Question No	QoN 001-06
Topic	COVID-19 pandemic – Resources
Committee Member	Mr Gorman MP
Reference	Written

Question

Does ASIC have any capacity issues internally or see any economy wide capacity issues, for example in terms of the number of liquidation professionals?

Answer

Since the COVID-19 pandemic began to impact in Australia, ASIC has actively managed its work and resources to focus on the most important things.

We acknowledge that many participants in the Australian financial services sector are under enormous strain because of COVID-19 and are taking special measures to support customers who are adversely affected. We have therefore limited the non-time critical regulatory activity that entities are required to respond to as much as possible, focused on areas of highest risk and have worked with the financial services industry to identify areas where we can provide support.

This has involved some reprioritization and deferral of specific pieces of work and some new activities or greater focus on aspects of our operations.

We are being transparent about our work and priorities, including informing stakeholders about the adjustments we have made to the timing of a range of projects. We have regularly published information about the timing of our work and of key outputs planned for the coming months.

In particular:

- on 23 March 2020 we announced a recalibration of our regulatory priorities to allow us and the entities we regulate to focus on the impact of COVID-19. These temporary changes included the deferral of some activities and redeployment of staff to address issues of immediate concern, including protecting vulnerable consumers, maintaining the integrity of markets and supporting businesses and;
- on 14 April 2020 we provided further details of how we had reprioritised some of our work, including consultations, regulatory reports and reviews.

Key ASIC business as usual functions have been maintained throughout the pandemic, including registry operations and services, receipt of whistleblower, breach and misconduct reports and general contact points for industry.

Both ASIC and the sectors we regulate are having to adjust how we work, including with many staff needing to work from home. We are monitoring these adjustments but are generally positive about entities making the transition.

We are continuing our work to identify areas where the system and its end users, including consumers, may be at heightened risk. To do this we are tracking a broad range of data points including data sourced from our own work, other regulators and government agencies and the private sector. This enables us to identify emerging problems and act as early as possible.

One area of potential risk that we are monitoring relates to corporate insolvency. The impact on ASIC internal resourcing from companies entering external administration following any withdrawal of temporary relief measures will depend on the timing, volume and complexity of company failures, and what other measures or legislative reforms the government introduces in future.

A significant increase in corporate insolvencies under existing law would potentially see an increasing workload across several ASIC teams, particularly those involved in registered liquidator (RL) regulation, and dealing with misconduct, including illegal phoenix activity, reported to ASIC by RLs.

At 30 June 2020 there were 633 RLs – down from 711 at 30 June 2018.

ASIC's review of RLs ceasing registration since July 2018 indicate that the majority who ceased registration had been winding down their practice during the 12 months preceding cessation of their liquidator registration. There remain some RLs who are less active than others and some who for reasons such as voluntary suspension, are not currently taking appointments.

Information published by the Australian Restructuring, Insolvency and Turnaround Association (ARITA) in the June 2020 edition of its Journal and on its website indicates that COVID-19 had impacted RLs with more than half of insolvency firms registering for JobKeeper (or intending to) and some firms making their own staff redundant. This implies reduced RL firm revenue and less potential capacity to manage any significant or sudden increase in new insolvency appointments. The information published by ARITA does not indicate a significant number of firms expressing significant concern about their viability.

Importantly, it is possible that many companies entering external administration following COVID-19 may be assetless. If so, it might be that no RL is prepared to accept a significant number of appointments to financially distressed companies because of the impact that unpaid remuneration from these appointments may have on the future financial viability of the RL's business.

We will continue to monitor and act to mitigate areas of heightened vulnerability across the financial system; and will raise issues with Government as needed, including, if they arise, any system or ASIC capacity issues.