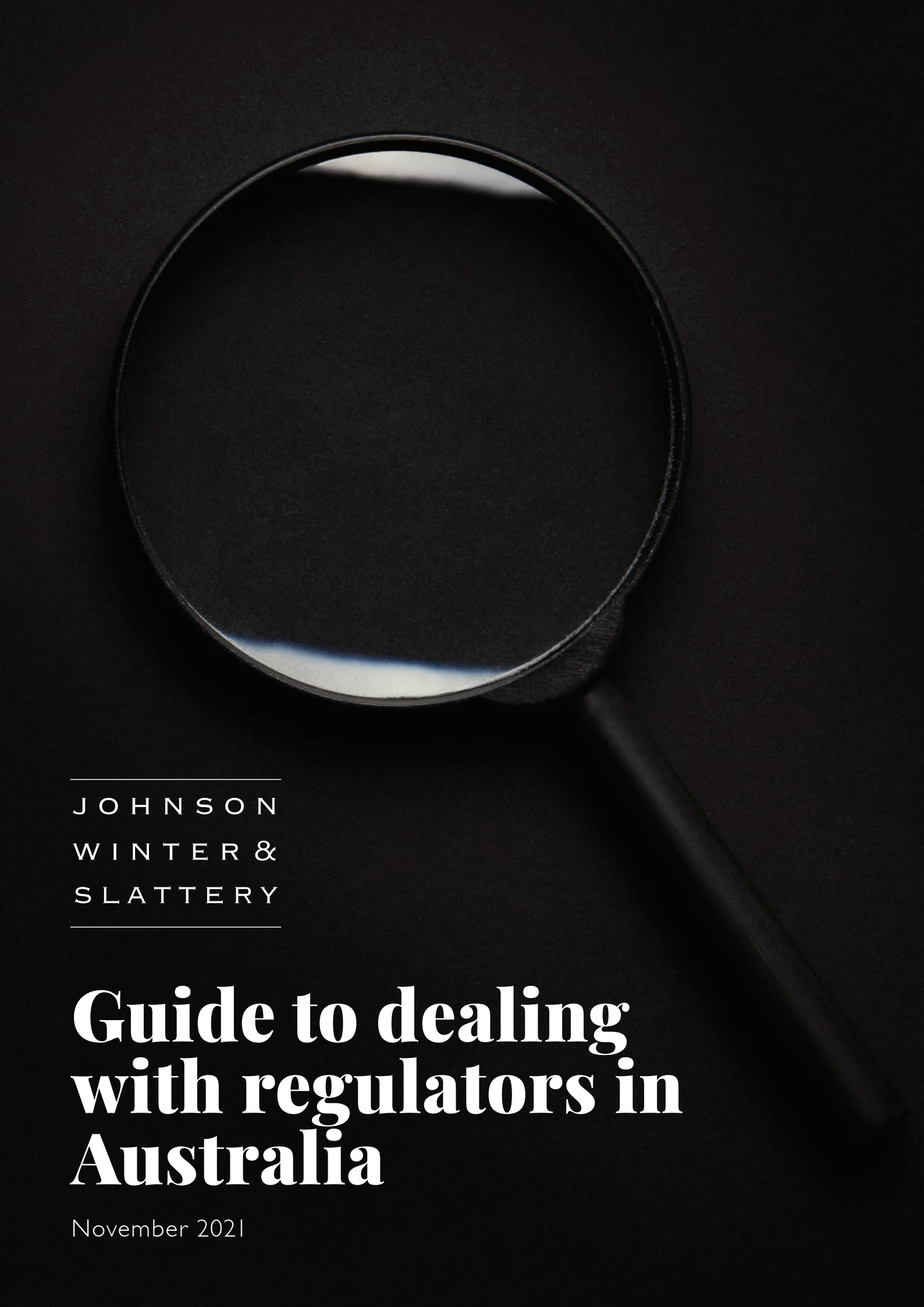

JOHNSON
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Guide to dealing with regulators in Australia

November 2021

Contents

This guide is general in nature. Your dealings with a regulator are of fundamental importance to your business and you should seek expert legal advice.

Regulation in Australia

Australia has many investigative bodies with coercive information gathering powers. At the Federal level alone, these include the Australian Competition and Consumer Commission (**ACCC**), Australian Transaction Reports and Analysis Centre, (**AUSTRAC**), Australian Prudential Regulation Authority (**APRA**), the Australian Securities and Investment Commission (**ASIC**), Australian Securities Exchange (**ASX**) and the Australian Taxation Office (**ATO**). Not to mention specific regulators and agencies for sectors including communications, energy, higher education, human rights, not for profits, infrastructure and aged care.

There are specific regulators and agencies for sectors including communications, energy, financial services, higher education, human rights, not for profits, infrastructure and taxation.

Regulators have coercive and enforcement powers which include:

- monitoring powers, which can be used to monitor compliance with provisions of an Act and to assess whether information given to a regulator is correct; and
- investigation powers which can be used to gather material which relates to a suspected contravention.

Typically, regulators will have powers to require the production or inspection of documents, compel disclosure of information, require an individual to attend an examination, compel assistance with an investigation or comply with a search warrant.

These powers are backed up by penalties for non-compliance, which can involve substantial fines for corporations and imprisonment for individuals.

A responsible organisation that operates in a regulated environment will adopt a respectful, compliant position in dealings with a regulator. At the same time, it is important to know your corporation's legal rights and the principles which might apply to the regulator, including integrity, professionalism, confidentiality, timeliness, proportionality and fairness. With the right advice you will be well placed to respond to regulatory action in a way that best protects your legal interests.

DEVELOP A RELATIONSHIP OUTSIDE OF THE REGULATORY PROCESS

There is an opportunity to establish a relationship which may be beneficial for your company at a time when you are not directly engaged with a regulator.

Some regulators have semi-formal lines of communications to engage with Boards and senior management. Industry events also present opportunities to engage at a time when there is nothing specific on foot between you and the regulator. Whilst a regulator is likely to have a vast amount of information and established perceptions about your industry and its regulatory regime, they will also benefit from insights into what is happening within your business, the drivers for innovation, risks and opportunities in future. On the other hand, a regulator may share with you their enforcement and compliance priorities, and approach. It may pay dividends in future if the regulator gets to know you at a time when battle lines are not drawn.

Another opportunity to develop a relationship with a regulator is when there is a proposed change to regulation that affects your corporation. Typically, a planned regulatory change will involve a consultation process, with an invitation for input from affected stakeholders. Taking that opportunity not only gives your corporation input into future regulatory frameworks - tailoring the amendments as much as possible and highlighting any unforeseen consequences - but also demonstrates that your company takes regulation seriously, engages with regulatory reform and respects the role of the regulator in establishing its regulatory framework.

You might also consider making contact with a regulator on a proactive basis if a development or planned action on the part of your business may engage regulatory interest. For example, if your company is proposing to embark on an acquisition strategy that may result in complaints to or enquiries by the ACCC it may be prudent to take the initiative to meet with the ACCC and brief them about your business, the competitive dynamics or the market and the aim of the acquisitions.

VOLUNTARY INQUIRIES FROM REGULATORS

A regulator will seek information about suspected misconduct or contraventions from a range of sources.

One option is an informal request for information and documents. A regulator may take this step where they have a positive view about your company's preparedness to cooperate and a level of confidence in the relationship that your corporation has with the regulator.

A decision to proceed by way of an informal request for information and documents can also be driven by expediency – the regulator may not have sufficient information to commence a formal investigation and may be open to receiving information that precludes the need for deeper investigation at all.

There may be circumstances where voluntarily producing information and documents makes perfect sense. For example, the provision of explanatory material may resolve the regulator's concerns without the matter proceeding to a formal investigation. It is important to seek legal advice about any informal request for information or documents and to give careful consideration to your response. You may wish to maintain an open and cooperative relationship with the regulator, but you want to avoid causing your corporation (or individuals within the corporation) unnecessary difficulties.

One key consideration is whether or not cost, convenience and strategy suggest that the company may be better served by responding to a compulsory process. This is particularly the case given that documents produced voluntarily may have different protections (or no protections) compared to information provided under compulsion.

Considerations include:

- whether there is a risk that confidentiality will be lost.
- whether the documents are subject to a claim for legal privilege.
- whether there are interests of a third party that may be affected, including any obligation of confidence.

This early stage of a regulator's investigation is a good time to give consideration to seeking advice about putting in place a communications or privilege protocol, particularly if you consider it to be likely that the investigation is likely to progress. These protocols are designed to protect internal and external communications from compulsory production, and may include requirements such as marking certain communications "Privileged & Confidential", copying appropriate internal or external legal counsel on certain types of communications, and strictly limiting the number of people who are privy to certain communications.

When deciding what to do with an informal request it is important to understand what the regulator is looking for and why. Is it your corporation, or individuals within your corporation, that is the subject of concern? It may be that the regulator has identified your corporation as potentially having relevant information or documents that relate to a concern about other entities or individuals.

A regulator will not understand your business as well as you do and the request may ask for a wide range of documents and information. If a request is vague or oppressive there is an opportunity to clarify the request with the regulator. With the input of your lawyer, those discussions can proceed on the basis that you are exploring how the request might be refined and addressed without prejudicing your final position.

Once any refinement has been undertaken, you will need to assess what information and documents would be caught by the request. You will need to be aware that documents can reside in emails, data files, paper records, diary entries, business records and IT backups.

In considering and obtaining advice in relation to these steps you will be in a position to decide whether to provide some, all or none of the information and documents on a voluntary basis.

If it is decided to provide information in response to a voluntary request it is essential that you avoid providing misleading information, whether deliberately or inadvertently. If there are limitations in the quality and coverage of the information and/ or documents provided this should be made clear to the regulator to avoid subsequent criticism. Providing misleading information in response to a voluntary request can create serious problems further down the line.

COMPULSORY INFORMATION GATHERING POWERS

Australian regulators have a range of compulsory information gathering powers that require:

- provision of documents and information.
- attendance at an examination to answer questions and provide reasonable assistance.

These powers are typically used in two areas of regulatory action:

- surveillance in respect of compliance with the law.
- investigations of suspected breaches of the law.

It is important to get legal advice when faced with compulsory information gathering processes.

In general terms, these powers will require a corporation to provide all responsive information other than information that it has a claim for legal professional privilege. The identity of the regulator and the law that underpins the regulator's powers will dictate how legal professional privileges and privileges against self-incrimination will operate in your situation.

COMPULSORY EXAMINATION

A regulator will also have the power to require you to attend an examination and answer questions on oath or affirmation. There may be limits on the exercise of this power. In many cases it can only be exercised where there is reason to suspect a contravention of the law has occurred. In most cases a request will be made in writing, stating the general nature of the matter that is being (or will be) investigated and a time and place for the examination. Typically it must be served within a reasonable time before the date for the examination, to give you an opportunity to seek legal advice.

You have a right to refuse to answer questions on the basis that the answer would disclose information that is covered by a valid claim of legal professional privilege, but you (or your lawyer) will need to be able to explain why that privilege will apply. In many cases you may also make a claim for privilege on the basis that the answer you give may personally incriminate you.

Typically the discussion that takes place in the examination is confidential in which case you will be forbidden from discussing the content of the examination with anyone (other than your lawyer) for a period of time. The regulator, on the other hand, may be able to disclose the information to third parties on a confidential basis during the course of the investigation or during any legal proceedings. The information received during an examination may eventually come out in open court.

PRIVILEGED DOCUMENTS AND INFORMATION

Without express legislative powers, Australian regulators cannot compel the production of privileged communications. Legal privilege is recognised by the courts as a fundamental common law immunity to a regulator's legislative powers.

There are two distinct categories of legal professional privilege:

1. Advice privilege, applying to confidential information (communications and documents) brought into existence for the dominant purposes of giving or obtaining legal advice; and
2. Litigation privilege, which applies to confidential information (communications and documents) brought into existence for the dominant purpose of a client being provided with professional legal services in relation to actual or anticipated legal proceeding.

You will want to seek advice in relation to presenting a legal professional privilege claim over information and documents that is responsive to the compulsory process and may do so if:

- you are the privilege holder; or
- seek to assert the legal professional privilege claim on behalf of the privilege holder.

Different regulators will have different powers and processes in place for a claim of legal professional privilege and specific statutory requirements may apply.

On occasion there may be carefully considered strategic reasons to provide privileged communications to a regulator. If so, you should seek appropriate legal advice to establish a framework for the provision of that material. A regulator may have a standard agreement for voluntary confidential legal professional privilege disclosure which sets out the terms on which the regulator may elect to accept such information.

Such a disclosure needs to be carefully considered in conjunction with expert legal guidance. Whilst you may reach agreement with a regulator that the provision of information is not a waiver of any privilege existing at the time of the disclosure, these arrangements do not prevent third parties from asserting that privilege has been waived. This is an important consideration, particularly in an era of increasing regulatory action and class actions in which plaintiffs seek to piggy back on regulatory investigations and proceedings.

THIRD PARTY ACCESS TO DOCUMENTS

As indicated above, when dealing with regulators your responses and strategy should be informed by the possibility of third parties seeking to access compulsorily produced documents and/or transcript of examinations. These third parties may include plaintiff law firms who wish to use such information for the purpose of working up private claims (including possible class actions). By way of example, ASIC policy is to generally assist private litigants by providing information and documents if requested, subject to:

- avoiding potential prejudice to ASIC's investigations.
- any legal limitations on ASIC's ability to disclose confidential or private information.
- the rights of third parties affected by the provision of information.

Additionally, documents and information you disclose to a regulator, for example the ACCC under its compulsory information gathering powers, may be the subject of discovery orders in subsequent proceedings irrespective of whether or not you are a party to the proceedings. Such an outcome may include your documents and information being discovered to competitors.

Prior to any disclosure, you should carefully consider (and seek legal advice on) possible claims of confidentiality, particularly with respect to commercially sensitive documents and information. In the event your documents and information become the subject of a discovery order, it is important to obtain legal advice and consider establishing an appropriate confidentiality regime to minimise the risk of your documents and information being discovered to competitors.

SELF-INCRIMINATION

The privilege against self-incrimination is available to natural persons, but not corporations.

In some cases legislation grants a regulator the power to compel a person to answer questions, and provide that the privilege against self-incrimination does not excuse a person from answering questions. These laws usually provide a level of immunity regarding the answers given. Other statutory safeguards against incrimination may also be provided, including restrictions on sharing the information obtained with law enforcement agencies.

It is important to obtain legal advice if your dealings with a regulator give rise to concern that you or any other individual in your organisation may incriminate themselves and to ensure you access the privileges and/or safeguards that may apply.

Warrants

A warrant is a serious matter. Typically, a warrant will only be sought after approval at senior levels within a regulator and may only be issued by a Magistrate or Justice of the Peace after considering the evidence relating to the commission of an alleged offence.

A regulator acting upon a warrant will do so without notice and is a very clear signal that the regulator is concerned about a serious matter.

A notice that is part of (or accompanies) the warrant will set out the documents and equipment that are the subject of the search and will identify the offence that the regulator believes may have occurred. The warrant may allow for interviews with company officers and staff.

Those that attend your premises with a warrant will have a depth of experience in doing the job. You can expect them to be efficient, well briefed and accompanied by their own IT. Police may be in attendance. They will invade computers, sift through documents – both physical and digital, interview staff and put material into containers for removal.

In general terms, a corporation needs to do its best to comply with the warrant, however, there are legal grounds to challenge what they do. This is why your first step should be to call an external lawyer who has experience in the area.

WARRANT RESPONSE CHECKLIST - A STEP-BY-STEP GUIDELINE TO FOLLOW IF RESPONDING TO A WARRANT

UPON ARRIVAL OF OFFICERS		
Reception	Call management and in-house counsel (or emergency contact, eg external counsel).	Ask officers to wait in reception area.
Management	Call in-house counsel (if no in-house counsel available, call external counsel).	Ask officers to wait for counsel (but don't refuse entry).
In-house counsel	Verify identifications and obtain business cards of all officers. Call external counsel. Seek to delay execution of warrant until arrival of external counsel. Review the search warrant carefully. Obtain external advice regarding validity (eg correct entity, outline of offence, satisfaction of prerequisites), scope and possible court challenge.	Organise in-house Response Team and allocate responsibilities including a key contact to deal with the regulator. Contact other senior management/ company premises, if necessary.
DURING INSPECTION		
Management **In-house counsel**	Ensure that officers are never left alone and instruct all employees not to discuss the investigation beyond relevant personnel within the organisation. Provide reasonable assistance to the officers.	Do not destroy any documents or delete any electronic data. Do not obstruct the inspection, eg refusing access to documents or electronic equipment or hiding things.
Response Team	**Officers request access to documents** Ensure that officers do not gain access to legally privileged documents or seize documents which are outside the scope of the search warrant. If dispute over privilege, agree with officers to follow the Guidelines for Privilege Claims (see following page). Take copies of all documents seized, copied or seen by officers. Keep note of any objection to the officers seizing documents outside the scope of the search warrant. **Officers ask questions about documents** Ensure that counsel is present. Respond only to questions about documents. Do not volunteer information, speculate or give opinions. Keep notes of questions asked and answers given. If necessary, record dialogue, advising participants of recording.	**Officers request on the spot interview** Limit assistance to questions about access to material under warrant. Respond to questions only in the presence of counsel, preferably by subsequent appointment. Keep notes of questions asked and answers given. If necessary, record dialogue, advising participants of recording. **Officers request to search computers, download and print electronic files** Ensure that counsel is present. Assist officers – do not obstruct. Call in-house IT department to assist, if necessary. Ensure that extra copies are retained for record. Keep note of all items seized (USB keys, tablets, laptops, mobile phones, hard drives, DVDs, etc). Make general privilege claim for electronic material.
AT CONCLUSION OF INSPECTION		
Response Team	Ensure you have a detailed inventory of everything seized and minutes of the inspection (persons questioned, offices visited, questions asked and answers given, etc). Ask the officer to sign the inventory.	Claim confidentiality over all documents seized If any locations of evidentiary interest have been sealed, instruct employees not to break the seal under any circumstances.
In-house counsel **External counsel**	Review documents copied and information provided and rectify any incorrect information given. Determine whether to challenge the warrant or conduct of the search including urgent consideration of any court application.	Commence an internal investigation into the alleged contraventions.

GUIDELINES FOR WARRANT PRIVILEGE CLAIMS

The following guidelines are based on the General Guidelines between the Australian Federal Police and the Law Council of Australia as to the execution of search warrants where a claim of legal professional privilege is made.

It is a protocol which may be agreed in dealing with the execution of a search warrant by the Australian Federal Police or the ACCC, and may form the basis for an agreed process in response to other warrants.

- In respect of all documents identified as within the warrant, the officer should give counsel the opportunity to claim privilege in respect of those documents. If counsel asserts a claim for privilege, counsel should indicate the grounds upon which the claim is made.
- All the documents over which privilege is claimed should be placed in a container by counsel in the presence of the officer. The container should be sealed; before sealing the container, counsel should be allowed to take copies of all of the documents.
- The officer in cooperation with counsel should prepare a list of all of the documents which have been placed in the container.
- The container and the list should be signed (by both counsel and the officer) and endorsed to the effect that the warrant has not been executed in relation to the documents in the container, but that the documents will be given to the court or an agreed third party pending resolution of the disputed privilege claim.
- The container and a copy of the signed list should be handed over to the agreed third party.
- The proceedings to resolve the disputed privilege claim should be instituted within a defined time period, and, on institution, the container should be delivered by the third party to the Registrar of the court pending the court's order.

Let's talk

We have substantial experience on a 24 hour, 7 day a week basis in answering urgent requests for advice on State and Federal warrants, attending premises, liaising with police/regulatory agencies, managing privilege / confidentiality issues and assessing challenges. We work with experienced counsel to undertake urgent ex parte or other court applications in respect of the warrant or process, its terms and the conduct of the investigating officers and agencies.

With increasingly complex regulatory frameworks and business structures, we regularly advise our clients and their stakeholders on a variety of governance and regulatory compliance matters.

OUR EXPERIENCE

We have strong working relationships with the key Australian regulators, including ASIC, ACCC, FIRB, ASX and the EPA. This ensures we are continuously up to date with all developments and trends. This includes advising boards, management and individual directors on the full range of corporate governance issues, and providing assistance on regulatory compliance programs to meet corporate audit, risk and legal compliance requirements.

We provide advice and regulatory updates on key compliance areas such as:

- Anti-bribery & corruption;
- Environmental offences;
- Health & safety requirements (including NOPSEMA requirements);
- Obligations pertaining to abandonment and decommissioning of petroleum assets and installations;
- Privacy law;
- Competition law;
- Modern Slavery compliance;
- Foreign investment;
- PPSR advice and registrations; and
- NGERS reporting obligations.

OUR EXPERIENCE

A sample of our recent work acting for regulators

ACCC – acting in its Federal Court proceedings against the three major telecommunications providers in Australia – Optus, Telstra and TPG – for alleged contraventions of the Australian Consumer Law in making representations to consumers about the speeds of their internet services, and accepting payment for services at particular speeds without delivering them.

ACCC – representing the ACCC against Captain Cook College and Site Group in proceedings concerning wide-spread abuse of the federal government's VET Fee-HELP vocational education scheme and Fuji Xerox Australia in relation to whether its standard form agreements are unfair.

ASIC – acted in proceedings against ANZ, CBA, NAB, and Westpac for alleged market manipulation and rigging of the bank bill swap rate resulting in payments to the Commonwealth of more than $125 million.

ASIC – acting in multiple proceedings and on-going investigations arising out of the Banking Royal Commission against a variety of banks, superannuation funds and insurers including the Commonwealth Bank, Colonial First State Investments, Westpac subsidiaries BT and Asgard, Aware Super, TAL and Youi.

ASIC – acting in numerous market enforcement matters against ANZ, GetSwift, Whitebox Trading and associated individuals.

ASIC – acting in separate proceedings against GetSwift and the ANZ Bank alleging breach of continuous disclosure rules.

ASIC – represented in the Royal Commission into Misconduct in the Banking, Superannuation, and Financial Services Industry.

A sample of our recent work acting against regulators

CUB Australia Holding Pty Ltd (a subsidiary of Asahi Group Holdings, Ltd) – our team advised on the income tax and stamp duty aspects of Anheuser-Busch InBev's sale of Carlton and United Breweries to Asahi.

Grafil Pty Ltd (Grafil) and Robert Mackenzie (director of Grafil) – acting in relation to a criminal prosecution brought by the EPA in which it is alleged that Grafil/ Mackenzie used land as a waste facility without lawful authority.

GrainCorp – responding to an investigation by the EPA in relation to a breach of licence condition relating to fumigation of grain.

J&J – leading on the entry into Advance Pricing Agreements for all business units of Johnson & Johnson operating in Australia. It involved market leading and involved liaising closely with economists in Australia and in the US, and reviewing essential economic analysis, to negotiate with the ATO on fair transfer pricing rates for our client.

Microsoft Corporation (United States) – FIRB strategy for its establishment of hyperscale data centres in Australia and ongoing collocated data centre contracting, including FIRB clearance of land acquisitions and applications for FIRB exemption certificates.

Mubadala Investment Company (Abu Dhabi) – FIRB issues in relation to the establishment of a $1 billion Australian industrial /logistics real estate platform to be managed by LOGOS.

Qantas – advising in relation to the ACCC investigation into its 19.9% ($60m) acquisition of Alliance Airlines. Alliance Airlines is a significant service provider in the resources sector, particularly in Western Australia and Queensland. The matter is significant because Qantas did not seek ACCC clearance for the acquisition and the ACCC is therefore investigating a breach of our merger laws, which is uncommon.

Tertiary and training institutions – acting in dealing with their regulatory bodies TEQSA and ASQA, including in responding to a TEQSA search warrant and ensuing AAT proceedings.

Unilever – successfully defended a two-year ACCC investigation into alleged competition law breaches including exclusive arrangements and concerted practices, resulting in no prosecution or administrative action. We were responsible for all matters with respect to the investigation which involved allegations specifically regarding Streets' distribution of Single Serve Ice Cream Products (Impulse Market) to petrol and convenience retailers within Australia.

CONTACTS

Sydney

ALDO NICOTRA
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Aldo is praised by clients, with one describing him as "arguably the best competition lawyer in the country", adding that he "provides proactive advice and discusses the pros and cons every step of the way". Chambers Asia Pacific 2019

Aldo is a competition and dispute resolution lawyer with over 30 years' experience advising on competition and consumer protection law including dealings with the ACCC.

He is the principal competition advisor to Qantas and to several other organisations including Prysmian, Ramsay Health Care, Ruralco, Disney, Resmed, Boehringer, LG, Travelex and the iconic Australian Turf Club. He played a major role as the competition law advisor to the Sydney Organising Committee for the Olympic Games.

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Kevin is a dispute resolution lawyer who acts in matters involving regulators including ACMA, the ATO, TEQSA and ASQA.

Kevin advises clients in the tertiary and training sector including their dealings with regulatory bodies in responding to warrants, advising in relation to compliance issues and challenging regulatory decisions in the AAT and Federal Court.

As a specialist media lawyer advises corporations in relation to ACMA regulation as well as brand protection, trade mark, defamation, privacy, legislative restrictions, copyright, contractual matters and trade practices. He also advises on general commercial litigation matters in various courts and tribunals. He is ranked as a leading media lawyer in Legal 500 and Chambers & Partners.

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Marcus is a corporate lawyer focusing on mergers and acquisitions, and foreign investment clearances.

Marcus has previously practised in Bangkok, Hong Kong, New York and Singapore. His international experience gives Marcus particular expertise with assisting clients to execute a variety of cross-border transactions.

Marcus is an author of Foreign Investment in Australia, published by Thomson Reuters, the principal legal resource for Australian foreign investment laws, including Foreign Investment Review Board (FIRB) notification requirements. Marcus also serves on the Foreign Investment Committee of the Law Council of Australia, the principal consultative forum between FIRB and the legal industry.

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Samantha is a planning and environment lawyer specialising in the property, infrastructure, energy and resources industries.

She acts for major miners, infrastructure providers and large developers, and advises her clients on all aspects of planning and environment regulation including planning and environmental approvals, compliance, development contributions, water, biodiversity offsets, native title, contaminated land and pollution offences. She also regularly assists clients in assessing project risks and provides practical advice for her clients in responding to regulatory investigations as well as acting for her clients in planning and environment litigation.

Samantha has contributed to some of the largest mining projects in Australia and has a 100% success rate in obtaining planning and environment approvals for her clients.

She was recognised as a leading Environment and Climate Change lawyer in Doyles Guide in 2019 and 2020, listed in Best Lawyers in Australia in 2017, 2018, 2019 and 2020 and was a finalist in the 2017 Lawyers Weekly Partner of the Year Awards. She was also recently selected as a finalist in the 2019 NSW Exceptional Woman in Mining Award.

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Andy specialises in all aspects of taxation, revenue law and trust law and some aspects of superannuation law. He has advised on matters such as the tax implications of corporate mergers and business and significant asset sales, acquisitions and restructures, managed investment schemes and stapled structures, funds management, the taxation of trusts generally, equity market transactions, debt market transactions and employee share schemes.

Andy has also advised on inbound and outbound investment vehicles, the structuring of managed funds and structured financial products including the establishment and taxation of Australian managed investment trusts, limited partnerships and unincorporated joint ventures, employee share and option schemes, share loan schemes.

Andy has represented clients in a range of revenue audits including income tax, payroll tax, superannuation guarantee charge and stamp duty audits.

Andy has acted for a number of high wealth individuals and large deceased estates in respect of the range of tax and commercial matters that arise from time to time. He has also acted for clients in product ruling, class ruling and private ruling applications to the ATO and in negotiating settlements with the ATO related to tax audits and tax disputes.

PAUL REIDY
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Paul is a litigator specialising in complex large scale commercial and corporate litigation and class actions. He acts for major corporates and board directors.

Paul is currently defending class actions filed against RCR and its former CEOs following its collapse in 2018 and against Vasco Trustee relating to its IPO Wealth Fund. He acted for Jones Asirifi-Otchere in class action proceedings filed against Swann Insurance (Aust) Pty Ltd and Insurance Australia Limited relating to its sale of add on insurance.

Paul has specialist experience representing high profile board directors and senior executives in a range of regulatory investigations and prosecutions by ASIC, AFP and CDPP, and in related liquidators claims and civil proceedings, including class actions. Paul has acted for directors and executives of Allco Funds Management Ltd, ABC Childcare, Leightons Holdings Ltd, Hastie Group Limited, Mariner Corporation Limited and Arrium Limited.

Paul also has a specialist focus in dealing with funded litigation.

Paul is regularly listed as a leading lawyer in Dispute Resolution in Australia across all major legal guides (Asia Pacific Legal 500; Chambers and Best Lawyers Australia).

Melbourne

TOM JARVIS
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Tom is a litigator, specialising in regulatory disputes, corporate and commercial litigation, competition, antitrust and administrative law. Tom has acted in, and has successfully concluded, commercial and civil disputes for Government Departments, Agencies, GBE's and statutory authorities, large corporations and major professional services firms, including matters that require a keen appreciation of political and cultural sensitivities and reputational risk.

Tom's particular skill lies in the strategic management of protracted legal disputes - to pre-empt, resolve or litigate them. With nearly 30 years' experience, Tom is well placed to identify the legal issues and commercial drivers behind a dispute and where possible, to formulate a strategy for the resolution of that dispute which aligns with the objectives of his client. Tom has successfully negotiated favourable settlements in many instances well prior to trial, resulting in significantly reduced costs for his clients. He is an advocate for legal project management and the application of technology to streamline the delivery of litigation services.

Tom has extensive experience litigating before Australian courts on behalf of clients from a wide variety of industry groups, including the banking, construction, energy, financial services, FMCG, franchising, government, infrastructure, manufacturing, media, primary industry, professional services, resources, retail, technology and transport sectors.

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Alison is a Chartered Accountant with extensive experience across all areas of corporate taxation including tax risk management and governance, strategic acquisitions and divestments, international tax, transfer pricing, tax accounting, fringe benefits tax and indirect taxes.

She continues to maintain effective and cooperative working relationships with the Australian Tax Office, Foreign Investment Review Board and other regulatory bodies.

Alison was previously the Head of Tax for Carlton & United Breweries and was the Australian tax lead on all strategic acquisition, divestments and restructures affecting the business in the past decade.

She has extensive experience in both pro-active tax risk mitigation and the management of tax disputes, audits and reviews across both direct and indirect taxes.

Brisbane

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Christine is a disputes lawyer with experience in handling complex and large-scale litigation, arbitrations and professional determinations.

She has worked with clients across a variety of industries including financial services, resources and infrastructure, real estate, general contractual and commercial disputes. She also acts in consumer law matters and regulatory investigations.

Christine's clients value her ability to provide strategic advice prior to and during the disputes process. She has acted for Qantas, Rio Tinto, Caltex, the ACCC and ASIC.

Christine has been a recommended lawyer for dispute resolution for the APL500 and was selected by her peers for inclusion in the 12th Edition of The Best Lawyers in Australia for alternative dispute resolution.

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Amit is a dual-qualified M&A and corporate advisory specialist with over a decade of experience in New York and Australia.

Amit regularly advises major companies and investors on significant and strategic public takeovers and schemes of arrangement, private acquisitions and disposals (including competitive sales processes), restructures, strategic alliances and joint ventures.

Amit has extensive industrials sector experience with particular focus on the energy and fuels, transport and logistics and food and agribusiness industries.

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William is an environment and planning lawyer with over 20 years' experience specialising in native title advisory and dispute work.

He acts for clients to procure environmental, planning, mining and other regulatory approvals required for developing and expanding major energy, resources, renewables and infrastructure projects. William also assists on the negotiation of Indigenous land use agreements and the acquisition of land affected by native title; prepare cultural heritage surveys; and secure cultural heritage approvals.

William is a trusted advisor to his clients in the development, acquisition and disposal of energy, resources and infrastructure projects throughout Australia. William's clients include both the private sector as well as State and Commonwealth government agencies.

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Jonathan is a corporate lawyer who specialises in regulated and unregulated mergers and acquisitions, equity capital markets transactions and corporate finance. Jonathan has particular expertise advising on private-treaty mergers and acquisition transactions, acting on both the sell-side and buy-side, in sales of businesses and corporate groups to trade and private equity buyers.

With experience spanning a range of industry sectors including engineering, construction and infrastructure, manufacturing, agribusiness and professional services, and a professional background that includes roles as an equity analyst for a leading stockbroking firm and as a lawyer with Australia's corporate regulator, ASIC, Jonathan is ideally equipped to plan, manage and execute clients' most important corporate transactions.

In addition to his transactional practice, Jonathan advises listed and unlisted corporate clients on company and securities law issues and corporate governance matters. He regularly presents on corporate governance topics for the Governance Institute of Australia and has lectured for many years on corporate law issues for FINSIA/Kaplan.

Reflecting his technical skill and commitment to clients, Jonathan was recognised as one of Australia's leading lawyers, as judged by their clients, by the Australian Corporate Lawyers Association in 2010.

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George is a dispute resolution lawyer who predominantly acts for clients in the mining, oil & gas and electricity sectors. He has particular experience in construction-related disputes in those sectors, as well as advising electricity generators and retailers in operational matters and supply-side issues with fuel producers. George also advises mining companies and onshore producers regarding land access and native title issues.

George has spent time on secondment within the Perth office of the world's fourth largest oil and gas company, TOTAL S.A.

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Kirsten is a leading dispute resolution lawyer with expertise in white-collar crime. She specialises in enforcement matters across a broad variety of regulators from initial investigations to contested criminal defence, with a particular focus on clients within the financial services and energy and resources sectors.

Kirsten is positioned uniquely in the Australian market. As a former senior federal prosecutor, she is able to provide advice equivalent to international counterparts - true insight into regulatory enforcement concerns and prosecutorial trends.

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Eve has broad experience in the conduct and resolution of complex disputes. She has experience in various types of commercial disputes including actions under the Corporations Act, contractual disputes, negligence, insolvency litigation, fraud recovery and fraud prosecution, and judicial review. Eve has acted for clients in litigation at both State and Federal levels, and in other forums such as expert determinations and tribunals. Eve also has experience in defamation law, providing clients with pre-publication advice, and assisting in both the defence and prosecution of defamation actions.

Eve assists a wide range of clients including large listed and unlisted corporations, administrators, receivers and liquidators, property developers and local government.

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