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BANKING SECTOR NEWSLETTER

IN THE MEDIA

Mortgage risks remain in system: APRA

APRA chairman Wayne Byres has left the door open to more lending curbs after warning against resurgence in speculative activity. Among the preventative measures flagged by Mr Byres was the regulation of residential mortgage lending. <https://www.investordaily.com.au/regulation/45688-apra-to-keep-a-lid-on-property-prices>

The 'neo-banks' set to shake up Australia's banking scene

The two so-called 'neo-banks', Xinja and 86 400, are completely digital offerings with no branches to speak of, instead providing a range of traditional banking services through apps on customers' smartphones. APRA has granted both banks full Authorised Deposit-taking Institution (ADI) licences, granting both of them the same legal status as the big four bank. <https://thenewdaily.com.au/money/your-budget/2019/09/15/australians-neo-banks-adoption/>

AUSPAYNET: What to know about Dual Network Debit Card Tokenisation

Our recently published fraud report shows that the value of online payments in Australia increased by 27% in 2018. As online transactions continue to grow, there is an increased focus on ensuring the integrity of customer data, pushing tokenisation into the spotlight. <https://www.auspaynet.com.au/insights/Blog/What-to-know-about-Dual-Network-Debit-Card-Tokenisation>

ASIC makes product intervention order banning short term lending model to protect consumers from predatory lending

ASIC has used its product intervention power to ban a model of lending in the short term credit industry which has been found to cause significant consumer detriment. The order was registered with the Federal Register of Legislation on 12 September 2019 commencing on 14 September 2019 and remains in force for 18 months unless it is extended or made permanent. [https://asic.gov.au/about-asic/news-centre/find-a-media-](https://asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-250mr-asic-makes-product-intervention-order-banning-short-term-lending-model-to-protect-consumers-from-predatory-lending/)

[release/2019-releases/19-250mr-asic-makes-product-intervention-order-banning-short-term-lending-model-to-protect-consumers-from-predatory-lending/](https://asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-250mr-asic-makes-product-intervention-order-banning-short-term-lending-model-to-protect-consumers-from-predatory-lending/)

Taking action on the Banking, Superannuation and Financial Services Royal Commission – Consultation on new financial product design and distribution obligations

The Coalition Government has released for consultation exposure draft regulations to support the operation of updated Design and Distribution Obligations for financial products, which will further improve consumer outcomes requiring issuers and distributors of financial products to ensure products are only sold to customers for whom they are likely to be suitable. <http://ministers.treasury.gov.au/ministers/josh-frydenberg-2018/media-releases/taking-action-banking-superannuation-and-financial-0>

COBA welcomes introduction of legislation to implement First Home Loan Deposit Scheme

The COBA welcomes the introduction of legislation into Parliament today that will implement the First Home Loan Deposit Scheme (FHLDS). Introducing this legislation is a welcome step from Government to help more young Australians towards home ownership. <http://www.customerownedbanking.asn.au/media-a-resources/media-release-alerts/1392-coba-welcomes-introduction-of-legislation-to-implement-first-home-loan-deposit-scheme>
Government statement [Supporting first home buyers](#)

Australians continue trend of picking customer owned banking institutions over the 'Big Four'

The trend of Australians choosing to bank with customer owned banking institutions has continued, according to the latest Quarterly ADI Statistics released by the APRA. The [latest data](#) shows that over the past 12 months the customer owned banking sector's housing loans have increased by 7.8 per cent. <http://www.customerownedbanking.asn.au/media-a-resources/media-release-alerts/1391-australians-continue-trend-of-picking-customer-owned-banking-institutions-over-the-big-four>

ASIC set to take action against predatory lending, backed by new laws and threats of jail time

Having suffered a courtroom defeat five years ago, the corporate watchdog finally has the legal teeth to take on short-term predatory lenders who have been getting away with charging borrowers 1,000 per cent interest rates. <https://www.abc.net.au/news/2019-09-12/asic-to-take-action-against-predatory-lenders/11506308>

ASIC extends relief for foreign financial services providers

ASIC has extended to 31 March 2020 licensing relief for foreign financial services providers (FFSPs) to allow them to provide certain financial services to Australian wholesale clients without needing to hold an Australian financial services licence. <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-247mr-asic-extends-relief-for-foreign-financial-services-providers/>

Taking action on the Banking, Superannuation and Financial Services Royal Commission - Recommendation 2.4: Grandfathered Commissions

The Coalition Government recently passed legislation through the House of Representatives to end the payment of grandfathered conflicted remuneration to financial advisers. Under the Bill, conflicted remuneration paid to financial advisers will be banned from 1 January 2021. <http://ministers.treasury.gov.au/ministers/jane-hume-2019/media-releases/taking-action-banking-superannuation-and-financial-0>

ASIC has 86 investigations on foot against big four, AMP

The corporate regulator has 86 royal commission-related investigations under way relating to the big four banks and AMP. It is also investigating potential breaches by 59 individuals as it seeks to accelerate the finalisation of its massive enforcement workload. <https://www.afr.com/companies/financial-services/asic-has-86-investigations-on-foot-against-big-four-amp-20190911-p52q8r>

ASIC appeals Westpac's 'Wagyu and shiraz' home loan win

ASIC has filed an appeal with the full Federal Court against the recent decision to dismiss the commission's case against Westpac, arguing that the body does not regard the court's decision as consistent with the legislative intention of the responsible lending regime. <https://www.investordaily.com.au/regulation/45651-asic-appeals-westpac-decision>
ASIC statement [19-246MR ASIC to appeal Westpac responsible lending Federal Court decision](https://www.investordaily.com.au/regulation/45638-westpac-served-with-class-action)

Westpac served with class action

Westpac has received a class action against two of its subsidiary companies in the latest legal action against the big bank. Both BT Funds Management and Westpac Life Insurance Services said they would be defending the claims in an ASX release. <https://www.investordaily.com.au/regulation/45638-westpac-served-with-class-action>

Creditors move to sue NAB over construction company collapse

Retired building contractor Les Williams, one of 1,400 creditors who collectively lost about \$74 million in the Walton Construction building collapse, say they have a strong legal case. [https://www.abc.net.au/news/2019-09-04/nab-could-face-\\$74million-suit-over-walton-construction-collapse/11466506](https://www.abc.net.au/news/2019-09-04/nab-could-face-$74million-suit-over-walton-construction-collapse/11466506)

Australian regulator sues two regional banks over 'unfair' contracts

Australia's corporate regulator said it had sued Bank of Queensland and Bendigo and Adelaide Bank over what it called unfair loan contracts for small businesses. The ASIC alleges in separate lawsuits that between November 2016 and June 2019 both banks set unfair terms for contracts they had entered into with small businesses. <https://www.reuters.com/article/australia-banks-lawsuit/update-1-australian-regulator-sues-two-regional-banks-over-unfair-contracts-idUSL3N25V00W>

ACCC finds consumers are paying too much in foreign transaction fees

This is the first report of its kind released by the ACCC that finds Australians are paying too much for foreign currency conversion services, particularly for international money transfers, and the main beneficiaries are the major banks. <http://ministers.treasury.gov.au/ministers/josh-frydenberg-2018/media-releases/accc-finds-consumers-are-paying-too-much-foreign>

IN PRACTICE AND COURTS**[Corporations Amendment \(Design and Distribution Obligations\) Regulations 2019](#)**

Consultation dates: 12 September 2019 - 11 October 2019 - The Government has released for public consultation exposure draft regulations to support the [Treasury Laws Amendment \(Design and Distribution Obligations and Product Intervention Powers\) Act 2019](#) and an explanatory statement.

[Reminder: AFCA naming and shaming from October](#)

The Australian Financial Complaints Authority (AFCA) has confirmed a starting date for it to name firms in its determinations, with the watchdog to start exposing perpetrators from 1 October. The rules which were approved by ASIC in August will allow AFCA to publish the names of financial firms in all determinations.

APRA: Consultations on revisions to the capital framework for authorised deposit-taking institutions

APRA is consulting on revisions to the capital framework for authorised deposit-taking institutions (ADIs) to implement 'unquestionably strong' capital ratios and the Basel III reforms.

September 2019 - Round 3- Response paper on interest rate risk in the banking book requirements Written submissions are requested by 6 December 2019.

[Response to Submissions - Interest rate risk in the banking book for authorised deposit-taking institutions September 2019](#)

[Draft Prudential Standard APS 117 Capital Adequacy Interest Rate Risk in the Banking Book](#)

[Mortgage broker best interests duty and remuneration reforms: Exposure Draft](#)

Consultation date to 04 October 2019 - The exposure draft Bill requires mortgage brokers to act in the best interests of consumers when providing credit assistance. The bill and regulations make changes to mortgage broker remuneration and limit the period over which commissions can be clawed back from aggregators and mortgage brokers to two years and prohibit the cost of clawbacks being passed on to consumers. Entry into force of the reforms is scheduled for 1 July 2020.

LEGISLATION

Commonwealth

[ASIC Corporations \(Changing Scheme Constitutions\) Instrument 2019/700](#)

This instrument continues the relief under ASIC Class Order [CO 09/552], which deals with changing the constitution of a registered scheme, with minor changes only.

[ASIC Corporations \(Product Intervention Order—Short Term Credit\) Instrument 2019/917](#)

This instrument prohibits the provision of short term credit except in accordance with conditions which limit the total fees that can be charged.

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