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From: Luu, Nghi <Nghi.Luu@TREASURY.GOV.AU>
Sent: Tuesday, 21 July 2020 6:46 PM
To: Kelly, James <James.Kelly@TREASURY.GOV.AU>; Quinn, Meghan <Meghan.Quinn@TREASURY.GOV.AU>
Cc: s 22 <[REDACTED]@treasury.gov.au>
Subject: RE: ASIC decision on appeal [SEC=PROTECTED]

~~PROTECTED~~

Okay, s22

s22

~~PROTECTED~~

From: Kelly, James <James.Kelly@TREASURY.GOV.AU>
Sent: Tuesday, 21 July 2020 6:36 PM
To: Luu, Nghi <Nghi.Luu@TREASURY.GOV.AU>; Quinn, Meghan <Meghan.Quinn@TREASURY.GOV.AU>
Cc: s 22 <[REDACTED]@treasury.gov.au>
Subject: RE: ASIC decision on appeal [SEC=PROTECTED]

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To add,

Office has also been informed by ASIC. s22

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James

James Kelly

Division Head

Financial System Division

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email: james.kelly@treasury.gov.au

~~PROTECTED~~

From: Luu, Nghi <Nghi.Luu@TREASURY.GOV.AU>

Sent: Tuesday, 21 July 2020 5:05 PM

To: Quinn, Meghan <Meghan.Quinn@TREASURY.GOV.AU>; Kelly, James <James.Kelly@TREASURY.GOV.AU>

Cc: s 22 <[redacted]@treasury.gov.au>

Subject: ASIC decision on appeal [SEC=PROTECTED]

~~PROTECTED~~

James, Meghan,

We just had a call with ASIC and we asked about their decision on the Westpac case.

The Commission made a decision yesterday to not seek leave to appeal. The form of the communication has not yet been decided - media release or letter (to the Tsr) – but it will need to happen no later than Friday (which is the last day to seek leave to appeal).

Nghi

Nghi Luu

Principal Adviser

Financial System Division | Markets Group

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~~PROTECTED~~

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From: s 22
Sent: Monday, 6 July 2020 5:18 PM
To: TSR Ministerial Submission Distribution
Cc: s 22 ; Kelly, James; Luu, Nghi; s 22
Subject: MS: ASIC v Westpac - Appeal on Responsible Lending Obligations (MS20-001356)
[SEC=OFFICIAL]
Attachments: MS20-001356.pdf

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Good afternoon

As requested, attached is a Ministerial Submission on ASIC's appeal against Westpac for alleged breaches of responsible lending obligations.

Regards,
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Manager
Banking and Access to Finance | Financial System Division
The Treasury, Langton Crescent, Parkes ACT 2600
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TREASURY MINISTERIAL SUBMISSION

06 July 2020

PDR No. MS20-001356

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- ASIC is still considering whether to appeal the case. s42

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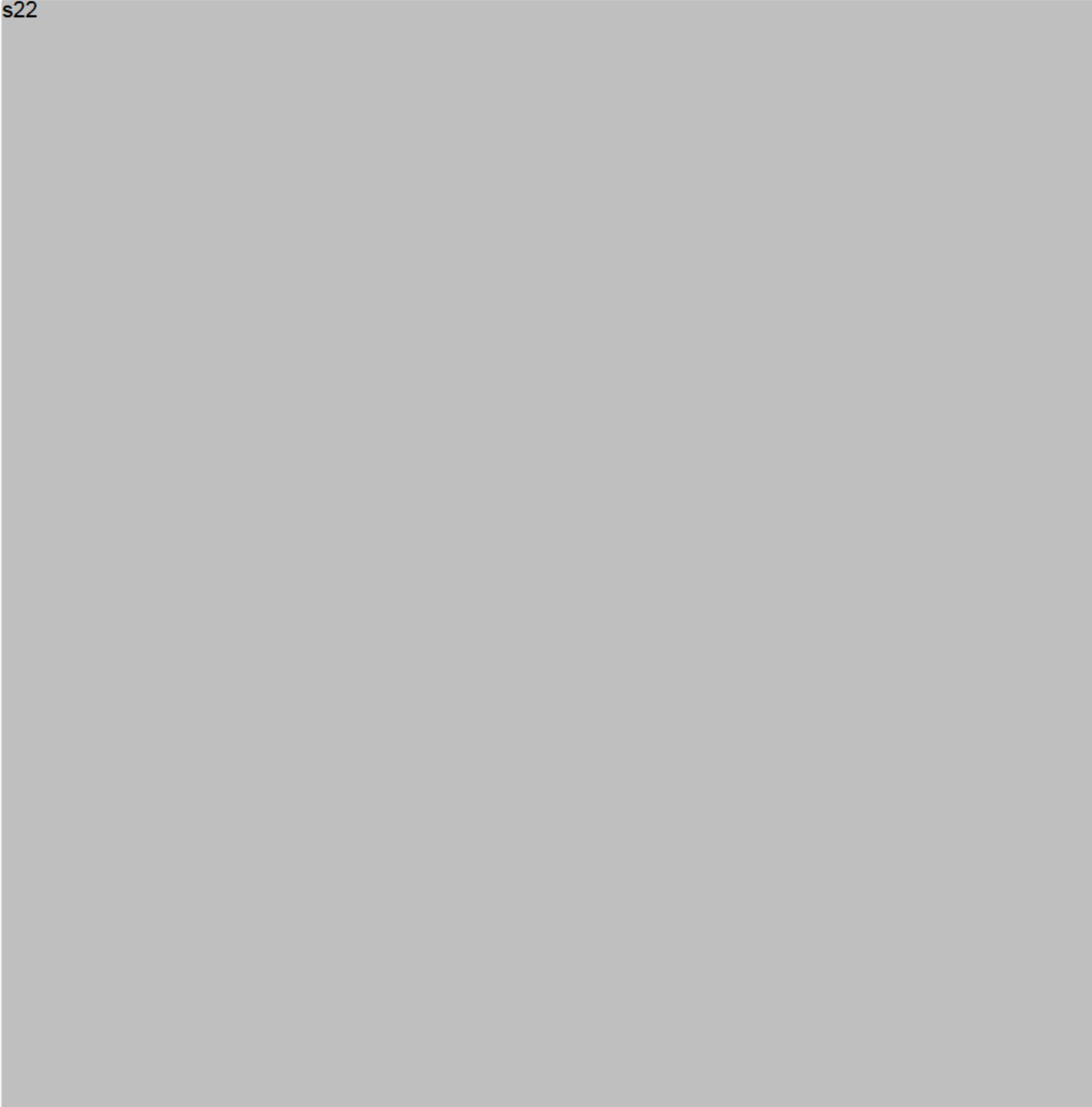


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Nghi Luu
Principal Advisor
Financial System Division
Ext: 02 6263 2540

Contact Officer: s 22 Ext: s 22

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From: Mary Andrew <Mary.Andrew@asic.gov.au>
Sent: Wednesday, 22 July 2020 2:11 PM
To: s 22 ; Codina, Martin; s 22
Cc: s 22
Subject: For noting: ASIC will not appeal Federal Court decision on Westpac's 'responsible lending' obligations [SEC=OFFICIAL]

Good afternoon, please see MR to be released shortly.

ASIC will not appeal Federal Court decision on Westpac's 'responsible lending' obligations

ASIC will not seek special leave to appeal to the High Court in the Westpac 'responsible lending' matter, following the full Federal Court's 2-1 decision to reject its earlier appeal ([20-149MR](#) *ASIC's responsible lending appeal dismissed by Full Federal Court*).

While it would have been open to ASIC to seek special leave to appeal to the High Court to obtain a ruling on the construction of the statute, ASIC is mindful of the impact of the additional time required to resolve this matter in the current challenging economic circumstances.

ASIC will review its updated regulatory guidance [RG 209](#) (*Credit licensing: responsible lending conduct*) and will consider what implications the Federal Court decision has for that guidance..

Any reform of the National Consumer Credit Protection Act (National Credit Act) to clarify further the enforcement of those principles is ultimately a matter for the Federal Government and Parliament.

Bearing in mind the economic circumstances, it is important to remember that under the National Credit Act, 'responsible lending' obligations do not apply, and never have applied, to loans made for business purposes.

(ends)

Mary Andrew

Manager, Government Relations

Australian Securities and Investments Commission

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Please note I work flexible hours and at different times of the day. I do not however expect that you will respond to this email outside of your regular working hours.

Please consider the environment before printing this document.