **Action required.**
2. FSI interim report
 - ASIC is doing a second submission. They were doing some thinking about what was beyond disclosure and how one might focus more on products in an efficient and effective way. They indicated a desire to discuss options with Treasury before Sub is finalised. **Action required.**
 - ASIC were also going to engage with the CPR given public statements by the chair (Harper).
3. Deregulation
4. Scoping study of the ASIC registry business
5. User pays/cost recovery model
6. Future of Financial Advice (FOFA) update
7. G20 meeting
8. Auditors registration

9. Strategic outlook
10. Financial Adviser regulation/enforcement and Enforcement Special Account (ESA) funding
 - ASIC explained their intention. Treasury indicated support. They would like this resolved if possible prior to 5 September. **Action required.**
11. CALDB appointments
12. Superannuation fund financial reporting and audit

Other

On Friday ASIC were releasing the CBA license conditions and a class order regarding the wholesale/retail distinction for SMSF trustees (clarifying the 2.5m vs 10m threshold).

s 22

From: s 22
Sent: Tuesday, 1 March 2016 8:59 AM
To: MG Financial System Division
Cc: Beckett, Ian; s 22
Subject: Notes from ASIC/T Liaison [SEC=UNCLASSIFIED]
Attachments: 160226 ASIC-Treasury Liaison Meeting.docx

All,

Find attached notes of last Thursday's ASIC-Treasury liaison meeting.

Sentences in red indicate action items for either ASIC or Treasury - so if you are responsible for one of the topics on the agenda, you should read the relevant notes.

s 22

Manager – Corporations and Schemes Unit
Financial System Division
The Treasury, Langton Crescent, Parkes ACT 2600
phone: +61 (0)2 s 22
fax: +61 (0)2 6263 2770
email: s 22 [@treasury.gov.au](mailto:s 22@treasury.gov.au)

ASIC-TREASURY LIAISON MEETING - SYDNEY
Thursday, 25 February 2016 3:00pm - 5:00pm
Meeting Notes

1. ASIC capability review

A short overview of the status of the capability review was given.

ASIC is settling detail on how it may increase its strategic focus and will provide to Treasury shortly.

It was noted that timing of next steps was tied with user pays - with both being pushed back to April/early May.

It was noted how it was needed to be considered in the context of a number of other moving parts, such as ASIC registry.

User pays was discussed. Treasury, with ASIC input, was still refining the model and resolving issues. A decision may be made in the Budget, or possibly afterwards.

Treasury undertook to clarify how the measure is treated in the Budget.

2. FSI Implementation

2.1 Timing and priorities

2.2 Collaboration on CIPR

2.3 Development of revised Statements of Expectation

A high level overview of the progress of FSI implementation was given.

The impact on scheduling due to other government priorities was discussed: particularly fintech and professional standards and their potential impact on other items such as product intervention/distribution regulation.

ASIC raised the interconnections between intervention/distribution and the fintech work. The Capability Review recommendation regarding rewriting the Corporations Act was discussed - that better law would support fintech and innovation; and that powers such as product intervention powers could support more principle based and less prescriptive law.

CIPR: Treasury gave an overview on progress and what would be covered by the discussion paper due by mid-year.

ASIC will come back to Treasury with contacts/a coordinator for seeking assistance in putting together the paper.

ASIC noted that this paper was a good case for having a behavioural economics overlay. There was some discussion on the relevance of cognitive decline in seniors. Treasury noted this had come up in the context of financial advice and superannuation work.

ASIC is to send a Flinders University research paper on cognitive decline.

The interconnections between the enforcement review and the product intervention powers work was noted.

Statement of Expectations: ASIC noted that care was needed to ensure that regulator independence was not infringed, including anything that resulted in a bad FSAP review against the principle of securities regulator independence.

ASIC to come back with its position and response to the Capability Review findings on a statement of expectations.

Treasury could engage with ASIC on this through Andrew Fawcett.

There was a need for consistency on some aspects with APRA, PSB and other regulators, but tailored to ASIC on others. Treasury will ensure a meeting between regulators as part of the process (in April), but ASIC will also have bilateral discussions.

Treasury will come back to ASIC in April with a first draft for comment.

3. Financial advice reforms: Process

3.1 Professional standards

3.2 Life insurance

The inclination of the Government to have a new government body to set professional standards for financial advisers was discussed.

The resourcing requirements of a government body were discussed, including the different demands during implementation versus ongoing, and whether it was standalone or collocated with another agency.

The diversity of affected stakeholders in relation to professional standards was discussed, in particular in respect of the impact of this on: obtaining and maintaining consensus on positions and the suitability of an industry led body/solution.

The ability of the industry to self-organise was discussed.

ASIC noted that the trust deficit in relation to financial advisors was so large that this might support a government body as opposed to an industry body.

Life Insurance funding was discussed. ASIC is proceeding with a minimal approach to their review at this time.

Some negative feedback from consumers has already been received regarding the private sector Code being developed by the FSC. ASIC is going to write to the FSC regarding the areas that may need further work.

Update on progress of legislation given.

There may be a 4Corners story in first week march regarding poor conduct in insurance industry claims space (as opposed to sales or commissions).

ASIC will issue a report shortly on insurance sales through car yards - they had seen evidence of less than ideal consumer outcomes.

There was a discussion on organisational culture, the possible role of the ABA in making admissions etc regarding there being a problem, but also the role of individual organisations also admitting a problem. ASIC noted that a number of organisations were doing so.

The APRA Governance and Culture Unit was discussed; the different role they play (more internal less client facing) and that ASIC worked with and shared information with them.

4. Innovation

Treasury noted the risks from housing arising from 'innovation' (as an example) and noted that there was a question as to what is meant by innovation/fintech.

ASIC advised that industries response to the innovation hub was positive.

ASIC advised that it was already doing what the FSA is proposing. Trevor Power has already been provided by ASIC with a comparative table.

The timing of ASIC issuing its robo advice and marketplace guidance was discussed. **Trevor will check and respond to ASIC regarding apparent mixed messages regarding if ASIC should proceed now.**

ASIC advised that the PJC impaired loan inquiry had sought ASIC secondees to look at cases. ASIC declined but offered to look at anything referred to it.

The "too small to care too big to ignore" approach to regulation was mentioned. ASIC exploring whether it could relieve requirements for new players but concerns regarding creating unlevel playing fields was noted.

CSEF: Pty inclusion was the next step in work, but ASIC noted that considering an extension to debt raising was more important.

Use of client money to fund social impact bonds in UK was discussed, together with impact on Government decisions on this possibility locally.

Treasury is to send around a paper on the ratings of countries' supportiveness for innovation. Australia was rated 6 out of 7, but the paper indicates that regulation is not the main concern.

ASIC will share information on corporate governance of mutuals in US.

5. ASIC industry funding model

ASIC reiterated their position on excluded activities from the funding model, particularly they wanted ESA and financial literacy in the industry funding portion.

6. Registry separation

The status of the process was summarised.

Noted that an issue was whether we wanted a one stop shop in government verses out of government.

ASIC noted that the work they had done on in-government options was based on previous work (such as as part of the commercialisation work) in order to support its defensibility.

ASIC noted the risks of technology becoming redundant, noting blockchain.

ASIC noted that further work by them was unfunded, and that this would impact on work such as reviewing law reforms. **Treasury would seek to have this addressed as part of the decision making process.**

Noted that postage increases alone may add \$700,000 to ASIC costs. Noted that ASIC options assume law reforms on both lodgement and notification processes to support electronic communication. Treasury confirmed that all options are looking to include law reforms.

7. Other items

7.1 Client monies

7.2 Financial Market Infrastructure: Developments: Delegation by Minister to ASIC, Competition in Clearing Announcements, Market reforms.

Overview of progress of client money reforms given.

Overview of progress on delegations given. It was noted that this is likely to be an iterative process to finalising the framework to support delegations.

Competition in equities clearing. This remains with the Government.

Examination of ASX blockchain proposals continuing. Comment was made that any system would need to be 'competition enabled'.

Discussion of signing options for Asian Funds Passport in light of possible funding outcomes. **Treasury would come back with information on who could sign and timings.**

ASIC raised market licensing regime. It was noted that the CSEF bill had gone some way to addressing concerns and what further to do would be a function of other reform processes.

Attendees

ASIC:

Greg Medcraft
Peter Kell
John Price (VC)
Greg Tanzer
Greg Kirk
Andrew Fawcett
Amber Rowland
Sophie Waller (VC)
Allan Worsley

Treasury:

John Lonsdale
Meghan Quinn
Ian Beckett (by phone)

s 22

ASIC-TREASURY LIAISON MEETING

ASIC, 100 MARKET STREET, SYDNEY

Friday, 7 July 2017

9.00am – 11.20am

Meeting Summary

Attendees:

ASIC:

Greg Medcraft
Cathie Armour (by phone)
Peter Kell
John Price (by videolink)
Greg Kirk

Treasury:

John Lonsdale
Kate Mills
Kate Phipps

1. *Significant and other legislative items (Treasury)*

1.1. Budget measures – status and timing

Treasury provided update to ASIC, noting major budget measures as:

- Bank levy: legislation has passed Senate; and
- Bank package: SPRING T 2017 status - includes BEAR, crisis management, and will address definition of “bank” and clarify APRA’s powers

Discussion ensued as to “bank” definition – whether should be wide or narrow. Included discussion of nexus between “bank” and policy of not allowing banks to fail as basis for retaining narrower definition.

ASIC queried overlap between BEAR and ASIC enforcement review. Treasury affirmed internal teams were taking a co-ordinated approach to each to ensure best policy outcome and maintenance of twin peaks regulatory model.

ASIC identified concerns about perceived unwillingness of front-line APRA staff to share information with ASIC about misconduct because of concerns of damage to APRA-ADI relationships, though noted the level of sharing had improved recently. Treasury affirmed it is aware of issue of information sharing between each and would be looking at this in the policy and legislative design process.

1.2. Product Intervention Power

Treasury noted PIP and related product design/distributor obligations on track with exposure draft expected late this year for Winter T 2018 introduction.

General discussion ensued as to scope of power, range of interventions ASIC may make with power and timeframe of any bans. Treasury noted original intention and concerns raised by stakeholders that it be narrow in compass, used in exceptional circumstances, and as a temporary measure.

ASIC affirmed seeking, conversely:

- broad scope (coverage of products which are source of consumer detriment that do not fall easily within existing statutory definitions of financial product eg. funeral insurance, warranties or are only covered under the ASIC Act and not the Corporations Act – ASIC perception is that the former products are worse from a consumer perspective and that constraining the PIP to financial products under the Corps Act will cause some licensees to shift sales focus to these worse products),
- ability to intervene in diverse areas including remuneration of financial advisers (ASIC perception is that products are ok but inappropriate for classes of consumers because adviser remuneration geared to sales rather than suitability of product), and
- longer timeframe for interventions or ability to extend (ASIC perception is that 18 months is too short, especially if Government promising to legislate to address issue and legislative or political agenda is hijacked).

Discussion ensued as to potential legislative design or other solutions to meet ASIC concerns, including whether ability to intervene in broader class of matters such as remuneration might be considered separately by the ASIC Enforcement Review Taskforce (it is considering an ASIC request for a licensee directions power), given ASIC's concern is not the product but who it is spruiked to. ASIC demurred on basis that the directions power sought is narrow ie licensee focused, not institutional or systemic (though in principle there is no reason why the ASIC ERT need confined itself so narrowly in assessing need for such a power). Possibility of ASIC making more use of class orders was discussed in this context and in the context of how best to deal with the limited timeframe if ASIC seeking an extension. ASIC acknowledged it has broad, flexible CO powers and that although its COs are disallowable legislative instruments, Parliament has rarely, if ever, disallowed them. The alternative discussed was whether the PIP design could confer a right on ASIC to extend bans but subject to second review right on affected licensees to appeal against any extension. ASIC agreed both might be workable. It was also noted that its existing CO powers while extensive do not cover the whole of the Corps Act and it has no CO powers under its own Act, so there would be a gap unless the PIP confers a specific CO power upon ASIC.

ASIC affirmed it would use power sparingly and as part of a graduated approach to resolving issues with licensees, in keeping, apparently, with ASIC's current approach to enforcement generally (It is probable however that industry will look to see this is codified in conditions on the exercise of the power as ASIC's

enforcement approach generally was identified in the ASIC capability review as key expectations mismatch).

ASIC agreed to provide empirical evidence in support of its bid to broaden PIP and formal confirmation that it would be used peremptorily in urgent cases only where substantial consumer detriment was imminent/occurring, and otherwise as part of a graduated enforcement approach.

1.3. Implementation of ASIC Industry Funding – next steps

Discussion centred on 2017 data collection issue. ASIC indicated it was possible to voluntarily seek from industry data needed to issue more reliable levy calculations to limit “sticker shock” (industry complaints that actual levies radically vary from earlier estimates provided by ASIC on older data). ASIC remains concerned that industry will not volunteer data but agreed that the voluntary approach would limit the ability of industry to complain it wasn’t given a chance to provide newer data for levy calculations to improve accuracy.

2. *Update on legislative priorities (not otherwise discussed) (Treasury)*

Treasury updated ASIC on legislative priorities and timing in relation to bills of specific interest to ASIC, namely:

- › Banking Pack: Spring T 2017
- › Phoenixing: at policy design stage
- › Ramsay EDR: Spring T 2017
- › CCIVs/ARFP: Spring A 2017 (slipped from Spring T due to sheer complexity of drafting)
- › Sandbox: Spring T 2017
- › PIP: Winter T 2018
- › Remove ASIC from PSA: no date – likely 2019 unless external drafting resources provide opportunity to introduce in 2018
- › Competition mandate: as for PSA removal

In context of latter two, Treasury noted it and OPC had been given additional funding to deal with huge legislative drafting schedule, which included using external law firms (eg. HSF/KWM) to draft legislation to expedite finalisation and introduction of bills. Treasury noted it is in discussions with OPC about this and experimenting with low risk legislation (ie simple, without tentacles everywhere such as the PSA removal and competition mandate), to see how effective the use of external firms may be.

3. *Significant items (ASIC)*

3.1. Implementation of the Ramsay EDR review recommendations

Brief discussion of status of the Review. ASIC noted concerns with transitional issues for existing EDR clearing complaint/claims while in run-off mode without sufficient staff (staff expected to seek to move to AFCA) and funding. ASIC noted that ASIC industry funding could be used to assist clearance rates to smooth transition and allay industry/consumer concerns. Treasury noted ASIC concerns and expectation that once approach to transition and funding is communicated, these concerns should be addressed.

3.2. Public Audit Inspection Report (for the 18 months to 31 December 2016)

ASIC reported upon findings of its rolling program of assessing the quality of company audit reviews – approximately 50% were found to contain significant deficiencies which was an increase since its last review but broadly in line with overseas experience. Key issues emerged in respect of:

- › the treatment of asset impairments,
- › recognition of revenue,
- › the culture of audit firms (lack of professional scepticism because companies pay auditors, audits seen as loss leading within firms and not high profile enough to attract top talent at all or for very long, and focus of partners on bringing in new business so not undertaking quality assurance role in audits), and
- › lack of evidence/testing of results – a trend made worse by increasing globalisation of company businesses and corresponding increased reliance upon offshore checks which can be of widely varying quality)

ASIC noted the international efforts to address audit quality and co-operative stance of large accounting firms which have committed to improve quality and to reduce the 50% deficiency to 25% by 2019, but privately considers this timeline unrealistic.

Perceived reasons for decline in audit quality are cultural (see above) and primarily the lack of auditor independence because companies pay auditors. ASIC's view is that existing statutory independence requirements have not assisted because firms don't value audit work and audit firm rotations don't work because in large, diverse enterprises incoming auditors have huge company learning curve so it can take years before they have the sophistication to know and willingness to challenge company account presentations effectively.

ASIC does not consider Australia can take a unilateral approach to this as it's an international issue and needs to be solved at that level. It does not believe the issue can be solved without establishing an independent body to appoint auditors and on-charge audit costs to clients so the nexus between auditors and client payment is broken. ASIC also noted that audit partner rotation rather than

firm rotation as currently mandated by law, may also assist, as may the advent of artificial intelligence – AI is being used in some areas now and is superior because it can review 100% of the particular accounting entries and underlying data rather than the sampling approach currently used in most audits.

3.3. Updates from ASIC:

3.3.1. ASIC's Ageing Population Project – Area of increasing focus for ASIC
Particular concern about aged care advice given by aged care providers due to conflicting interests inherent in this. ASIC expects to release a report later this year.

3.3.2. Wealth Management Project – ASIC provided an update on adviser compliance workstream (this involved the 4 big retail banks and AMP and found there were serious compliance issues with at least 170 advisers only about half of which had been the subject of s.912D Corps Act breach reports to ASIC), the My Super action against Westpac (and likely a couple of other banks to follow), the fees for service workstream and conflict of interest management in large entities – both of the latter will be the subject of reports later this year.

ASIC noted it is also working on a narrative plan that will enable it to say (on completion of above activities) that it has dealt with past misconduct of large institutions via a combination of enforcement action (bans, reforms within institutions and compensation for consumers), and Government legislative reforms (FOFA, professional standards, PIP etc) so can now focus on looking forward.

ASIC noted it cannot exclude the risk of a major collapse of large fin service provider scandal occurring that could reignite calls for a Royal Commission, but it can show it has taken decisive action to deal with cultural issues in tandem with Government reforms.

There was also discussion in this context about the issue of vertical integration but acknowledgement that FOFA has had the positive effect of forcing banks to be competitive in relation to products and pricing so that although there was still a lot of emphasis among the big 5 (banks and AMP) on product switching, customers are probably not worse off as the products they are being switched into are comparable. The main lingering issue ASIC perceives in this area is with back book repricing out of cycle and the adverse impact this is having on consumers. ASIC has raised this concern with the Productivity Commission.

3.3.3. Competition – no update provided

4. Strategic Policy discussion (Treasury/ASIC)

Discussion focused on the BBSW actions against 3 of the 4 retail banks, the combined cost impact of these actions upon the ESA and other enforcement activities, and the prospect of ASIC running more test cases.

ASIC's current estimate is that the BBSW cases will cost it \$38m assuming it is successful and there are no appeals (the latter is not a safe assumption – the banks would almost certainly appeal so there could be an additional \$5m to \$10m in appeal costs for ASIC). § 47E(d)

[Redacted]

[Redacted] and more intensive

financial planning and litigation forecasting over a longer time horizon so it can model the impact on the ESA and make more strategic assessments as to its enforcement activities generally to manage the ESA more effectively. ASIC considers however that the ESA should be brought back to pre-efficiency dividend levels (approximately \$35m p.a.), and preferably increased commensurate with the expansion of its powers and need to investigate/enforce more than previously.

ASIC believes the BBSW case signals a willingness to take on more test cases and less risk aversion. There are no other appropriate test cases on the horizon at present but ASIC expects there will be in the next few years as there are a number of new areas of law that are as yet largely untested including FOFA (although it has a case running at present), responsible lending and wealth management and that these will continue to be run against the large banks because of their conflicts created by their integrated business model.

s 47C

[Redacted]

5. General business (Treasury)

5.1. Financial Sector Advisory Council meeting next week

Treasury noted that in ASIC's case, FSAC's focus was likely to be on ASIC's progress in implementing the Capability Review and that it has also suggested FSAC focus

specifically upon 5 areas, namely whether it has identified the right strategic priorities and risks, industry consultation and engagement, facilitating and understanding business, promoting competition and regulator co-operation – all of which were also identified in the ASIC Capability Review.

ASIC indicated that it has completed implementation of the Review and will make available to Treasury a written outline of what that has involved.

5.2 CAMAC

ASIC considers CAMAC should be reinstated as it did useful policy work and could now be funded through ASIC industry funding. ASIC also raised concerns about sign-off of outstanding CAMAC 2014 and 2015 accounts – the Chairman wants a letter of comfort from Treasury as it provided the CAMAC secretariat and prepared the underlying accounts but this had not been provided. Treasury indicated it would review both matters.

Meeting ended at 11.20am

s 22

From: s 22
Sent: Monday, 13 May 2019 10:33 AM
To: Barron, Christine
Cc: Vincent, Lucy; s 22
Subject: 9 May ASIC/Treasury operational liaison meeting notes [DLM=For-Official-Use-Only]

Hi Chris,

As requested, here are my notes from the ASIC/Treasury operational liaison meeting held on Thursday 9 May 2019 at 4.30-5.00pm via video conference.

ASIC attendees: Greg Kirk, Matthew Abbott, Emily Hodgson, Mary Andrew, Julian Parise in Sydney and Tim Mullaly, Andrew Fawcett, Adam Coleman in Melbourne.

Treasury attendees: Christine Barron, Lucy Vincent, s 22, Simon Writer, Darren Kennedy, s 22, s 22 in Canberra and s 22 in Sydney.

Agenda Item 1 – Election commitments

- Treasury circulated a list of election commitments. No red flags were identified in any of the commitments.
- One potential addition to the list is around small amount credit contract reforms (ASIC to send through details).
- ASIC queried about benefit companies and Treasury outlined history.

Agenda Item 2 – Update on ASIC enforcement actions

s 47E(d)



- An ASIC team is continuing work on implementing the Office of Enforcement, and it is expected to be largely ready by 1 July 2019.

Agenda Item 3 – Update on legislative protocol implementation

- ASIC circulated a revised legislation measures list with SEL contacts now captured.
- ASIC circulated and discussed its template for quality assuring legislative proposals.
 - It was agreed that Treasury would advise ASIC of legislative priorities as we become aware of them from Government.
 - It was agreed that when ASIC chooses option 3 (no assurance) on a legislative proposal, that this needs to have been discussed with Treasury beforehand.
 - It was agreed that the history (currently captured in the summary column) would be moved into its own separate column.

Agenda Item 4 – Upcoming reports and other significant public releases or speeches

- No updates from Treasury.
- ASIC advised:
 - Lots of senior people will be in Sydney next week with the ASIC annual forum being held on 16-17 May.
 - A consultation paper will be released next Wednesday on IDR and AFCA reforms.

- A guide on crypto assets and ICO will be released in the next 2-3 weeks.
- A paper/review of TPD insurance will be released before the end of the financial year.
- ASIC is generally laying pretty low during caretaker, but noted that a number of media requests are coming through.
- The Chair and a few of the Commissioners will be speaking publicly in the week after next (i.e. week of 21 May).

Agenda Item 5 – Other issues

- It was agreed that discussion on the strategic policy item for discussion at the August quarterly liaison meeting should be deferred to the next meeting, once the outcome of the election is known.

Kind regards,

s 22

Consumer and Corporations Policy Division
The Treasury, Langton Crescent, Parkes ACT 2600
phone: +61 2 s 22
email: s 22 [@treasury.gov.au](mailto:s 22@treasury.gov.au)

s 22

From: s 22
Sent: Tuesday, 18 June 2019 4:58 PM
To: Barron, Christine
Cc: Vincent, Lucy; s 22 ; O'Rourke, Kate; s 22
Subject: 17 June ASIC/ Treasury operational liaison meeting notes [DLM=For-Official-Use-Only]

Hi Chris,

For our records, here are my notes from the ASIC/Treasury operational liaison meeting held on **Monday 17 June 2019** at 4.00-5.00pm via video conference.

ASIC attendees: Greg Kirk, Matthew Abbott, Emily Hodgson, Breshna Ebrahimi, s 22 in Sydney and Tim Mullaly, Andrew Fawcett, s 22 in Melbourne.

Treasury attendees: Christine Barron in Melbourne, s 22 Simon Writer, s 22 in Canberra and Kate O'Rourke in Sydney.

Agenda Item 1 – Post-election debrief

- The split of responsibilities between Ministers in the portfolio remain unclear, but will likely be settled after the Treasurer gets back from leave in late June and before Parliament sits on 2 July.
 - We know the Treasurer will keep RegMod until MYEFO.
- ASIC advised of a couple of staff that are likely to commence with Senator Hume over the next few weeks:
 - Angus Barker, who used to work at Bank of America Merrill Lynch;
 - s 22 who used to work at CSIRO's Data61.

Agenda Item 2 – Update on ASIC enforcement actions

- The Prime Minister is very focussed on delivery for citizens and thinks it is very important to have meaningful performance indicators for agencies/regulators.
 - Recognition that measuring performance and effectiveness is very difficult but Treasury and ASIC are and will continue to look into this further. Relevant data, including in the enforcement space, will be shared.
- ASIC is still in the process of determining whether it will continue to produce a weekly update note to the Treasurer.
- The Commission is close to signing off on various aspects of the Office of Enforcement including: structure and governance; principles around 'why not litigate' strategy; and reporting, communication, capabilities and data analytics training.
 - ASIC agreed that Treasury can meet with the relevant team once these aspects have been settled for further details.
- s 47C, s 47E(d)
 - s 47E(d)
 - A new enforcement team is being set up to expedite referrals, s 47E(d), s 47C s 37(1)(a)
 - s 47C, s 47E(d)
- Kobelt decision was handed down by the Full Federal Court last week, and disappointingly did not go ASIC's way. Further details on the case are available [here](#).
- s 47C, s 47E(d)

Agenda Item 3 – Update on legislation

- The legislative program is still in the process of being finalised but will hopefully be circulated in the next few days.
 - Legislating the personal income tax cuts is the biggest focus. Other priorities include introducing legislation on: s 47E(d)
- There is no split between Autumn and Spring sittings this year.
- CCIVs and ARFP have moved to different teams in both ASIC and Treasury.
- Treasury and ASIC working to ensure the legislative protocol is observed on projects including: phoenixing; employee share schemes; RegMod/DINs; and ASIC industry funding model regulations.

Agenda Item 4 – Upcoming reports and other significant public releases or speeches

- No updates from Treasury.
- ASIC advised of the following big things coming up:
 - Cyber resilience paper in late June or early July
 - Consultation paper and report on consumer credit insurance
 - Report on insurance and fraud claims
 - Review of Australian equity market cleanliness in July
 - Report on early users of the PIP
 - Possibly two more consultation papers on Royal Commission matters (depending on roadmap)
 - Public hearings on responsible lending (RG209) in late July/early August
 - James Shipton speaking at CEDA in two weeks
 - James Shipton speaking at ANU next week
 - John Price speaking at Governance Institute events in Sydney and Perth.

Agenda Item 5 – Other issues – Update on AFCA

- AFCA has sought approval from ASIC on some rule changes, which ASIC will likely approve on 17/6, details [here](#).
- AFCA is concerned about complaint– 6,000 are coming through each month (they were only expecting 4,000), and there are potentially another 20,000 on the way. AFCA has met with Senator Hume.

Agenda Item 5 – Other issues – Strategic policy topics for next Quarterly meeting

- It was agreed that policy topic ideas to date are looking fine but we should hold off on settling on a topic until we have a steer from Ministers about the landscape and priorities.

Kind regards,

s 22
 Consumer and Corporations Policy Division
 The Treasury, Langton Crescent, Parkes ACT 2600
 phone: +61 2 s 22
 email: s 22 [@treasury.gov.au](mailto:s 22@treasury.gov.au)

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 Sent: Monday, 13 May 2019 10:33 AM
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 Cc: Vincent, Lucy ; s 22 ; Brukner, Charles
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s 47E(d)

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 - The Chair and a few of the Commissioners will be speaking publicly in the week after next (i.e. week of 21 May).

Agenda Item 5 – Other issues

- It was agreed that discussion on the strategic policy item for discussion at the August quarterly liaison meeting should be deferred to the next meeting, once the outcome of the election is known.

Kind regards,

s 22 [redacted]

Consumer and Corporations Policy Division
The Treasury, Langton Crescent, Parkes ACT 2600

phone: +61 2 s 22 [redacted]

email: s 22 [redacted] [@treasury.gov.au](mailto:[redacted]@treasury.gov.au)

s 22

From: s 22
Sent: Friday, 12 July 2019 1:37 PM
To: Barron, Christine
Cc: Vincent, Lucy; O'Rourke, Kate; s 22
Subject: 11 July ASIC/Tsy operational liaison meeting notes [DLM=For-Official-Use-Only]

Hi Chris,

For our records, here are my notes from the ASIC/Treasury operational liaison meeting held on **Thursday 11 July 2019** at 4.00pm via video conference.

ASIC attendees: Greg Kirk, Emily Hodgson, s 22, s 22 in Sydney and Tim Mullaly in Melbourne.
Treasury attendees: Christine Barron, Kate O'Rourke, Lucy Vincent, Tom Reid, s 22
s 22 in Canberra and s 22 in Sydney.

Agenda Item 1 – Next ASIC/Treasury Quarterly Strategic Meeting preparation

- The split of responsibilities between Ministers in the portfolio have finally been settled and the acting Treasury Secretary will be advising ASIC of relevant details this week.
- We are happy with ASIC's proposed topic for the next Quarterly meeting.
- Agreed to cancel the next monthly meeting (which had been scheduled for 8 August) since the Quarterly meeting will be on 9 August, with papers and agenda to be settled offline. If any specific issues come up that require an August operational meeting, we can arrange offline.

Agenda Item 2 – Update on ASIC enforcement actions

- s 37(1)(a), s 47E(d)
[Redacted]
- The Commission signed off and approved the mandate for the Office of Enforcement yesterday.
 - It will comprise the enforcement teams (financial services enforcement and markets enforcement) and be headed up by Daniel Crennan.
 - Significant work still needs to be undertaken and a communications plan is currently being worked through.
- ASIC has again commenced producing a weekly update note to the Treasurer, cc'd to relevant Treasury staff.

Agenda Item 3 – Update on legislation

- Parliament sat for the first time since the election last week.
 - Lots of legislation relating to ASIC (including phoenixing, fintech, sandbox, superannuation) was introduced but not debated. The timing for when that legislation will be debated is uncertain.
- Next sitting week commences 22 July, and further superannuation measures are listed for introduction.
- Treasury has a very long list of legislative priorities.

- There are some outstanding policy issues relating to CCIVs that need to be settled prior to the legislation being finalised.
- The penalties issue that was identified by ASIC is being progressed.

Agenda Item 4 – Upcoming reports and other significant public releases or speeches

- The Assistant Treasurer’s Office currently has an FOI request on the Sterling case in relation to correspondence with ASIC.
- ASIC advised of the following:
 - John Price will be speaking at the [COSBOA National Small Business Summit](#) at the end of August.
 - Consultation paper on using PIP is to go to the Commission for approval soon.
 - A [consumer credit insurance report](#) was released today.
 - A [report on investigating fraudulent car insurance claims](#) was released last week.
 - RLO hearings will be held in Sydney (5 August) and Melbourne (12 August).

Agenda Item 5 – Other issues

- No other items raised.

Kind regards,

s 22

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phone: +61 2 s 22
email: s 22 [@treasury.gov.au](mailto:s 22@treasury.gov.au)

09/05/19

ASIC - Treasury Operational Liaison Meeting - 4:30 - 5:00pm

Treasury - Chris Lucy, [redacted] s 22
[redacted] s 22 Simon, Darren

ASIC - [redacted] s 22 Emily, Andrew F, Tim M, [redacted] s 22

Chris intro

① Election commitments

Returning govt. re-introduce legal

potential for diff. Minister

Labor govt - lots of commitments out - RC

most recent - caps announcement, RC

we don't have any red flags. Any for ASIC?

One additional ⇒ SACCS commitment in the last 48 hours

consumer credit, phoenixing etc lots already done in these spaces that could be repackaged as appropriate.

* Question about benefit companies

[redacted] s 22

- nothing in leg stepping item.

Jane Hume air time but nothing further

② ^{Tim} Westpac hearing - closed today adjourned to Mon for submissions. Nothing of surprise in court.

s 47E(d)

Office ~~of~~ enforcement - team writing on implementation
 ↳ still questions on why not litigate
 ↳ framework / structures being developed
 (trans, internal matters)
 ↳ ~~is~~ largely ready by 1 July.

③ Thanks for attachments.

s 22

- template similar to ATO but modified where app.

Assurance ~~the~~ things 3 options.

- SEL sign off

- Treasury to advise on legislative priorities
 as we are closer to it

- process similar to ATO.

Simon / template comment - item 3 needs to have
 been discussed @ TSM

Option 2 AHA

s 22

- Would ASIC only raise implementation issues

s 22

- Yes.

s 22

AHA - turn history point into a separate column
 ASIC - fine, good idea.

④

Nothing from our side

ASIC - annual forum + IOSCO big wings in town

• Next Wed - Korea cluster IDR + AFCA reforms
CPaper Release Sirch Emulsion
ASIC contact

• IDR data to be collected - thinking being crystallised.
under AFCA reforms
- to be settled soon, hopefully.

• Laying law during corridor generally
- Media requests coming through for forum
for Chair + Commissioners

• Crypt assets & ICO ^(initial coin offering) [225] guide
to come out in the next two weeks - three

• Review of insurers / investigators
- still being drafted

• TPP - total permanent disability insurance
before end of finc. year.

s 22 [redacted] is the ASIC contact.

• Market Integrity Rules to be updated.
↳ previously discussed @ Wendy.
6 changes required.

• Few of the Commissioners ^{+ Chair} are speaking publicly
week after next. (week of 21st)

⑤

the Meeting a while away
discuss later

No other bus.
Thanks

Chris would like
a copy of my
notes.

17/06/19

ASIC/Tsy monthly liaison

① Split of responsibilities still unclear

↳ won't be until Tsr gets back (late June)

will be before Parliament sits ⇒ 2 July

Tsr will keep ModReg until MYEFO, rest is unknown.

go through TO & seek agreement to go to someone else.

ASIC / - Is that how AFCA went to Hume?

Tsy - possibly, or just going ahead to meet anyway.

Angus Barber (Meryl Lynch) has been employed by Hume

Stature - Starting 1 July

s 22

also starting with Hume

(ex Data 61)

24th

We met with Hume last week, guessing responsibilities still including ASIC but unknown.

s 47E(d)

② Chns - PM focussed on delivery, citizens happy, ^{keep} meaningful performance indicators very important.

Tim - measuring effectiveness is very difficult for regulators everywhere.

↳ haven't been able to come up with anything great

- looking at other reporting options as part of DoE.

↳ will report on an annual basis

* Chns - performance assessment of NPP finding may ^{likely} be a future request.

- We're going to look into our own metrics,
~~TAA~~ will be going to ASIC for data.

Weekly note - ASIC still working out whether this will continue, likely to re-start. but once staff in offices are confirmed, will be determined.

Tim - OOE - close to sign off on Commission aspects

s 22 - asked if we can have an extended chat with relevant team once these docs have been finalised.

↳ structure + governance
↳ principles around why not mitigate
↳ reporting, communication, capabilities data analytics framing to be worked through.

③ * CCIVS + AFRA moved to diff. teams in both
 ASIC + Try ⇒ working to transition
 * Phoenixing underway
 ESS
 Reg/Mod + DNS
 CCM

Working with ASIC
 ⇒ ensure protocol observed.

④ Table ⇒ big things:

Cyber resilience	late	early
PIP CP	June	July
CP + report - consumer, credit insurance		
Insurance + fraud claims report		
Renewal of Australian equity market		Resilience July

Early users of the PIP - first yr. - payday lenders?
 ⇒ busy time until end of fin. year.

• possibly 2 more CPs relating to RC matters
 ↳ depends on road map

• Responsible lending ⇒ public hearings RG 209. ⇒ late July / early Aug.
 ↳ review: TO (Martin) has been in touch about this, for a meeting in week of 2 July.
 ↳ early response to submissions

Chair speaking at CEDA in 2 weeks.
 John Price at ~~for~~ instkue? in Syd / Perth
 Shpton at ANU next week.

⑤ AFCA has
 Sort approval from ASIC on rule changes
 ASIC will approve today (likely)
 AFCA concerned about legacy ~~to~~ ^{complaints/} issues. 6000 coming through.
 Only expecting 4000, 20000 on the way possibly.
 ∴ met with Minister - may need more leeway

Greg
 Matt
 Julia
 Emily

* ASIC getting approached with complaints from people that can't go to or are unsatisfied with AFCA.

s 22

s 37(1)(b)

may have more info about

s 37(1)(b)

(56)

Chris comfortable with list but maybe assert until we have a steer from Ministers about landscape.

↳ Decide in next meeting.

IGB - junior Ministers received a part of Tsy's not sure about ASIC.

Simon to set @ Andrew in Melb tomorrow.

ASIC / TSI . Monthly



- keep interests up over holiday period
- CRK meeting Monday
- Tuesday → timeline & C. document to speak to on Tuesday @ quarterly
- down staff in January
- Need a number discussions like that Quarterly same group; get staff in diary
- A lot of thinking going on for funding

Enforcement Actions

- enforcement review. Completed by mid Dec.
- Q' if public; enforcement will be public.
- draft floating around
- bit of media
- will come up at quarterly.

Fin review doing strong P11 / budgets

Shipton speaking at Council capabilities function

ASIC Funding

- we talk process

Explicitly on agenda ⇒ engagement

SCT; looking for funding

- ⇒ NPP address
- ⇒ consider separately ⇒ minor process or TSI P&S

ASIC meeting 4pm 17/6

• Don't know yet what junior Ministers
are each going to do.

• 2 July
22 July

• Treasurer is keeping Reg Mod until
MYEFO

• We are going through TOs w/ permission

New staff: Fed Home:

1
Matt

• Angus Barker - Bank of America
ex Trade -

starting 1 July

s 22

[Redacted]

- data 6/1

24/7

ex Smolinovs

• Jane Home getting ASIC, less likely AT

• CRIS

still in Treasurer's Office

s 22

[Redacted]

on leave for 4 weeks

s 47E(d)

[Large redacted area]

Enforcement

Chris
B

→ PM comments on measurable performance indicators likely to be expected of ASIC might make it in for Statement of Expectations

Q on Enforcement report

+ current reporting will morph into Office of Enforcement report

- trying to be more granular

→ Enforcement Review + Annual Report + Regulator Performance Framework

Chris - will expect reports against NMP

Tim - lag caused by report ↑ in no. of investigations

partly out-sourcing

- will flow through in 6-12 months

Chris - Treasury will need to trouble ASIC for data

ASIC will ~~update~~ reinstate weekly report ^{from} to Treasurer's Office - trying to avoid putting them in the haystack

Office of Enforcement

- close to finalising arrangements

① structure of governance

② + Principles on why not litigate, also reports, comms, staffing

Key - CCIVs, ESS

Upcoming Reports

6 months report

Bylines - cyber resilience - late June

- CP on PIP

- Report/CP on consumer credit insurance

- Report on insurance on fraud claims

- Equity market cleanliness - late July

- Early uses of the PIP

pay day lender

full time / Kate / Ruth

- still think about

- outbound insurance calls
or (handy)

- deferred sales regime
in car yards

James Kelly indicated T supported
ASIC action in light of delay
in govt reforms

R.L.O - Public Hearings on R9209
likely late July
public access

To want brief on process?
Pension like consumer protection
v access to credit
(variable)

Chairman giving a speech to CENA/
opened on RLO 27/6
will also outline strategic
priorities

AFCA

To facilitate legacy products
sought ASIC approval of rule 65

• 20,000 complaints
on top of 6,000/month
expecting 4,000/month

in 12 months

Extra people on way path

Invited by entities that no longer exist.
will come up in design of comp of last resort

Surgeon General - SR Group - head
of Men O'War / Turnbull
AG schemes // ^{s22} [REDACTED]

strategic policy topic

- can we leave until new
Mentakes

Ref:ys

ASIC operational mty.

FOI 2532
Document 13

|| ASIC - 100 columns
St.

Human:
Office:

s 22

(Baker, formerly CISO office) 1/7.
(Data 61, Cash's office / Suddhis). 24/6

ASIC enforcement.

-> PM feedback - focus a delivery.

-> Performance indicators for APS.
Portfolio + agency information.

ASIC reporting - focus for Office of Enforcement.

Enforcement: Close to being able to sign off a document.
in mid articles.

Office of Enforcement structure + governance.
Why not litigate?

RC reports - investigate a group.

New success a report.

- Walt is high A. → not ASIC way. | book → unusable
- has after consult.

s 47E(d)
[Redacted]

Timeline ASIC engagement.

LCWG → Address implementation by ASIC.
→ forming new old setting. (EIP new)
→ deferral rules for add or can take pending.



Responsible leading - public workings.
→ needed within.
late July / early Aug
→ PR → address problem.

ASIC Chair @ CEDM.



AFA: common to legacy provisions.
rule change.

A foretell → Profound

FOI 2532
Document 15

①

ASIC Tsy Liaison

11 Jul 19

Short priority + performance metrics . ✱

Issue:

Consistency + metrics
over time

s 47E(d)

s 4/E(d), s 3/(1)(a)

②

s 47E(d), s 37(1)(a)



Office of Enforcement

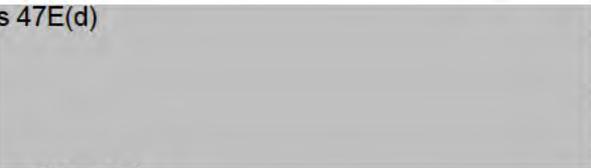
↳ - Mandate, Principles, structure + strategy

Enforcement FST Market

Oversight Sub-committee

- monitor + report

s 47E(d)



22 Jul

Super

Penalty / infringement notices

John Price - August
Striking WA

RLO hearings

5 Aug Sydney

12 Aug Melbourne

- Later this month PIP deferred sales car yards
CCI Report Fraud investigation

11/07/19

ASIC/Treasury Monthly Operational Meeting, 4-5pm

CBR - Chris, Lucy, Kate @, s 22

SYD - s 22 Emily, Greg K, s 22

NEL - Tim

Ministerial responsibilities have been allocated
but can't share yet
Email will go out from Acting Secretary this week.

(1) Happy with topic.

9 August meeting, scrap 8 August unless there
are specific issues on paper if required.

(2) Royal Commission referrals + broader work continuing

s 37(1)(a), s 47E(d)

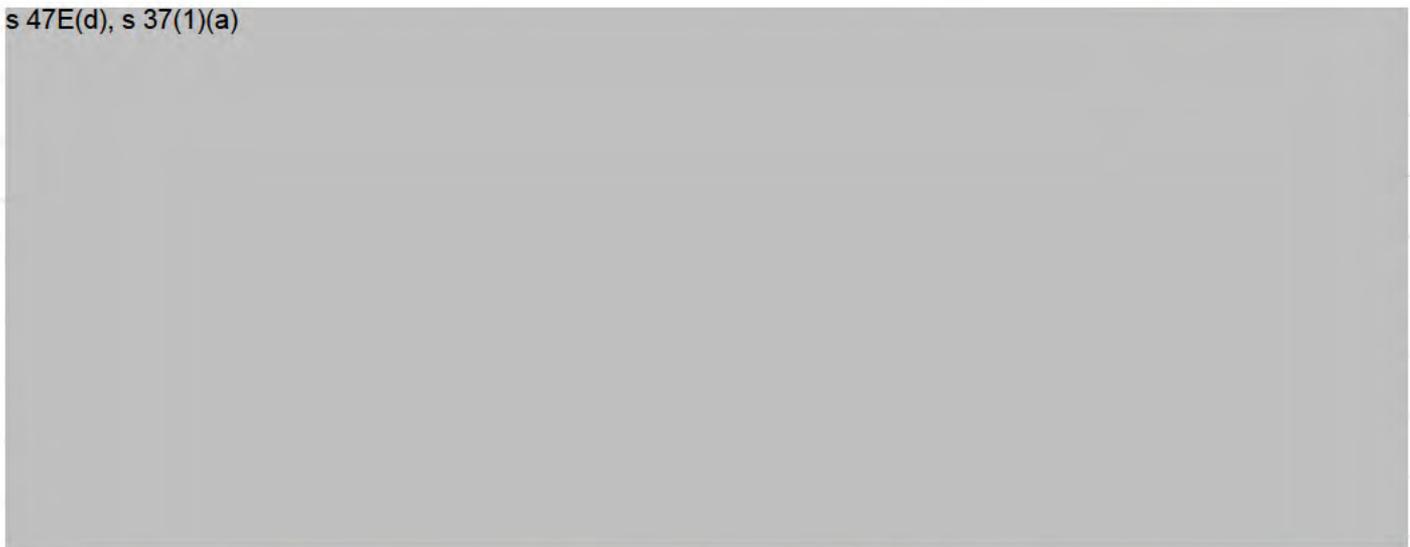
Major matters underway from RC

s 37(1)(a), s 47E(d)

- Select AFSC - hoping to file action momentarily
- No. of matters deferred, cont

s 37(1)(a), s 47E(d)

s 47E(d), s 37(1)(a)



- ② OoE - Commission signed off yesterday + approved mandate
 - Will comprise enforcement teams
 - ↳ Financial services + market
 - ↳ Don Creechman to Overhead up.
 - Monitor + report on enforcement specialist teams.
 - identify, prioritise enforcement cases
 - Significant work still to be undertaken.
 - Communications plan being worked through.

s 47E(d)

③



- 22nd July - next sitting wk. ⇒ Super on list for intro
- Debate funding uncertain
- we have a very long list at Tsy
- CCIVS policy still to be settled prior to leg being finalised.
 - ↳ understand ASICs funding capex issue. no opex.
- Penalties issue identified by ASIC is being progressed.

(4)

Mostly already in records

- PIP consultation paper + short term credit
 - Responsible lending ^{speaking at}
- John Price, National Business Summit Aug

- Thanks for being cc'd into TSR correspondence weekly updates started.

- AT has on FOI on Sterling & correspondence between AJIC + office.

- Consultation on using PIP in context of add-on sales products + cars to go to Commission for approval?

- CCI report released today.

- Recent report on nu. of fraud claims. ^{10st week}

- Ministerial briefs associated with many of these.

- RLO hearings

↳ Sydney, Melbourne
5 Aug 12 Aug

⇒ livestreaming?
↳ tbd.

(5)

Nothing else to raise.

- next monthly in Sept unless be hear otherwise.

12/7/19

s 22

ASAC LIAISON MEETING

None → enforcement
s 37(1)(a), s 47E(d)



↳ ongoing with on a
number of investigations
s 37(1)(a), s 47E(d)



↳ this matter

↳ office of enforcement
settled → comprised of major
teams (FIN SEN & markets)
w/ oversight committee
↳ COMMS strategy

s 22

ASIC monthly

Ministerial responsibilities \Rightarrow Agency vs Govt.

Enforcement actions
s 37(1)(a), s 47E(d)



Office enforcement

- \hookrightarrow Commission settled O.C.E. structure & markets
- \hookrightarrow P Series & rules
- \hookrightarrow Onsite sub committee \Rightarrow chaired by Censen.

Legislation

next sitting date \Rightarrow 22nd.

CCIO's

\hookrightarrow funding question \rightarrow all capex so no need for MoF.

ASIC / 757 CLAIRSON

11.7.19

- Strategy + performance metrics. Next leading to MAFED.
↳ good re leading to MAFED.

ENFORCEMENT!

- RC referrals + Major for work
↳ working
New team focus on referrals + RC case studies.

Ministry Out of Perm. interest

s 37(1)(a), s 47E(d)

[Redacted]

s 37(1)(a), s 47E(d)

Senior banker involved.

s 47C

Settlement needs OLFC

sign off

s 37(1)(a), s 47E(d)

[Redacted]

CGE - Council settled mandate, involving principle + structure



2 main areas: Fin services Markets
↳ oversight this other > chair Dan Cronin.
Propose enforcement strategy + policy change

independence + effective communication of outcomes.

Accountable for "most sig enforcement cases"

Comms strategy. ↳ interest is common plan for all individual matters.

s 47E(d)

[Redacted]

National Business Summit in Aug - John Price.

Stedig + FOI on Office v ASIC

Consumer credit insurance + framed claims in delivered sale / add-on / car yards (PIP) consult

RLO 5 Aug 2010
12 Aug MEL.

ASIC - Treasury meeting

4PM

11/7

- Ministerial Responsibilities been done, email will come
- A-Treasury welcomes proposed topic of strategic priorities and performance metrics
- 9/8 -
- SO swap monthly settle pipe out of SESK

Enforcement - Team

- R.C work continuing
New team formed to resolve all R.C

s 37(1)(a)



• Major matters [out of R.C]

s 37(1)(a), s 47E(d)



Office of Enforcement

- ASIC Commission settled on structure, mandate and principles
- comprise of - F-S
- Markets

oversight sub-committee chaired by D. Brennan

- will formulate AS to strategy
- monitor and report on activities
- ensure independence, effective comms

Upon speeches events

* tell KL

- R, L: O short term credit
- CP on NIP - deferred sales car yards
- Tom Mu - National Business Summit

Analysis

- ASIC Commission meets in Netli 22/7
- consumer credit insurance today
- Fraud investigation claims - last week

August, 5/8 / 12/8

tell bank end credit team

11/7/19

ASIC - Tsy Operational Liaison meeting

- Friday 9 Aug - Quarterly meeting
strategic ^{direction} [- ASIC strategic priorities & performance metrics

- delete 8 Aug meeting

- RC referrals continuing additional resourcing now in place s 37(1)(a), s 47E(d)

s 37(1)(a), s 47E(d)

- Office of Enforcement structure settled, approved mandate, oversight committee (chaired by Darc)

- Legislation status update

✓ # John Price - Aug National Business Summit Small
(29/30) SB Regulator Panel. - Chris Jordan, Sadra Parker.

- ASIC Commissioner meeting 22 July, Perth.

✓

✓ #

~~*~~

~~*~~

~~*~~

All hidden meeting

11/7/19.

PC refusal to sign financials
- new board pushed to make
sure all fees are returned

s 37(1)(a), s 47E(d)

Line of Enforcement

- structure needed
- mandate needed
- oversight sub comm chaired by Rep Comm.
- will deal i enforcement enforcement policy.
- communicate enforcement actions.

- policies yet to be formalised.

John Pike - National Business Summit in Dequett.

Commonwealth meeting in Perth
Wed 22/7.

- expecting 'stirling' questions.

• PIP for selected products like car yards - wanting ca, + rev.

• RLO hearings later in Dequett⁵
in Sydney or Melbourne. ^{system}

- hope to have differing views.

12/8/06
Heath

~~Some ASIC concern about~~

ASIC

RC referrals:

RC referred 2 in Nov.
that ASIC already had
concerns

s 47E(d)

of
- no substantial prejudice
so not captured, but they
nevertheless have to be pursued
for ASIC

s 47E(d), s 47C

- LLC loss will be looking at
law reform ^{in industries}

s 47C

C'ston finalizing decisions
on governance / structure of
O&E.

upcoming - mostly up to end June.
cyber resilience.

PIP - incl. some early uses (puppy
concepts) -
consumer credit insurance

insurance & product claims.

By equity with 'clean lines' (?)

reputable lending - more public
consultations. late 7/early 8, s 47C

s 47C

PIP CP - expect lots of public
interest.

Then speaking to CERDA on 27/6
on ~~the~~ ~~subject~~ - possibly opened
on the meaning of the
speech (unlike)
- will set out strategic
priorities

AFLA - rule 12 has they require
have never agreed (before).
- but potential legacy
of 20k complaints on top
of the 6k complaint they
are getting monthly (more
expanding 4k).

have met i director to have
to offer options to deal
with the influx

but legacy only applies to
these complaints on existing
CO's - not these as begin
operating.