



ASIC
Australian Securities &
Investments Commission

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and Investments Commission**

Office address (inc courier deliveries):
Level 5, 100 Market Street,
Sydney NSW 2000

Mail address for Sydney office:
GPO Box 9827,
Brisbane QLD 4001

Tel: +61 1300 935 075

www.asic.gov.au/

Committee Secretary
Parliamentary Joint Committee on Corporations
and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600

By email to: corporations.joint@aph.gov.au

24 November 2023

Dear Committee Secretary

**FURTHER INFORMATION REGARDING EVIDENCE PROVIDED TO PARLIAMENTARY
JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL SERVICES ON FRIDAY 3
NOVEMBER 2023**

The purpose of this letter is to supplement the evidence that I provided to the Committee on 3 November 2023 about ASIC's use of computers to make administrative decisions.

The relevant part of my evidence is reported on page 10 of the Hansard.

***Mr Savundra:** I might hand to Mr Day on that, but, in terms of automated decision-making generally, we're working closely with whole-of-government efforts in response to the robodebt royal commission. The government has established the Artificial Intelligence in Government Taskforce in consultation with the Attorney-General's Department to really survey the whole of the Commonwealth, all Commonwealth departments and agencies, to identify and map the extent to which automated decision-making is relied upon to deliver government services and payments. That work will feed into the government's response to the robodebt royal commission. We're working through that whole-of-government response in relation to our own use of technology to support automated decision-making.*

I should be clear here to distinguish between artificial intelligence and automated decision-making. Within automated decision-making there are two types: one is where the computer actually makes the administrative decision, so it exercises the legal power, and one is where it's a human that makes the decision but they're supported by technology, so part of the information that flows into the making of

that decision is automated. ASIC doesn't use computers to make administrative decisions. There is one bill before the parliament at the moment which is seeking to amend the law to permit ASIC to do that. I can't recall off the top of my head; I think it's about the registration of a certain type of financial adviser. Apart from that, we do use, obviously, computers to inform decisions that are made by humans as part of ASIC's work. We're looking at that in light of this whole-of-government work on the use of technology in relation to automated decision-making, and we'll obviously work with the government and see what the government's response is to that recommendation of the royal commission.

I would like to clarify that there are some cases in which ASIC is permitted under legislation to use computers to make administrative decisions, that is, decisions involving the performance or exercise of a statutory function or power.

ASIC is empowered to use computer programs to make name determinations regarding business names and companies (see for example, section 66 of the *Business Names Registration Act 2011*). These powers are currently exercised by staff belonging to the Australian Business Registry Services in reliance on a delegation from ASIC.

As referred to in my evidence, there was a bill before Parliament, that has now passed both Houses, which will allow ASIC to use computer applications and systems to make decisions about applications for financial adviser registration. That bill is the *Treasury Laws Amendment (2023 Measures No. 1) Bill 2023*.

Please let me know if the Committee has any questions or would like any additional information.

Yours sincerely,

Chris Savundra
General Counsel