



ASIC's Christmas Gift: Unwrapping the New RG 181

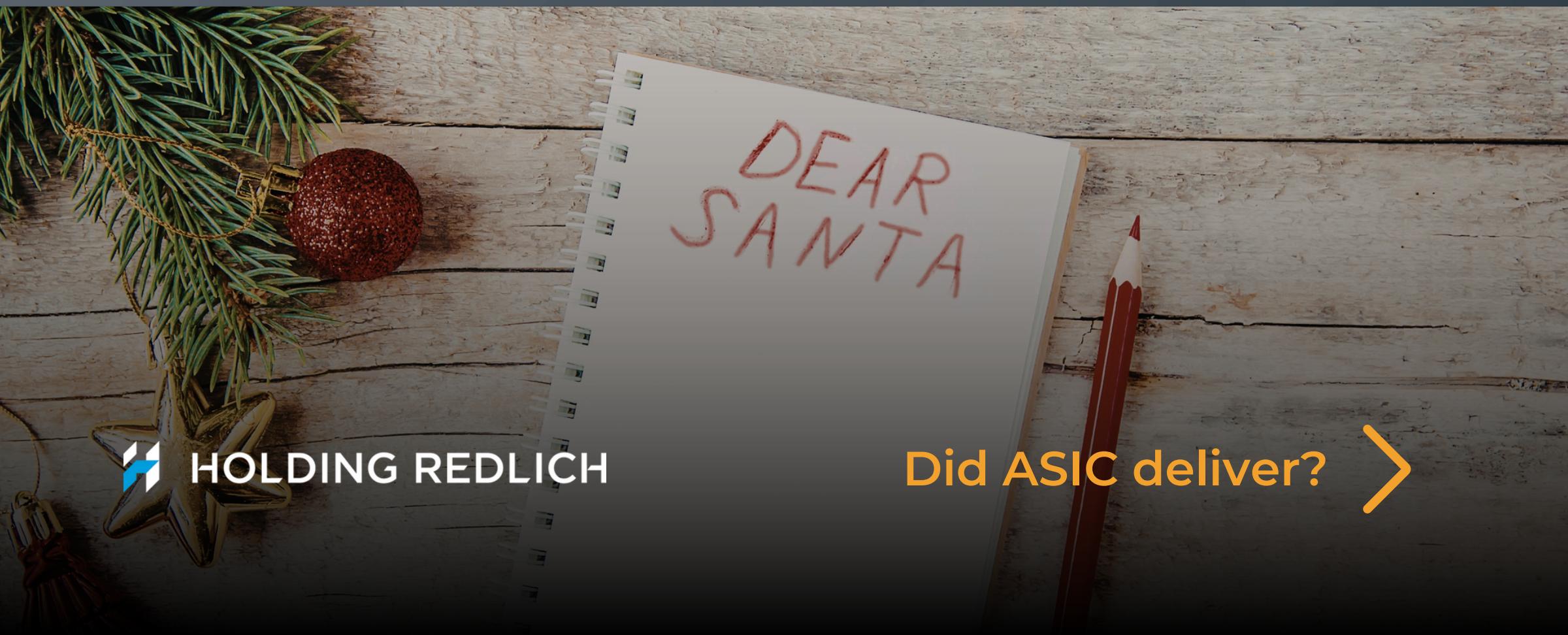
What we asked for vs. what we got under the tree





The August Wish List: What We Asked For

- ▶ Clear definitions of “conflict of interest” and “affected parties”
- ▶ Clarity on whether duty/duty conflicts are in scope
- ▶ Whether confidentiality obligations are relevant to the management of conflicts



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Did ASIC deliver? >



What We Actually Got

- ▶ Material broadening of the conflicts management obligation
- ▶ Multiple examples of “conflict of interest” but no single definition
- ▶ Manage conflicts of interest by (i) control (ii) avoid (iii) disclose
- ▶ Duty/duty conflicts are in scope
- ▶ Competing obligations of confidentiality may require conflicts to be avoided altogether

The Bonus Gifts We Didn't Ask For

(and which trigger work...)

- ▶ Risk-based - tailor to reflect complexity of business
- ▶ The four-step framework:
Identify → Assess → Respond → Implement
- ▶ Control arrangements - ten are referenced
- ▶ Disclosure arrangements - clear rules on timing, content & exceptions
- ▶ Conflicts record keeping obligations



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What's changed? 



What Actually Changed? ★

- ▶ Confirmed: Expanded scope of conflicts management obligation, includes duty/duty conflicts, structural conflicts from vertical integration, third-party conflicts
- ▶ Less than clear: statutory basis for duty/duty conflicts, boundaries of “affected parties”
- ▶ Great care is required to appropriately implement

Q1 2026 To-Do List



- ▶ Review and update governance frameworks, conflicts & related policies to reflect RG 181
- ▶ Map your legal obligations
- ▶ Create or update conflicts register
- ▶ Check remuneration structures & reporting lines
- ▶ Consider disclosure practices (no boilerplate), third-party relationships, and duty/duty conflicts



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These are material changes that significantly broaden the conflicts management obligation, which applies to all AFSL holders. Great care is required to appropriately implement the changes, and legal conflicts experts are required. Our clients are reviewing and uplifting their arrangements with our assistance. The time to act is now.

Andrew Stone, Partner