

PROGRAMME 8 — BUSINESS AFFAIRS

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Objective

To achieve a corporate environment that promotes business activity and investor confidence, maximises the efficiency of securities markets and provides protection for investors and the wider community.

Table 4.1: Summary of Appropriations to the Programme and Summary of Underlying Outlays

	1997-98 Budget \$'000	1997-98 Revised (i) Approp (ii) \$'000	1997-98 Estimated Outcome \$'000	1998-99 Budget \$'000	Variation (iii) %
ANNUAL APPROPRIATIONS					
<i>Appropriation Bill No. 1</i>					
Division 673 - Australian Securities Commission					
1. For expenditure under the <i>Australian Securities Commission Act 1989</i>	119,398	119,433	119,433	134,830	13
Division 674 - Companies and Securities Advisory Committee					
1. For expenditure under Part 9 of the <i>Australian Securities Commission Act 1989</i>	811	811	811	816	1
Total Appropriation Bill No. 1	120,209	120,244	120,244	135,646	13
<i>Appropriation Bill No. 2</i>					
Division 977 - Payments to or for the States, the Northern Territory and the Australian Capital Territory					
02. Companies and securities regulation - Compensation for loss of revenue	134,376	132,551	132,551	134,805	2
Capital Works and Services					
Australian Securities Commission - For expenditure under the <i>Australian Securities Commission Act 1989</i>	5,778	5,778	5,778	-	-100
Total Appropriation Bill No. 2	140,154	138,329	138,329	134,805	-3
TOTAL ANNUAL APPROPRIATIONS	260,363	258,573	258,573	270,451	5
TOTAL SPECIAL APPROPRIATIONS	-	-	-	-	-
TOTAL APPROPRIATIONS	260,363	258,573	258,573	270,451	5

Table 4.1: Summary of Appropriations to the Programme and Summary of Underlying Outlays (continued)

	1997-98 Budget (i) \$'000	1997-98 Revised Approp (ii) \$'000	1997-98 Estimated Outcome \$'000	1998-99 Budget \$'000	Variation (iii) %
Less annotated appropriations	-	na	-	-	-
Less other adjustments	30,860	na	41,477	42,107	2
TOTAL UNDERLYING OUTLAYS	229,503	na	217,096	228,344	5
Staff years	1,134	na	1,134	1,294	14

- (i) As presented in 1997-98 Budget documentation (May 1997 — adjusted, where necessary, to reflect underlying outlays).
(ii) 1997-98 Revised Approp amended to include Additional Estimates, Advance to the Minister for Finance, running cost borrowings, savings and other revisions.
(iii) Variation percentage = ((1998-99 Budget less 1997-98 Estimated Outcome)/1997-98 Estimated Outcome).

Sub-Programme 8.1 — Australian Securities Commission

Objective

To protect the interests of companies and investors by providing information about companies, helping businesses to interpret the law, and taking action against offenders.

Table 4.2: How the Sub-Programme is Resourced; Reconciliation of Appropriations to the Sub-Programme and Summary of Underlying Outlays

	1997-98 Budget \$'000	1997-98 Revised Approp (ii) \$'000	1997-98 Estimated Outcome \$'000	1998-99 Budget \$'000	Variation (iii) %
ANNUAL APPROPRIATIONS					
<i>Appropriation Bill No. 1</i>					
Division 673 -Australian Securities Commission					
1. For expenditure under the <i>Australian Securities Commission Act 1989</i>	119,398	119,433	119,433	134,830	13
Total Appropriation Bill No. 1	119,398	119,433	119,433	134,830	13
<i>Appropriation Bill No. 2</i>					
Division 977 - Payments to or for the States, the Northern Territory and the Australian Capital Territory					
02. Companies and securities regulation - Compensation for loss of revenue	134,376	132,551	132,551	134,805	2
Capital Works and Services					
Australian Securities Commission - For expenditure under the <i>Australian Securities Commission Act 1989</i>	5,778	5,778	5,778	-	-100
Total Appropriation Bill No. 2	140,154	138,329	138,329	134,805	-3
TOTAL ANNUAL APPROPRIATIONS	259,552	257,762	257,762	269,635	5
TOTAL SPECIAL APPROPRIATIONS	-	-	-	-	-
TOTAL APPROPRIATIONS	259,552	257,762	257,762	269,635	5

Table 4.2: How the Sub-Programme is Resourced; Reconciliation of Appropriations to the Sub-Programme and Summary of Underlying Outlays (continued)

	1997-98 Budget (i) \$'000	1997-98 Revised Approp (ii) \$'000	1997-98 Estimated Outcome \$'000	1998-99 Budget \$'000	Variation (iii) %
Less annotated appropriations	-	na	-	-	-
Less other adjustments	30,860	na	41,477	42,107	2
TOTAL ADJUSTMENTS	30,860	na	41,477	42,107	2
TOTAL UNDERLYING OUTLAYS	228,692	na	216,285	227,528	5
Staff years	1,130	na	1,130	1,290	14

- (i) As presented in 1997-98 Budget documentation (May 1997 — adjusted, where necessary, to reflect underlying outlays).
(ii) 1997-98 Revised Approp amended to include Additional Estimates, Advance to the Minister for Finance, running cost borrowings, savings and other revisions.
(iii) Variation percentage = ((1998-99 Budget less 1997-98 Estimated Outcome)/1997-98 Estimated Outcome).

Sub-Programme Variation

The following table shows changes in the underlying outlays of the Sub-Programme in 1998-99.

Table 4.3: Variations to Sub-Programme Underlying Outlays 1997-98 to 1998-99

	Amount of Variation (+ or -) \$'000	Total \$'000
1997-98 Estimated Underlying Outlays (i)		216,285
Budget Measures		
Implementation of Financial Systems Inquiry recommendations (see also page 190)	19,252	
Implementation of Managed Investments Bill (see also page 191)	3,945	
Running Costs		
Cessation of capital works and services funding (Bill 2)	-5,778	
One off loan in 1997-98	-6,500	
Repayment of 1996-97 loan in 1997-98	4,000	
Loan repayment 1998-99	-2,198	
Increased estimate of payments to the States for compensation for loss of revenue	2,254	
Parameter Adjustments	1,689	
Efficiency Dividend	-1,114	
Reduced funding from 1996-97 decision - National Corporate Regulation Scheme	-3,000	
Savings from Whole of Government IT	-284	
1997-98 Small Business - Single Entry Point to Government funding	-393	
Adjustments		
Increase in receipts offset against outlays	-630	
Total Variations		11,243
1998-99 Budget Underlying Outlays (ii)		227,528

(i) The 1997-98 figure appears in column 3 in Table 4.2 above.

(ii) The 1998-99 Budget figure appears in column 4 in Table 4.2 above.

1998-99 Budget Measures affecting Portfolio Underlying Outlays

The following Budget Measures affect this Sub-Programme.

Financial Systems Inquiry Implementation

Funding of \$19.252 million has been provided to meet the transitional costs of the Australian Securities Commission (ASC) implementing the Government's decisions on the Financial System Inquiry. Included in this amount is \$3.700 million and \$0.150 million which have been transferred from the ISC and the ACCC respectively. This will permit the ASC (to be re-named the Australian Securities and Investments Commission — ASIC) to provide consumer protection functions in the financial system,

some of which have been previously vested across a number of other agencies. For further information see page 190 in Section 5.

Managed Investments Bill

Funding of \$3.945 million has also been provided to the ASC to meet the costs of supervising the governance structure for collective investment schemes proposed in the Managed Investments Bill. For further information see page 191 in Section 5.

More detail on these new policy initiatives is included in the Performance Forecasts for 1998-99.

Performance of the Sub-Programme in 1996-97 and 1997-98

Information on the ASC's performance in 1996-97 was included in its Annual Report for that year. Performance information for 1997-98 will be included in the 1997-98 Annual Report to be tabled in Parliament by 31 October 1998.

ASC Performance Forecasts for 1998-99

Implementing the outcome of the Financial System Inquiry will be a major influence on performance strategies for 1998-99. From 1 July 1998 the ASC will be renamed the Australian Securities and Investments Commission and its charter will be expanded to include consumer protection of financial products and services.

The new body will take on the existing consumer protection elements from the ACCC, the ISC and the RBA and provide consumer protection and market integrity regulation across the financial system. This will include development and administration of a single licensing system for dealers and advisers, monitoring industry codes of practice, administration of disclosure requirements for financial products, monitoring and enforcement of consumer protection provisions and market integrity rules. A primary focus of these changes is the vesting of similar regulatory functions for the financial industry sectors into a single agency. This is designed to assist the harmonisation of regulation in this sector and facilitate competitive forces.

The reform of the governance structure of collective investment schemes proposed under the Managed Investments Bill, when enacted, will require the ASC (subsequently the ASIC) to administer the reformed regulatory framework. The new regime imposes new responsibilities upon the ASC in relation to administration, compliance and enforcement in the managed investments industry. Existing schemes will have a 2 year transition period to enable them to meet the new requirements, although it is expected that many schemes will seek to bring themselves within the new regime at an early stage. Resources will be applied to licensing, registration, surveillance and enforcement functions to manage the transition from the old regime and administration of the new system. The ASC will, in consultation with industry, be working to ensure an orderly transition. The ASC will use the range of administrative powers and discretions in the Bill when enacted to assist it to do so. Scheme registration deadlines will be 28 days for the first 2 years of transition and thence 14 days after that as set out in the Bill.

The current budget provides for additional funding for the new functions that will be taken on by the ASIC under the Government's reforms to financial system regulation and the Managed Investments Bill when enacted. Notwithstanding these increases the ASC plans to continue the reform of its support infrastructure to ensure its alignment with core business and to assist it in managing the other reductions to its funding base.

Australian Accounting Standards Board (AASB) and Australian Accounting Research Foundation (AARF) Performance Forecast for 1998-99

Objectives for 1998-99

Accounting standard-setting arrangements in Australia are currently being reviewed by the Commonwealth Government, as part of the Corporate Law Economic Reform Programme. Proposals for revised standard-setting arrangements are being finalised and it is expected that draft legislation will be introduced into Parliament mid-year. The exact nature and timing of the reforms, and their impact on the operations of the AASB, are unclear at this stage. Notwithstanding the review, the AASB has established objectives for 1998 and beyond based on current resource levels and arrangements, as reflected in the Work Programme below.

As indicated in the work programme, international considerations will continue to have a significant impact on the work of the AASB. As occurred during 1997-98, consistent with its International Harmonisation Policy and its agreement with the Australian Stock Exchange, the AASB expects to continue to pursue its Programme of harmonising Australia's accounting standards with those of the IASC. The Programme's objective is to change Australian standards and influence the development of, and changes to, IASC standards so that an Australian reporting entity complying with Australian standards would also be complying with IASC standards.

The AASB will also continue to pursue its objective of increasing the extent to which Australian accounting standards are harmonised with those of other major national standard setters.

In addition, the AASB will continue its work on Corporations Law related projects, including 'Financial Reporting of Life Insurance Business' and 'Concise Financial Reporting' during 1998 and beyond. Further, the AASB anticipates issuing a standard jointly with the Public Sector Accounting Standards Board of the Australian Accounting Research Foundation on accounting for self-generating and regenerating assets during 1998.

The following table illustrates the work programme for AASB for 1998 and 1999 onwards. The footnotes give an explanation of the codes used in the table.

Table: AASB Work Programme 1998 and 1999 Onwards

Project	Current Status	1998	1999+
1. Related to International Work			
Consolidated Accounts	AASB 1024	ED,STD(r)	-
Earnings per Share	AASB 1027,ED 85	STD(r)	-
Acquisition of Assets	AASB 1015,ED 84	STD(r)	-
Goodwill	AASB 1013	ED,STD(r)	-
Revenue	AASB 1004,ED 81	STD(r)	-
Segment Reporting	AASB 1005,ED 90	STD(r)	-
Joint Arrangements	AASB 1006,ED 79	STD(r)	-
Revaluation of Non-Current Assets	AASB 1010,IC	ED,STD(r)	-
Impairment	AASB 1010	ED	STD
Research and Development	AASB 1011	ED	STD(r)
Foreign Currency Translation	AASB 1012,ED 86	STD(r)	-
Set-Off and Extinguishment of Debt	AASB 1014	ED	STD(r)
Related Party Disclosures	AASB 1017	ED	STD(r)
Income Tax	AASB 1020,ED 87	STD(r)	-
Interim Reporting	AASB 1029	ED,STD(r)	-
Provisions	ED 88	STD	-
Intangibles	-	ED,STD	-
Accounting Policies	AASB 1001,ED 89	STD(r)	-
Leases	AASB 1008,ED 82	STD(r)	-
Profit and Loss Statements	AASB 1018	ED,STD(r)	-
Employee Benefits (except Super)	AASB 1028	ED	STD(r)
Employee Benefits (only Super)	-	ED	STD
Disclosure/Presentation	AASB 1034	ED,STD(r)	-

Table: AASB Work Programme 1998 and 1999 Onwards (continued)

Project	Current Status	1998	1999+
Discontinuing Operations	-	ED	STD
Financial Instruments - Recognition and Measurement	-	ED	STD
Investment Properties	DP 24	ED	STD
2. Related to Corporations Law			
Life Insurance	ED 73	STD	-
Concise Financial Reporting	-	ED	STD
3. Other Projects			
Performance Reporting	AASB 1018	ATM	ED,SAC STD(r)
Measurement	-	ATM	ED,SAC
Scope of Financial Reporting	-	-	ATM, SAC
Self-Generating and Regenerating Assets	ED 83	STD	-

(r) = revised

SAC = Statement of Accounting Concepts

ED = Exposure Draft

DP = Discussion Paper

STD = AASB/AAS Standard

IC = Invitation to Comment

ATM = Accounting Theory Monograph

Sub-Programme 8.2 — Companies & Securities Advisory Committee

Objective

To advise on law reform affecting corporations, securities or futures, including proposals to improve the administration of national scheme laws and the efficiency of securities and futures markets.

Table 4.2: How the Sub-Programme is Resourced; Reconciliation of Appropriations to the Sub-Programme and Summary of Underlying Outlays

	1997-98 Budget (i) \$'000	1997-98 Revised Approp (ii) \$'000	1997-98 Estimated Outcome \$'000	1998-99 Budget \$'000	Variation (iii) %
ANNUAL APPROPRIATIONS					
<i>Appropriation Bill No. 1</i>					
Division 674 -Companies and Securities					
Advisory Committee					
1. For expenditure under Part 9 of the <i>Australian Securities Commission Act 1989</i>	811	811	811	816	1
Total Appropriation Bill No. 1	811	811	811	816	1
TOTAL ANNUAL APPROPRIATIONS	811	811	811	816	1
TOTAL SPECIAL APPROPRIATIONS	-	-	-	-	-
TOTAL APPROPRIATIONS	811	811	811	816	1
Less annotated appropriations	-	na	-	-	-
Less other adjustments	-	na	-	-	-
TOTAL ADJUSTMENTS	-	na	-	-	-
TOTAL UNDERLYING OUTLAYS	811	na	811	816	1
Staff years	4	na	4	4	0

- (i) As presented in 1997-98 Budget documentation (May 1997 — adjusted, where necessary, to reflect underlying outlays).
(ii) 1997-98 Revised Approp amended to include Additional Estimates, Advance to the Minister for Finance, running cost borrowings, savings and other revisions.
(iii) Variation percentage = ((1998-99 Budget less 1997-98 Estimated Outcome)/1997-98 Estimated Outcome).

Performance of the Sub-Programme in 1996-97 and 1997-98

Information on the performance of the Sub-Programme in 1996-97 is included in the Annual Report of the Companies and Securities Advisory Committee for that year. Performance information for 1997-98 will be published in the 1997-98 Annual Report to be tabled in Parliament by 31 October 1998.

Performance Forecasts for 1998-99

The following matters are currently under, or identified for, review by the Advisory Committee. Reports or Discussion Papers are expected to be published in this period on most of these matters. It is anticipated that further matters for review will be identified, and work will commence, in the period.

Insolvency

The Legal Committee of the Advisory Committee will publish a Report on voluntary insolvency administration in 1998-99. This Report will make recommendations for amending the current law relating to corporate voluntary administration in a number of key areas, including:

- administrators' disclosure to creditors of any professional, personal and business relationships they have with the company or its officers, members or creditors;
- the appropriate procedure for ensuring that a deed of company arrangement accurately reflects the resolution of creditors at the major meeting;
- the treatment of pledgees, lienees and reservation of title creditors;
- the 'relation-back' period for recovery of voidable preferences where an application to wind up a company has been made before the company is placed under administration;
- the relationship between the voluntary administration provisions and the prospectus and takeover provisions;
- whether it is necessary to give creditors who deal with a company under a deed of company arrangement any priority if the company subsequently goes into winding up; and
- giving creditors the right to appoint their own nominee as liquidator when a company under administration goes into winding up.

Corporate Groups

The Advisory Committee will publish a Discussion Paper in 1998-99 on how corporate law in Australia might better recognise and respond to the way corporate groups operate in practice, thereby assisting directors of corporate group companies to carry out their functions, while protecting the legitimate interests of minority shareholders and outsiders who deal with these groups.

The Discussion Paper will:

- describe the different ways in which corporate groups are regulated in various jurisdictions, including Australia, the United States, New Zealand and Germany;
- examine the legal difficulties that directors of a corporate group company may face in balancing their fiduciary responsibilities to that company with the overall economic interests of the group;
- review the adequacy of existing remedies for minority shareholders within corporate groups;
- consider whether the Corporations Law provisions dealing with schemes of arrangement, voluntary administration and liquidations may need amendment to better accommodate corporate groups; and
- discuss the legal implications for tort plaintiffs in enforcing their rights within the context of corporate groups.

Ultra vires

The Advisory Committee's Final Report on Regulation of On-exchange and OTC Derivatives Markets (June 1997) referred at paras 8.95-8.113 to the ultra vires problem as it applies to trusts and other entities in financial markets. The Report pointed out that some entities may be prohibited from, or restricted in, dealing in derivatives or some other financial transactions. The validity or enforceability of any such transactions into which they enter could be jeopardised by their lack of power to act as contracting parties.

The Advisory Committee will prepare a Discussion Paper dealing in detail with the matters raised in its Derivatives Report and seeking submissions on the various policy options raised in the Report, and any other matters arising from the doctrine of Ultra Vires.

Corporate Law Economic Reform Programme

The Advisory Committee, in consultation with the Legal Committee, will provide advice on the draft legislation arising from the Corporate Law Economic Reform Programme. This work will continue into 1998-99.

Performance indicators and evaluation

The Advisory Committee will seek to ensure that, in the 1998-99 period, it completes its Report on Voluntary Insolvency Administration. It will also release Discussion Papers on Corporate Groups and Ultra Vires and provide advice to the Government on the draft legislation released under the Corporate Law Economic Reform Programme.

To achieve the performance forecasts for 1998-99, the Advisory Committee will seek the expert advice of its Legal Committee, encourage public comment on its Discussion Papers and thoroughly review all submissions received on them. This well-established process of public review is designed to ensure that all interested persons in the

commercial community are given an adequate opportunity to make written submissions on particular matters, and otherwise express their views, to the Advisory Committee. Through this consultation process and the provision of timely advice to the Treasurer, the Advisory Committee will seek to ensure that Australian financial markets and corporations operate in a commercial environment of the highest standards supported by appropriate legislation.