

Question on notice no. 44

Portfolio question number: BET044

2023-24 Budget estimates

Economics Committee, Treasury Portfolio

Senator Deborah O'Neill: asked the Australian Taxation Office on 30 May 2023—

Senator O'NEILL: How many had adopted the scheme?

Mr Hirschhorn: A few. I'm very reluctant when I get to very small numbers.

Senator O'NEILL: We've had the number 14 put to us.

Mr Hirschhorn: By this stage two or three had actually implemented the structure.

Senator O'NEILL: There were the keen ones who got on the job more quickly than others?

Mr Hirschhorn: They moved quicker, yes.

Senator O'NEILL: If you could provide on notice a clear time line outlining all of your actions, that would be very helpful.

Answer —

Please see attachment.

Senate Economics Legislation Committee

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Budget Estimates 2023 - 2024

Agency: Australian Taxation Office
Question No: BET044
Topic: MAAL Restructure Scheme Timeline
Reference: Spoken p. 98 (30 May 2023)
Senator: Deborah O'Neill

Question:

Senator O'NEILL: How many had adopted the scheme?

Mr Hirschhorn: A few. I'm very reluctant when I get to very small numbers.

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Mr Hirschhorn: By this stage two or three had actually implemented the structure.

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Mr Hirschhorn: They moved quicker, yes.

Senator O'NEILL: If you could provide on notice a clear time line outlining all of your actions, that would be very helpful

Answer:

The response set out below is intended to provide the Senate with a comprehensive timeline of events relevant to the PwC matter. The timeline includes events directly related to the PwC matters, ATO actions to address concerns on a system wide basis and public transparency by the ATO of concerns

In recognition of the level of Senate and public interest in this matter and in order to ensure information in the public domain accurately reflects the facts, some limited protected information has been included in the timeline.

Where protected information is included, it has generally been limited to information:

- concerning the conduct and/or procedural aspects of the ATO's activities (which can be distinguished from information relating to the substantive tax position of taxpayers); and/or
- provides context to or corrects information which is already publicly available.

Information provided in the timeline has also been carefully considered to ensure that it will not impact on any ongoing investigations by other agencies, including the AFP.

ATO - Chronology of key actions & engagements

Period - May 2015 to Jan 2023

Key PwC Engagements*	ATO guidance & Public Statements
Actions related to confidentiality breach	LPP Litigation
Key TPB Engagement	Legislative Process
Other ATO Activities	Other

*Note: Due to the ATO's concerns in relation to PwC conduct, there were regular meetings between ATO and PwC senior leadership. We have included details of the most significant of these meetings.

Date	Event
12 May 2015	<p>Government announced "combatting Multinational Tax Avoidance" package in the Federal budget</p> <p>The package included:</p> <ul style="list-style-type: none"> the Multinational Anti-Avoidance Laws (MAAL) Country by country (CbC) reports
12 May 2015	Treasury released the exposure draft for MAAL
6 Aug 2015	Treasury released the exposure draft for CBC reports & increased penalties
16 Sep 2015	MAAL bill introduced into Parliament
3 Dec 2015	<p>MAAL bill passes both Houses of Parliament</p> <ul style="list-style-type: none"> Bill receives Royal Assent on 11 Dec 2015
1 Jan 2016	Commencement Date for MAAL and CBC
12 Jan 2016	<p>ATO releases 'MAAL Client Experience Roadmap'</p> <ul style="list-style-type: none"> The roadmap is designed to help taxpayers apply the new MAAL provisions (which anticipate that affected taxpayers will restructure to book sales in Australia). It sets out a differentiated approach depending on the engagement of taxpayer The roadmap was last updated 2 May 2017 <p>https://www.ato.gov.au/law/view/pdf/cog/maal_client_experience_roadmap.pdf</p>
10 Feb 2016	<p>Commissioner makes opening statement at Senate Estimates – 'Enough is enough'</p> <p>https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/eba7c1f2-c22b-4b51-b66f-ed473b45b953/toc_pdf/Economics%20Legislation%20Committee_2016_02_10_4140_Official.pdf;fileType=application%2Fpdf#search=%22committees/estimate/eba7c1f2-c22b-4b51-b66f-ed473b45b953/0002%22</p>

26 April 2016	<p>ATO issues first of three Taxpayer Alerts in relation to MAAL</p> <ul style="list-style-type: none"> • TA 2016/2: Interim arrangements in response to the Multinational Anti Avoidance Law (MAAL) • Media release issued warning companies against profit-shifting arrangements <p>https://www.ato.gov.au/law/view/pdf/tpa/ta2016-002.pdf https://web.archive.org/web/20170119065509mp_/https://www.ato.gov.au/Media-centre/Media-releases/ATO-warns-against-profit-shifting-arrangements/</p>
3 May 2016	<p>Government announced Tax Integrity Package in the Federal budget</p> <p>The package includes:</p> <ul style="list-style-type: none"> • Diverted profits tax (DPT) • Hybrid mismatch arrangement rules
10 Aug 2016	<p>ATO issues second of three Taxpayer Alerts in relation to MAAL</p> <ul style="list-style-type: none"> • TA 2016/8: GST implications of arrangements entered into in response to the Multinational Anti-Avoidance Law (MAAL) • Media release issued cautioning companies against avoiding tax obligations through contrived arrangements <p>https://www.ato.gov.au/law/view/print?DocID=TPA%2FTA20168%2FNAT%2FATO%2F00001&PiT=99991231235958 https://web.archive.org/web/20170119065347mp_/https://www.ato.gov.au/Media-centre/Media-releases/ATO-issues-new-warnings-for-large-companies-and-multinationals/</p>
29 Aug 2016	<p>Mark Konza (Deputy Commissioner, ATO), Assistant Commissioner (ATO) and other ATO officers meet with PwC Tax Partners and client</p> <ul style="list-style-type: none"> • Confirmation by PwC that that they were responsible for the MAAL structuring using foreign partnerships • ATO confirm that structuring to avoid MAAL using foreign partnerships was seen as tax avoidance
30 Aug 2016	<p>Jeremy Hirschhorn (Deputy Commissioner, ATO) and Executive Advisor (ATO) meet with Peter Calleja (Australian Tax Leader, PwC) and Tom Seymour (Managing Partner, Financial Advisory, & Asia Pacific Americas Tax Leader, PwC)</p> <ul style="list-style-type: none"> • Concerns re MAAL structuring raised directly with PwC tax leaders

15 Sep 2016	<p>ATO issues final of three Taxpayer Alerts in relation to MAAL</p> <ul style="list-style-type: none"> • TA 2016/11: Restructures in response to the Multinational Anti-Avoidance Law (MAAL) involving foreign partnerships • Media release issued warning against international profit shifting by multinationals – signals ATO concerns with a particular scheme to avoid the MAAL adopted by a handful of companies <p>https://www.ato.gov.au/law/view/pdf/tpa/ta2016-011.pdf https://web.archive.org/web/20170119065321mp_/https://www.ato.gov.au/Media-centre/Media-releases/ATO-cautions-on-multinational-profit-shifting/</p>
Sep 2016	<p>ATO commences Big 4 Taxpayer Alert Notice Program</p> <ul style="list-style-type: none"> • Following the issuance of a series of Taxpayer Alerts in 2016 (not limited to MAAL), the ATO commences a program of issuing compulsory information gathering notices to all Big 4 firms where there was known intelligence that they had advised on arrangements covered by a Taxpayer Alert
19 Sep 2016	<p>ATO issues the first compulsory information gathering notice to PwC</p> <ul style="list-style-type: none"> • The compulsory information gathering notice sought information and documents in relation to six Taxpayer Alerts
Oct 2016 to 2022	<p>PwC responds to ATO information gathering notices progressively over a number of years</p> <ul style="list-style-type: none"> • ATO starts receiving and reviewing materials provided by PwC in response to formal notices • The advisor strategy team issues a further 15 compulsory information gathering notices to PwC between October 2016 and April 2021. • The notices sought a range of information, including client information withheld due to disputed LPP claims and information related to Taxpayer Alerts issued in a later year • Over this extended period, tens of thousands of documents are provided to the ATO over several tranches • Over this extended period, tens of thousands of LPP claims are made in full or in part by PwC on behalf of their clients • The ATO takes issue with LPP claims and process • Many meetings at PwC Head of Tax and ATO Deputy Commissioner level over the period to discuss conduct of LPP related matters
29 Nov 2016	<p>Treasury released the exposure draft for DPT</p>
9 Feb 2017	<p>DPT bill introduced into Parliament</p>

1 Mar 2017	<p>ATO gives evidence at Senate Estimates in relation to impact of MAAL</p> <ul style="list-style-type: none"> • The impact of MAAL becomes a regular feature of ATO testimony at Senate Estimates and related hearings for a number of years • Through multiple testimonies, the ATO reveals more than 200 companies were reviewed for MAAL compliance with 44 companies restructuring to be MAAL compliant • More than \$8 billion of additional gross sales is booked in Australia returning more than \$100 million in additional income tax per annum, and approximately \$80m in net GST collections.
27 Mar 2017	<p>DPT bill passes Parliament</p> <ul style="list-style-type: none"> • Receives Royal Assent 4 April 2017
1 July 2017	<p>Commencement date for DPT</p> <ul style="list-style-type: none"> • Applies to income years commencing on or after this date • Can apply to schemes entered before this date
4 Oct 2017	<p>ATO asks Treasury for a copy of a confidentiality agreement</p> <ul style="list-style-type: none"> • Around this time, the ATO identifies Mr Collins was involved in MAAL consultation and may have shared information subject to confidentiality obligations • The ATO subsequently requested and Treasury provided a pro-forma Confidentiality Acknowledgment to the ATO.
25 Oct 2017	<p>ATO clarifies impact of MAAL</p> <ul style="list-style-type: none"> • Following evidence at Senate Estimates, the ATO clarifies that a number of companies have restructured due to MAAL, including Google and Facebook. <p>https://web.archive.org/web/20171101211820mp_/https://www.ato.gov.au/Media-centre/Media-releases/ATO-clarifies-impact-of-the-MAAL/</p>
23 Nov 2017	<p>Treasury released the exposure draft for the anti-hybrid rules</p>
Jan 2018	<p>ATO submission to Corporate Tax Inquiry outlines the ATO's intermediary strategy</p> <ul style="list-style-type: none"> • The submission provides an overview of the intermediary strategy. In particular it notes, that the ATO is taking action against advisers who undermine the integrity of the tax system, including those who seek to cloak the promotion of unacceptable tax planning via inappropriate claims for legal professional privilege <p>https://www.aph.gov.au/DocumentStore.ashx?id=d8041688-b1a9-4008-8b9d-b7085f6a37b9&subId=509861</p>
9 March 2018	<p>ATO General Counsel provides preliminary legal advice about the application of the secrecy provisions to sharing information related to the possible breach of confidentiality by Mr Collins to enable us to share information</p>

22 March 2018	<p>Authorisation granted by Assistant Commissioner to disclose to the AFP</p> <ul style="list-style-type: none"> Pursuant to ATO procedures, formal (internal) approval was sought and provided in order to make a disclosure to the AFP
26 March 2018	<p>Initial ATO / AFP Call</p> <ul style="list-style-type: none"> AFP suggest a pre-referral workshop to discuss available intelligence/evidence and provide guidance to the ATO
24 May 2018	<p>Anti-hybrid bill introduced into Parliament</p>
25 May 2018	<p>ATO General Counsel provides further advice about whether disclosures are permitted and recommends seeking advice from the Australian Government Solicitor (AGS)</p>
28 June 2018	<p>ATO provide information to the AFP for the pre-referral workshop</p>
29 June 2018	<p>AFP advise that the ATO information is insufficient for them to make an assessment or provide advice as to whether an offence had been committed</p>
13 July 2018	<p>ATO receives legal advice from AGS as to whether the secrecy provisions permitted disclosure</p>
August to November 2018	<p>ATO start receiving information in relation to specific clients and their engagement with PwC on the MAAL. This enables the ATO to commence analysis as to whether PwC marketed or promoted tax exploitation schemes, contrary to the promoter penalty laws</p> <ul style="list-style-type: none"> Work commences on specific promoter penalty cases following some clients withdrawing earlier LPP claims over those documents
16 Aug 2018	<p>Anti-hybrid bill passes Parliament</p> <ul style="list-style-type: none"> Receives Royal Assent on 24 Aug 2018
14 Sep 2018	<p>ATO requested Treasury provide a copy of the confidentiality agreement signed by Mr Collins</p>
21 Sep 2018	<p>Treasury provides to the ATO a copy of a confidentiality agreement signed by Mr Collins</p>
10 Oct 2018	<p>AFP agree to further discussions but reconfirm their initial advice that they need further documentary evidence to determine if an offence has been committed</p> <ul style="list-style-type: none"> The ATO did not have the evidence needed by the AFP and did not have the investigatory powers to obtain it
18 Oct 2018	<p>ATO provides a copy of the signed confidentiality agreement to the AFP</p>
Nov/Dec 2018	<p>ATO explores whether other Commonwealth legislation would provide a mechanism to inform other Government stakeholders</p>
13 Nov 2018	<p>ATO requests advice from Commonwealth Director of Prosecutions (CDPP) about potential prosecution of PwC for breach of formal information gathering notices</p> <ul style="list-style-type: none"> As the ATO considered many LPP claims baseless, it wished to explore whether this constituted criminal non-compliance with the formal notices

26 Nov 2018	<p>ATO meets with CDPP about prosecution for failure to comply with the formal information gathering notices</p> <ul style="list-style-type: none"> The CDPP advised that it was unable to instigate a prosecution given it was unlikely that the ATO could provide the necessary evidence to enable the CDPP to prove the invalidity of the LPP claims beyond reasonable doubt
29 Nov 2018	<p>ATO engages internal criminal investigation specialists to assist with AFP engagement</p> <ul style="list-style-type: none"> Internal specialists also conduct a review of the matter to test prospect of successfully pursuing a referral to the AFP
30 Nov 2018	<p>ATO discusses concerns in relation to LPP at National Tax Liaison Group (NTLG)</p> <p>Concerns raised included:</p> <ul style="list-style-type: none"> LPP engagements and routing of information through lawyers in an attempt to make non-privileged communications privileged LPP processes <p>The ATO advised it was actively considering:</p> <ul style="list-style-type: none"> Declaratory proceedings Prosecution Promoter & administrative penalties Fraud and evasion investigations (e.g. creation of commercial rationale) <p>https://www.ato.gov.au/misc/downloads/pdf/qc57874.pdf</p>
On or around 30 Nov 2018	<p>ATO discusses with Treasury its concerns related to possible breaches of confidential consultation</p> <ul style="list-style-type: none"> Due to secrecy provisions the ATO was not able to disclose specific details related to Mr Collins and PwC
13 Dec 2018	<p>ATO confirms initial impacts of the MAAL emerge in the 2016-17 corporate tax transparency data</p> <p>https://web.archive.org/web/20190105202144mp_/https://www.ato.gov.au/Media-centre/Media-releases/ATO-releases-corporate-tax-data</p>
1 Jan 2019	<p>Commencement date for Anti-Hybrid rules</p> <ul style="list-style-type: none"> Applies to income years commencing on or after this date Imported mis-match rules don't commence until income years commencing on or after 1 Jan 2020 A number of amendments have been made to the anti-hybrid rules (not included in timeline)
2 Jan 2019	<p>ATO sets up dedicated Advisor Strategy for Large Market</p> <ul style="list-style-type: none"> An Assistant Commissioner and approximately 20 staff are moved into a dedicated function to address advisor behaviours of concern

29 Jan 2019	<p>ATO criminal investigation specialists provide advice about evidence to support a referral to the AFP</p> <ul style="list-style-type: none"> Specialists advised that unless the ATO can gather further evidence there is insufficient evidence to support a referral ATO did not have the investigative powers to obtain the evidence required
25 March 2019	<p>The AFP confirm that they have closed their file on the matter</p>
28 March 2019	<p>NTLG LPP working group established to co-design LPP protocol</p> <ul style="list-style-type: none"> Members include representatives from the Law Council of Australia, large law firms and the Big 4 ATO meets with members individually over 2019 The working group meets 3 further times in 2021
10 May 2019	<p>ATO establishes a working group to facilitate the design of the Large Market Tax Advisory Principles</p> <ul style="list-style-type: none"> The working group includes representatives from the ATO, TPB, each of the Big 4, Greenwoods, Chartered Accountants Australia and New Zealand (CAANZ). TPB & Treasury (as an observer) later also join the working group. The working group met 11 times over the period until mid-2022
26 June 2019	<p>AFR reveals that 24 ATO audits are being complicated by blanket LPP claims</p> <ul style="list-style-type: none"> <i>Legal privilege claims in 20 per cent of ATO multinational cases</i>, Tom McIlroy https://www.afr.com/policy/tax-and-super/legal-privilege-claims-in-20-per-cent-of-ato-multinational-cases-20190626-p521h3/
7 Aug 2019	<p>ATO formally advise PwC that it is investigating the application of the promoter penalty laws regarding the marketing of MAAL schemes</p>
14 Aug 2019	<p>High Court hands down decision in <i>Glencore International AG v Commissioner of Taxation</i></p> <ul style="list-style-type: none"> The decision confirms that LPP could not be used as a sword to require the Commissioner to deliver up documents obtained as a result of the 'Paradise Papers' leak
14 Aug 2019	<p>ATO issues Media Release in relation to the Glencore decision</p> <p>https://web.archive.org/web/20190819021401mp_/https://www.ato.gov.au/Media-centre/Media-releases/High-Court-confirms-ATO-can-use-information-from-data-leaks</p>
29 Aug 2019	<p>Jeremy Hirschhorn (Second Commissioner, ATO) meets with Luke Sayers (CEO, PwC)</p> <ul style="list-style-type: none"> The meeting covered a range of ATO concerns related to PwC conduct and the formal notice process Second Commissioner suggested to CEO to personally review the internal emails

12 Sep 2019	<p>Jeremy Hirschhorn (Second Commissioner, ATO) presents to PwC tax partners</p> <ul style="list-style-type: none"> • <i>Reflections on being a large market tax advisor, published 13 Sep 2019</i> • The presentation included substantial commentary on the role of large firm tax advisors and their conduct <p>https://www.ato.gov.au/Media-centre/Speeches/Other/Reflections-on-being-a-large-market-tax-adviser/#:~:text=The%20role%20of%20a%20large,driven%20people%20across%20the%20industry.</p>
	<p>AFR covers 'advisor speech' presented by Second Commissioner</p> <ul style="list-style-type: none"> • <i>Deloitte, EY, KPMG and PwC a 'systemic' tax risk: ATO, Edmund Tadros</i> <p>https://www.afr.com/companies/professional-services/deloitte-ey-kpmg-and-pwc-a-systemic-tax-risk-ato-20190911-p52qbi#:~:text=The%20big%20four%20consultants%20harbour,ATO%20second%20commissioner%20Jeremy%20Hirschhorn.</p>
13 Sep 2019	<p>AFR report Big 4 response to the 'Advisor Speech'</p> <ul style="list-style-type: none"> • <i>PwC concedes backlash against aggressive advisors, Edmund Tadros</i> <p>https://www.afr.com/companies/professional-services/pwc-concedes-backlash-against-aggressive-advisers-20190912-p52qkv</p>
6 Nov 2019	<p>ATO receives legal advice about difficulties in application of promoter penalty laws</p>
14 Nov 2019	<p>Jeremy Hirschhorn (Second Commissioner, ATO) presents at PwC Global Tax Symposium</p> <ul style="list-style-type: none"> • <i>Future of tax administration</i> • The presentation included substantial commentary on the role of large firm tax advisors and their conduct <p>https://www.ato.gov.au/Media-centre/Speeches/Other/Future-of-tax-administration/</p>
29 Nov 2019	<p>ATO and TPB meet to discuss ATO advisor strategy for large market</p>
Dec 2019	<p>ATO reinforces the advisor strategy team with further senior resources</p> <ul style="list-style-type: none"> • Staffing revisited due to significant volume of information and issues • Three additional Assistant Commissioners assigned responsibility to lead key deliverables of the advisor strategy program
12 Dec 2019	<p>ATO issues Media Release confirming 2017-18 corporate tax transparency data reflects over \$7 billion in sales income being booked in Australia in response to the MAAL</p> <p>https://web.archive.org/web/20200331022806mp_/https://www.ato.gov.au/Media-centre/Media-releases/Corporate-Tax-Transparency-report-shines-spotlight-on-tax-take/</p>
13 Dec 2019	<p>Details of several PwC advisors provided to TPB including Mr Collins</p> <ul style="list-style-type: none"> • Concerns re other advisors mostly related to behaviours in relation to LPP claims
18 Dec 2019	<p>ATO issues Media Release in relation to settlement with Google</p> <ul style="list-style-type: none"> • Confirms the operation of the MAAL has led to the resolution of cases which had over \$1 billion in back tax assessments

	<ul style="list-style-type: none"> Highlights work with e-commerce sector to settle disputes with Google, Microsoft, Apple and Facebook <p>https://web.archive.org/web/20200331022751mp_/https://www.ato.gov.au/Media-centre/Media-releases/ATO-nets-another-e-commerce-victory/</p>
Late 2019 / early 2020	<p>ATO increases work on administrative penalties for PwC for false and misleading statements in relation to LPP claims made in response to compulsory information gathering notices</p> <ul style="list-style-type: none"> First position paper issues in May 2020
7 Feb 2020	<p>ATO provides evidence at Inquiry into Regulation of auditing in Australia</p> <ul style="list-style-type: none"> Evidence covers a range of topics including accountant ethics, pay structures and audit services <p>https://parlinfo.aph.gov.au/parlInfo/download/committees/commint/6911a50c-20f7-46e7-a989-1a4c3109800d/toc_pdf/Parliamentary%20Joint%20Committee%20on%20Corporations%20and%20Financial%20Services_2020_02_07_7479_Official.pdf;fileType=application%2Fpdf#search=%22committees/commjnt/6911a50c-20f7-46e7-a989-1a4c3109800d/0000%22</p>
20 Feb 2020	<p>Jeremy Hirschhorn (Second Commissioner, ATO) meets with Luke Sayers (CEO, PwC)</p> <ul style="list-style-type: none"> The meeting covered developments in a range of issues Mr Sayers raised the upcoming PwC CEO election Second Commissioner advises that not ATO role or appropriate to comment on election processes. The PwC Board should ensure that it is fully abreast of the range of concerns the ATO has had with PwC Tax Group's behaviour
26 Feb 2020	<p>ATO conducts confidential consultation with Law Council of Australia re the LPP protocols</p> <ul style="list-style-type: none"> 5 meetings are held over 2020 and 2021
11 Mar 2020	<p>Rebecca Saint (Deputy Commissioner, ATO) advises Michael O'Neill (CEO, TPB) that the ATO is likely to refer Mr Collins for investigation</p> <ul style="list-style-type: none"> ATO to test LPP in Court before referring other advisors
2 April 2020	<p>ATO provides information to the TPB in relation to potential breach of confidentiality agreement by Mr Collins</p>
23 April 2020	<p>Jeremy Hirschhorn (Second Commissioner, ATO) meets with Luke Sayers (CEO, PwC) & David McKeering (Consulting Leader, PwC)</p> <ul style="list-style-type: none"> Mr McKeering was put forward as a direct point of communication to PwC Board following the election of Tom Seymour as CEO of PwC
19 May 2020	<p>Following TPB request for further information the ATO provides further information in relation to Mr Collins</p>
2 June 2020	<p>ATO file declaratory proceedings against PwC and Flora Green (JBS) in Federal Court challenging LPP claims</p>

5 June 2020	<p>ATO formally advise PwC that it has concluded the promoter penalty laws review with no further action</p> <ul style="list-style-type: none"> Notwithstanding the conclusion of the review, the ATO raise several concerns about the behaviours of PwC
1 July 2020	<p>Following TPB request for further information, the ATO provide further information in relation to Mr Collins and MAAL</p>
2 July 2020	<p>The ATO formalises the referral of Mr Collins for investigation by the TPB</p>
24 Sept 2020	<p>Following TPB request for further information, the ATO provides information in relation to PwC</p>
24 Nov 2020	<p>Jeremy Hirschhorn (Second Commissioner, ATO) meets with Bruce Quigley (appointed by PwC to conduct a review of their tax governance framework)</p>
27 Nov 2020	<p>The Minister for Housing and Assistant Treasurer, released the final report of the Review of the Tax Practitioners Board</p> <ul style="list-style-type: none"> The report included recommendations in relation to LPP <p>https://treasury.gov.au/sites/default/files/2020-11/independentreviewofthetaxpractitionersboardfinalreport.pdf</p>
2 Feb 2021	<p>Federal Court hands down its decisions in <i>CUB Australia Holding Pty Ltd v Commissioner of Taxation</i></p> <ul style="list-style-type: none"> The Federal Court ruled that the Commissioner is able to use his formal information gathering powers to obtain details about LPP claims in order to assess whether he should accept or challenge the claims in court
23 March 2021	<p>The ATO obtains initial legal advice in respect of the potential application of administrative penalties for false and misleading statements in relation to LPP claims made in response to a compulsory information gathering notice</p>
16 June 2021	<p>Following TPB request for further information, the ATO declined to provide most of the information requested on the basis that information did not relate to the alleged conduct of Mr Collins</p> <ul style="list-style-type: none"> The ATO was concerned that the provision of this information would identify taxpayers and disclose other protected information not relevant to the referral.
30 June 2021	<p>Large Business 5 (LB5) endorses advisor stream as a priority work stream</p> <ul style="list-style-type: none"> LB5 is a group directed by Senior Leaders of Large Business tax administration in Australia, Canada, the Netherlands, the United Kingdom, and the United States Key aim is to increase multilateral collaboration and shared best practice on managing compliance challenges relating to multinationals Formal addition of an advisor stream as a priority

16 Aug 2021	<p>Jeremy Hirschhorn (Second Commissioner, ATO) and Rebecca Saint (Deputy Commissioner, ATO) meet with Chris Morris (Australian Tax Leader, PwC) and Peter Calleja (Managing Partner Financial Advisory, PwC)</p> <ul style="list-style-type: none"> PwC provides a six page power-point summary of the outcomes of the <i>Independent design effectiveness review of the PwC Australia tax governance and internal control framework</i>, performed by Mr Quigley
17 Aug 2021	<p>Rebecca Saint (Deputy Commissioner, ATO) receives general intelligence from a non-big 4 advisor that the TPB had issued extensive compulsory information gathering notices to large businesses</p> <ul style="list-style-type: none"> In mid-September another advisor notifies the ATO of the compulsory information gathering notices issued by the TPB
19 Aug 2021	<p>Rebecca Saint (Deputy Commissioner, ATO) writes to Michael O'Neill (CEO, TPB) inquiring about compulsory information gathering notices issued to large business</p>
25 Aug 2021	<p>TPB submit a copy of case plan with ATO intermediaries team</p> <p>TPB case plan shows:</p> <ul style="list-style-type: none"> 11 Jan 2021 – investigation of Mr Collins commenced 8 Mar 2021 – investigation of PwC commenced 5 to 21 July 2021 – compulsory information gathering notices were sent to 26 multinational clients
1 Sep 2021	<p>Chris Jordan (Commissioner, ATO), Jeremy Hirschhorn (Second Commissioner, ATO) & Hoa Wood (Deputy Commissioner, ATO) attend TPB Board Meeting</p>
21 Sep 2021	<p>Following further meetings between the ATO and the TPB, Chris Jordan (Commissioner, ATO) writes to Mr Klug (TPB Chair) outlining concerns related to TPB staff directly accessing ATO settlement deeds contrary to ATO concerns</p> <p>https://www.tpb.gov.au/sites/default/files/2023-07/FOI%20Request%2024%20-%20Disclosure.pdf</p>
21 Sep 2021	<p>Full Federal Court hands down appeal decision in <i>CUB Australia Holding Pty Ltd v Commissioner of Taxation</i></p> <ul style="list-style-type: none"> The decision at first instance is upheld – i.e. the decision affirms that the Commissioner can use information gathering powers to request details of LPP claims where done for the purpose of being able to assess whether claims should be accepted or challenged in court
Sep 2021	<p>ATO publishes draft LPP Protocol</p> <p>https://www.ato.gov.au/law/view/print?DocID=SGM%2FLPP&PiT=99991231235958</p>
1 Oct 2021	<p>Mr Klug (Chair, TPB) responds to Mr Jordan's (Commissioner, ATO) letter dated 21 September 2021</p>

20 Jan 2022	<p>Mr Klug (Chair, TPB) writes to Mr Jordan (Commissioner, ATO) outlining outcomes of TPB review following concerns raised by the Commissioner in his letter of 21 Sep 2021</p> <p>https://www.tpb.gov.au/sites/default/files/2023-07/FOI%20Request%2024%20-%20Disclosure.pdf</p>
18 Feb 2022	<p>Michael O'Neill (CEO, TPB) notifies Rebecca Saint (Deputy Commissioner, ATO) and Hoa Wood (Deputy Commissioner, ATO) that the TPB secretariat has finalised the investigation into Mr Collins and PwC and draft submissions have been prepared</p>
2 Mar 2022	<p>Michael O'Neill (CEO, TPB) and TPB Investigator meet with Rebecca Saint (Deputy Commissioner, ATO) and Hoa Wood (Deputy Commissioner, ATO) to provide an update on the TPB investigation</p>
22 June 2022	<p>ATO publishes final LPP Protocol</p> <ul style="list-style-type: none"> • ATO issue media release issued explaining role of the LPP protocol <p>https://www.ato.gov.au/law/view/pdf/adhoc-sgml/lpp-protocol-final.pdf</p> <p>https://www.ato.gov.au/Media-centre/Media-releases/ATO-provides-certainty-on-Legal-Professional-Privilege-claims/</p>
15 Aug 2022	<p>Federal Court hands down decision in <i>Commissioner of Taxation v PwC</i></p> <ul style="list-style-type: none"> • More than 50% of the communications were found not to be for the dominant purpose of legal advice and therefore were not privileged (noting half the sample was chosen by JBS/PwC, half by the ATO (sight unseen)) • Actions to apply the principles in to remaining 15k claims continues
17 Aug 2022	<p>Big 4 firms publish & sign up to, <i>The Australian Tax advisory firm governance, best practice principles</i></p> <p>https://www2.deloitte.com/au/en/pages/tax/articles/large-market-tax-adviser-principles.html</p> <p>https://www.ey.com/en_au/tax</p> <p>https://home.kpmg/au/en/home/insights/2022/08/australian-tax-advisory-firm-governance-principles.html</p> <p>https://www.pwc.com.au/tax.html</p>
From Aug 2022	<p>ATO publicly acknowledges the finalised principles and supports adoption</p> <p>https://www.ato.gov.au/General/Tax-and-Corporate-Australia/In-detail/We-assist-and-assure-the-tax-compliance-of-large-corporate-groups/</p>

21 Nov 2022	<p>ATO provides PwC with its decision to apply a penalty for false and misleading statements in relation to LPP claims made in response to a compulsory information gathering notice</p> <ul style="list-style-type: none"> • The matter was settled on 20 March 2023 • Following execution, the settlement was reviewed by a retired judge as part of the independent assurance of settlement process. The former judge found the settlement to be fair and reasonable for the Australian community • The TPB was advised of the settlement on 5 June 2023 • The settlement is not related to the breach of Treasury consultation investigated by the TPB. It was related to false LPP claims in responding to a compulsory information gathering notice • The settlement did not contain an undertaking or agreement to withhold information from the TPB or other agencies. Nor did it include an undertaking or agreement to influence disclosures by the TPB to the Senate.
25 Nov 2022	TPB provides the ATO with a Notification of Outcome of Investigation in relation to PwC
16 Dec 2022	TPB provides the ATO with Notice of Decision in relation to Mr Collins
23 Dec 2022	<p>TPB updates its public register</p> <p>https://www.tpb.gov.au/public-register?practitioner=39805002</p>
19 Jan 2023	TPB publishes full decisions with reasons on TPB's public register
23 Jan 2023	<p>TPB issue media release about the PwC and Collins matter</p> <p>https://www.tpb.gov.au/former-pwc-partner-banned-integrity-breach</p>