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BANKING SECTOR NEWSLETTER

IN THE MEDIA

Westpac freezes exec bonuses over scandal as Frydenberg hints board could be sacked

Westpac's entire executive team and several members of general management have their bonus payments frozen as the big four bank gets to the bottom of its 23 million breaches of anti-money laundering laws. <https://www.abc.net.au/news/2019-11-24/westpac-freezes-executives-bonuses-money-laundering-scandal/11733196>

ABA: Royal Commission code changes given ACCC authorisation

The Australian Competition and Consumer Commission (ACCC) has authorised a number of changes to the Banking Code of Practice, as recommended by Commissioner Hayne in his final report. <https://www.ausbanking.org.au/royal-commission-code-changes-given-accs-authorisation/>

Thousands of credit card insurance customers to get compensation payouts from NAB

The National Australia Bank agrees to pay compensation to tens of thousands of customers who were sold junk credit card and personal loan insurance in what is believed to be the largest class action settlement involving a big-four bank and its customers in Australian history. <https://www.abc.net.au/news/2019-11-20/nab-class-action-consumer-credit-insurance-compensation/11721820>

AUSTRAC applies for civil penalty orders against Westpac

AUSTRAC, has applied to the Federal Court of Australia for civil penalty orders against Westpac Banking Corporation (Westpac). AUSTRAC alleges Westpac contravened the AML/CTF Act on over 23 million occasions and Westpac's oversight of the banking and designated services provided through its correspondent banking relationships was deficient. <https://www.austrac.gov.au/about-us/media-release/civil-penalty-orders-against-westpac>

APRA lays out culture game plan

APRA has released its plans to scale up its regulation of governance, culture, remuneration and accountability across the finance sector, with measures such as doubling its corresponding department's staff and introducing the use of artificial intelligence and industry-wide surveys. <https://www.investordaily.com.au/regulation/46075-apra-lays-out-culture-game-plan>

ABA: Greater protections for customers under new debt collection guidelines

New guidelines to be applied by Australia's banks to debt collection agencies have been released, providing a major step up in safeguards to ensure vulnerable customers are protected. The new guidelines outline the process banks must follow before they sell any debt and also what happens once that debt is sold. <https://www.ausbanking.org.au/greater-protections-for-customers-under-new-debt-collection-guidelines/> For a copy of the guidelines [click here](#).

CBA pleads guilty to criminal breaches over hawking life insurance policies

Australia's largest bank has the dubious distinction of being the first major financial institution to be guilty of criminal charges arising from the banking royal commission. <https://www.abc.net.au/news/2019-11-19/cba-pleads-guilty-to-criminal-breaches-in-hawking-life-insurance/11717630>

Regulators seek market infrastructure reforms

The Council of Financial Regulators has pushed ahead on reforms to financial market infrastructures, including enhancement of its licensing regimes as well as its supervision and enforcement power. <https://www.investordaily.com.au/regulation/46055-regulators-seek-market-infrastructure-reforms>

ANZ CEO received remediation from bank

ANZ chief Shayne Elliott has revealed he was sent three remediation letters from the bank, insisting that the company will refund every single customer it has wronged. The majority of issues were said to be associated with the banking division, rather than the wealth segment and advice "fees for no service". <https://www.investordaily.com.au/regulation/46059-anz-ceo-received-remediation-from-bank>

'We failed to live up to our own standards': NAB CEO

Acting NAB CEO Philip Chronican says that the bank failed to live up to their core values, but doesn't believe those values need a reset. The comments came during the standing committee on economics review of the four major banks and other financial institutions. <https://www.investordaily.com.au/regulation/46057-we-failed-to-live-up-to-our-own-standards-nab-ceo>

ASIC relief from financial adviser compliance scheme obligations takes effect

ASIC has granted a three-year exemption to all AFS licensees from the obligation in the Corporations Act 2001 to ensure that their financial advisers are covered by a compliance scheme and from the associated notification obligations. <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2019-releases/19-309mr-asic-relief-from-financial-adviser-compliance-scheme-obligations-takes-effect/>

Industry fund boss worries about obligations to IFAs

The chief executive of Australia's largest superannuation fund, Australian Super, has questioned the degree to which industry funds who use independent financial advisers (IFAs) will be held responsible for the quality of their advice. <https://www.superreview.com.au/news/financial-advice/industry-fund-boss-worries-about-obligations-ifas>

IN PRACTICE AND COURTS

[TAPRA consults on further amendments to the ADI leverage ratio](#)

APRA has released for consultation a response letter and draft prudential standard on the leverage ratio requirement for authorised deposit-taking institutions (ADIs) and also incorporates changes by the Basel Committee on Banking Supervision to the international standard. The consultation letter and draft prudential standard are available on the APRA website at [Leverage ratio requirement for authorised deposit-taking institutions](#).

[APRA: regulating and supervising GCRA risks](#)

APRA's intensified approach to GCRA aims to strengthen the resilience of financial institutions, including addressing, and ideally preventing, issues such as poor risk governance, misaligned incentives and misconduct that have undermined public confidence in the financial sector over recent years, in line with a key commitment made in APRA's 2019-2023 Corporate Plan.

[ASIC Whistleblower policies \(RG 270\)](#)

RG 270 sets out the components that a whistleblower policy must include to comply with the law. RG 270 also provides good practice guidance to assist companies develop and implement policies that are tailored to their operations. See the Regulatory Guide 270.

[AFCA Datacube](#)

The new 'Datacube' enables Australians to see how Financial Firms are handling Complaints. The Datacube contains AFCA's data between 1 November 2019 and 30 June 2019 and will be updated every six months. The release of the AFCA Datacube aligns with the release of [AFCA's Annual Review 2018-19](#), covering their operation between 1 November 2018 and 30 June 2019.

CASES

[HAUGHTON v AUSTRALIA AND NEW ZEALAND BANKING GROUP LTD \[2019\] SASC 198](#)

REAL PROPERTY - TORRENS TITLE - MORTGAGES, CHARGES AND ENCUMBRANCES

MORTGAGES - MORTGAGE CONTRACT

COURTS AND JUDGES - COURTS - JURISDICTION AND POWERS

CONSTITUTIONAL LAW - IMPERIAL, COLONIAL, STATE AND COMMONWEALTH CONSTITUTIONAL RELATIONSHIPS - GENERALLY - SOVEREIGNTY

Appeal against order for possession.

Whether the respondent committed fraud with respect to the loan application – whether the respondent breached the Code of Banking Practice – whether the Court has jurisdiction to hear the matter.

Held: The appeal is dismissed. An extension of time in which to appeal is refused.

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