



ASIC
Australian Securities &
Investments Commission

Committee	Parliamentary Joint Committee on Corporations and Financial Services
Inquiry	Oversight of ASIC, the Takeovers Panel and the Corporations Legislation No.1 of the 46th Parliament
Question No.	011
Topic	ASIC Committees
Reference	Spoken, 5 December 2022, Hansard page 60
Committee member	Senator Paul Scarr

Question

Senator SCARR: I might start the speed talk, if I can. One of the things coming out of the FRAA review was an analysis of whether or not the commissioners are lifting themselves out of the weeds, as it were, of the day-to-day operational matters and looking more at the high-level strategy, high-level engagement with key stakeholders. I'm keen to know from your perspective, Chair, how you think that process is going. It seems that has been a major shift in the governance arrangements internally with respect to ASIC. Can you give us any insight from your perspective.

Mr Longo: I think that's a fair summary of where we've landed. The first point to be made, of course, is that none of the law changed. The way the commission is structured and appointed and the statutory framework stayed exactly the same, so it's really up to us as to how we want to run the commission. We had a statement of expectations under the previous government. It encouraged us—it encouraged me, certainly—in the direction that you described. I think that's what's happening. Take enforcement, for example—and I think Deputy Chair Court touched on this—there are a whole lot of matters that come into ASIC that don't go all the way up to the commission. We set priorities, set strategy and give guidance. That deals with a lot of the matters or items or data that come into ASIC. Things come to the commission when they involve matters of significance or involve strategy where the commission needs to make that decision.

Senator SCARR: This thought occurred to me. I would find it useful, and I don't know whether there is a way to do this, but could we see, almost, an indicative agenda of a commission meeting to give us a feel for what sorts of matters are elevated to the commission overall. That would be useful if that were possible in some way just to get a feel for what you consider on a weekly basis. Could you just take that on notice?

Mr Longo: Yes.

Senator SCARR: I'd find it interesting to see at what level the commissioners are operating. Can you just take that on notice and reflect on if there is a way you can draw that out in a practical way.

Mr Longo: There are a number of committees, but we will do our best to—

Senator SCARR: Even for each of the committees so we can just get a feel for at what level the commissioners are operating.

Answer

Indicative agendas for the Commission and Commission Committees (Commission Enforcement Committee, Commission Regulatory Committee and Commission Risk Committee) are attached.



Indicative Agenda Commission Enforcement Committee (CEC) Meeting 100

[Date], 2.00 pm – 4.00 pm, AEDT

Committee members			
Name	Position	Role	Location
Sarah Court	Deputy Chair	CEC Chair	
Joe Longo	Chair	CEC Member	
Karen Chester	Deputy Chair	CEC Member	
Danielle Press	Commissioner	CEC Member	
Sean Hughes	Commissioner	CEC Member	

Standing attendees: Executive Director (Markets Enforcement), Executive Director (Financial Services Enforcement), Senior Executive Leader (Financial Services Enforcement), General Counsel, Senior Executive Leader (Markets Enforcement), Senior Executive Leader (Wealth Management Enforcement), Senior Executive Leader (Corporations & Corporate Governance Enforcement)

Item	Time	Presenter(s)	Type	Action
Opening				
1. Welcome: 1.1. Attendance and apologies 1.2. Acknowledgment of Country 1.3. Conflicts of interest declaration <i>(Please refer to list of entities/POIs here)</i> 1.4. Draft minutes of meeting 99 for adoption Standing item	2.00pm	CEC Chair	Verbal	Note/ Confirm
2. Court events report Standing item	2.07pm	CEC Chair	Paper	Note/ Discuss
3. Oral updates Standing item	2.10pm	Executives	Verbal	Note/ Discuss
Part 1: Items for Discussion				

Material considered in this part of the meeting involves confidential communications with ASIC lawyers for the purpose of giving, or obtaining legal advice, or for use in existing or anticipated litigation. It is provided to the Committee either at its request or to found the provision of instructions and to enable the consideration of issues arising including the progress of specific matters. All dealings with this material should preserve ASIC's legal professional privilege in it.

Papers		Presenter	ED & SEL	Action
<p>4. Entity X and Y (Civil Proceedings and Stop Orders)</p> <p><i>(Purpose to seek a decision on next steps, endorsement to commence an investigation, consider whether to issue stop orders, approval of NFA actions, and consider renewing product intervention orders)</i></p>	(15 mins)	Project Managers	Executive Director (Financial Services Enforcement), Executive Director (Financial Services and Wealth)	Decision
<p>5. Entity Z (Pricing Systems Breaches)</p> <p><i>(Decision on a specific penalty figure)</i></p>	(15 mins)	Project Managers	Executive Director (Financial Services Enforcement), Senior Executive Leader (Financial Services Enforcement)	Decision
<p>6. Entity A / General Investigation</p> <p><i>(Decision on whether to file proceedings and informing CEC of counsel's advice)</i></p>	(15 mins)	Project Managers	Executive Director (Financial Services Enforcement), Senior Executive Leader (Wealth Management Enforcement)	Decision
<p>7. Person of Interest B and Entity C</p> <p><i>(Seeking instructions to file civil proceedings and providing update to CEC of strategic interests (community interest) of commencing civil proceedings)</i></p>	(15 mins)	Project Managers	Executive Director (Financial Services Enforcement), Senior Executive Leader (Financial Services Enforcement)	Decision

Papers		Presenter	ED & SEL	Action
8. Entity D <i>(Updating the CEC on the investigation and seeking approval to issue Infringement Notices and NFA)</i>	(10 mins)	Project Managers	Executive Director (Markets Enforcement), Senior Executive Leader, (Corporations & Corporate Governance Enforcement)	Decision
9. Entity E <i>(Decision on the proposed enforcement strategy)</i>	(15 mins)	Project Managers	Executive Director (Markets Enforcement), Senior Executive Leader (Markets Enforcement)	Decision
10. Entity F <i>(Application to withdraw infringement notice)</i>	(15 mins)	Project Managers	Executive Director (Financial Services Enforcement), Senior Executive Leader (Wealth Management Enforcement)	Discussion
11. Entity H (Alleged Failure to Approve Benefits) and Person of Interest I <i>(To provide an update to CEC on the matter following the conclusion of examinations)</i>	(15 mins)	Project Managers	Executive Director (Markets Enforcement), Senior Executive Leader, (Corporations & Corporate Governance Enforcement)	Discussion
Part 2: Papers for noting				
12. Entity J <i>(Update to CEC on the progress of the matter)</i>	-	Project Managers	Executive Director (Markets Enforcement), Senior Executive Leader, (Corporations & Corporate Governance Enforcement)	Note

Papers		Presenter	ED & SEL	Action
13. Entity K <i>(Update to CEC on progress of the matter)</i>	-	Project Managers	Executive Director (Financial Services Enforcement), Senior Executive Leader (Financial Services Enforcement)	Note
Part 3: Standing reports for noting				
14. CEC forward agenda Standing item	-	CEC Chair		Note
Meeting close	4.30pm			
Next Meeting Date	Deadline for Papers		Papers Distributed	



Indicative Agenda Commission Meeting 904

[Date], 10:00am – 12:00pm AEDT

Item	Time	Presenter(s)	Type	Action
Opening				
1. Welcome: 1.1. Attendance and apologies 1.2. Acknowledgement of Country <i>Standing item</i>	10:00am	Chair	Verbal	Note
2. Conflicts of interest declaration <i>Standing item</i>	10:02am	Chair	Verbal	Note/ Decide
3. Draft minutes of Commission meeting 903 <i>Standing item</i>	10:03am	Chair	Paper	Decide
Part 1: Matters for Decision/Discussion				
The Chair will allow sufficient time for discussion of each item at the meeting.				
4. Delegations – remaking of instruments and approval of business rules	10 mins	General Counsel and Chief Legal Office staff	Paper	Decide
Seeking the Commission and Chair's approval for new delegation instruments and for new and amended business rules. These changes are necessary in light of new or amended powers conferred to ASIC as a result of legislative reform, and changes to the internal organisation of ASIC.				
5. ENTITY X / General Investigation	25 mins	Executive Directors, Senior Executive Leaders, Project Managers	Paper	Decide
This is a Strategic and/or significant regulatory and enforcement decision not otherwise dealt with by the Commission Committees and involves a request for approval of the proposed strategy for ASIC's regulatory response.				
6. ASIC 2021-22 Annual Report	20 mins	Executive Director and Senior Executive Leaders - Strategy	Paper	Decide
RECOMMENDATION: Purpose is to present the draft ASIC 2021-22 Annual Report to Commission for approval.				

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Item	Time	Presenter(s)	Type	Action
7. Updates to ASIC's Governance Framework	15 mins	General Counsel and Chief Legal Officer	Paper	Decide
This paper will request the Commission's approval of ASIC's updated Governance Framework.				
8. Implementation of the FRAA recommendations	20 mins	Executive Director and Senior Executive Leaders – Market Supervision	Paper	Note/ Discuss
This paper will seek guidance from Commission in relation to the implementation of the FRAA's recommendations.				
9. Modernising Business Registers (MBR) – Law, scope and policy changes to drive reduction in cost and complexity	20 mins	MBR Program Staff	Paper	Note Discuss
This item relates to Commission's responsibility of setting, delivering, and monitoring the performance of ASIC against ASIC's strategy and regulatory priorities. This paper will update and seek guidance from Commission on specific law, policy and scope proposals that can reduce cost or complexity in the MBR program.				
10. Part 2 items elevated to part 1	11:50am 5 mins	Chair	Paper	Note/ Discuss
Standing item				
Part 2: Matters for Noting and Reporting				
Part 2 to include key reports which Commission members need to be across. These reports will not be discussed at the meeting unless elevated prior to the meeting into Part 1.				
How and who can elevate a Part 2 matter to Part 1 - This can be by the Chair or a Commissioner. However, it must be done no later than one hour prior to the meeting with an email to the Commission Secretary copied to the Chair and other Commission members setting out the item to be elevated and a brief description of why and what is to be covered. Elevated items will be dealt with after Part 1 matters.				
Section A: Non standing items for noting				
11. ASIC Common Seal – internal processes and controls	-	General Counsel	Paper	Noting
The purpose of the item is to brief the Commission on the internal controls in place within ASIC to mitigate against the improper use of ASIC's common seal				
Section B: Standing items for noting				
12. Monthly CFO Report	-	CFO	Paper	Note
13. Monthly Communications Report	-	Chief Communications Officer	Paper	Note

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Item	Time	Presenter(s)	Type	Action
14. ASIC Management Committee Report	-	Chief Operating Officer	Paper	Note
15. Operations Report	-	Chief Operating Officer	Paper	Note
16. Quarterly Consolidated Organisational Performance Report	-	Chief Data and Analytics Officer	Paper	Note
17. Commission Forward Agenda	-	Chair	Paper	Note
Part 3: Closing and Communications				
18. Evaluation of meeting papers and the elevation of matters <i>Standing item</i>	1 min	Chair	Verbal	Note
19. Other business <i>Standing item</i>	10 mins	Chair	Verbal	Note
20. Issues to raise with other fora/staff <i>Standing item</i>	1 min	Chair	Verbal	Note
CLOSE	12:00pm			

Attendees			
Name	Position	Role	Location
Joe Longo	Chair	Chair	
Karen Chester	Deputy Chair	Member	
Sarah Court	Deputy Chair	Member	
Sean Hughes	Commissioner	Member	
Danielle Press	Commissioner	Member	
	Chief Operating Officer	Standing Attendee	
	Chief Financial Officer	Standing Attendee	
	General Counsel	Standing Attendee	
	Chief People Officer	Standing Attendee	
	ED, Strategy Group	Standing Attendee	
	Chief of Staff	Standing Attendee	
	Chief Communication Officer	Standing Attendee	
	Commission Secretary	Secretary	
	Chief Risk Officer	Standing Attendee	
	ED, Markets	Attendee	
	ED, Market Enforcement	Attendee	

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	SEL, Market Infrastructure	Attendee	

Apologies		
Name	Position	Reason



Indicative Agenda

Commission Risk Committee Meeting 24

[Date], 10.00 AM – 12.00 PM, AEDT

Item	Time	Presenter(s)	Type	Action
Opening				
1. Welcome: 1.1. Attendance and apologies 1.2. Acknowledgement of Country 1.3. Conflicts of interest declaration and disclosure of any material personal interest <i>Standing item</i>	11.00am (2 mins)	CRiC Chair	Verbal	Note
2. Minutes of previous meeting (Meeting 23) <i>Standing item</i>	(1 min)	CRiC Chair	Paper	Confirm
3. Chief Risk Officer (CRO) Risk Management Update <i>Standing item</i>	(5 mins)	CRO	Verbal	Note
Part 1: Items for Discussion				
<i>Note: The following items are standing reports discussed at each meeting.</i>				
4. Enterprise Risk Profile – July - November 2022 <i>Standing item</i>	(40 mins)	CRO Senior Manager, Risk Partnering and Assurance	Paper	Endorse
5. Compliance Oversight Report – July – November 2022 <i>Standing item</i>	(10 mins)	CRO Senior Manager, Central Compliance Unit	Paper	Discuss
6. Open audit actions/internal audit update <i>Standing item</i>	(10 mins)	Senior Executive Leader, Internal Audit	Paper	Discuss

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Item	Time	Presenter(s)	Type	Action
<i>Note: The following items are examples of topics spread across the four meetings scheduled in the year. Each meeting is approximately two hours' duration.</i>				
7. FY2022/23 Risk and Control Strategy	(30 mins)	CRO	Paper	Discuss
8. Fraud and Anti-Corruption Policy and Control Plan	(10 mins)	Integrity Risk Specialist	Paper	Approve
9. Annual Fraud Exposure Report	(10 mins)	Integrity Risk Specialist	Paper	Approve
10. Annual Enterprise Risk Management Framework Effectiveness Review	(10 mins)	Senior Manager, Risk Partnering and Assurance	Paper	Approve
11. Annual Compliance Plan Evaluation Report	(20 mins)	CRO Senior Manager, Central Compliance Unit	Paper	Endorse
12. Annual Continuity Management Policy & Framework (including Continuity Management Review and Plan and IT Disaster Recovery Review and Plan)	(10 mins)	Senior Executive Leader, Enterprise Services Manager, Business Continuity and Emergency	Paper	Endorse
13. Annual Review of Risk Appetite Statement	(30 mins)	CRO Senior Manager, Risk Partnering and Assurance	Paper	Endorse
14. Annual Review of CRiC Terms of Reference	(5 mins)	CRO	Paper	Endorse
15. Annual Review of Risk Management Policy	(10 mins)	CRO	Paper	Endorse
Part 2: Items for Noting				
16. Quarterly Integrity Sub-Committee Update <i>Standing item</i>	-	Integrity Risk Specialist, CRO	Paper	Note
17. Business Continuity Management Sub-Committee Update <i>Standing item</i>	-	Senior Executive Leader, Enterprise Services	Paper	Note
18. WHS Team Update <i>Standing item</i>	-	Senior Manager, Health, Safety & Wellbeing	Paper	Note

Item	Time	Presenter(s)	Type	Action
19. Executive Risk Committee Report Standing item	-	Senior Manager, Risk Partnering and Assurance, CRO	Paper	Note
20. CRiC Forward Agenda Standing item	-	CRiC Chair	Paper	Note
Part 3: Other Business				
21. Other Business Standing item	(5 mins)	CRiC Chair	Verbal	Note
Part 4: Closing and Communications				
22. Quality of papers 23. Issues to raise with: 23.1. Commission 23.2. Other forums 23.3. EDs/staff Standing item	(5 mins)	CRiC Chair	Verbal	Note
Meeting Close	12.00pm			

Attendees			
Name	Position	Role	Location
Sean Hughes	Commissioner	CRiC Chair	
Joe Longo	ASIC Chair	CRiC Member	
Karen Chester	Deputy Chair	CRiC Member	
Sarah Court	Deputy Chair	CRiC Member	
Danielle Press	Commissioner	CRiC Member	
	Commission Secretary	CRiC Secretary	
	Chief Operating Officer	Standing Attendee	
	General Counsel, CLO	Standing Attendee	
	Chief Risk Officer	Standing Attendee	
	Senior Executive Leader, Internal Audit	Standing Attendee	
	Executive Director, Strategy	Standing Attendee	

	Senior Manager, Risk Partnering and Assurance	Standing Invitee	
	Senior Manager, Central Compliance Unit	Standing Invitee	
	Chief of Staff	Observer	
	Integrity Risk Specialist	Observer	
		Attendee	
		Attendee	
		Attendee	

Apologies

Name	Position

Future Meetings Schedule

Meeting Date	Deadline for Papers	Papers Distributed