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ISSUE 74



BANKING SECTOR NEWSLETTER

Welcome to Issue 74 of our Banking Sector Newsletter, our first for 2021.

In this issue, we refer to ASIC's media release announcing the approval of variations to the Banking Code of Practice and ACCC's amendments to the Consumer Data Right Rules.

We also have a link to an article on the challenges that Australian banks potentially face in 2021 due to scaling-down their operations and the continuing impacts of COVID-19.

This issue of the Newsletter also provides the usual round-up of practice notes, cases and legislation.

IN THE MEDIA

Financial advice sector reforms for better retirement

The Morrison Government is committed to strengthening the financial advice sector and providing consumers with better access to affordable and high quality financial advice, as the industry is adapting and innovating in response to the challenges of COVID-19. <https://ministers.treasury.gov.au/ministers/jane-hume-2020/media-releases/financial-advice-sector-reforms-better-retirement>

Major Australian banks face tougher 2021 as sharper focus cuts growth avenues

Major Australian banks face a tougher year in 2021, as their scaled-down operations following a spate of misconduct cases has left them with less cushion against high compliance costs, record low interest rates, elevated loan loss provisions and competition from nonbanks, analysts say. <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/major-australian-banks-face-tougher-2021-as-sharper-focus-cuts-growth-avenues-62009410>

APRA axes dividend cap

The big four banks will no longer be constrained by APRA's pandemic rule book, which saw shareholders receive greatly reduced dividends as they grappled with the worst recession on record. <https://www.investordaily.com.au/regulation/48425-apra-axes-dividend-cap>

Australian banks second for fines

Data from research house Finbold has indicated banks globally amassed US\$15.3 billion (\$19.6 billion) in fines for the 2020 year. Australia came in second, with US\$981 million in fines from three cases. <https://www.investordaily.com.au/regulation/48506-australian-banks-second-for-fines>

ACCC amends Consumer Data Right (CDR) Rules in Australia

The ACCC has made some significant amendments to the Consumer Data Right Rules, following the consent from the Treasurer. These new rules do not include rules about tiers of accreditation, the disclosure of 'insights' derived from CDR data to any non-accredited person, or the sharing of data with trusted advisors. The rule-making function will transfer from the ACCC to the Minister on February 28, 2021. <https://ibsintelligence.com/ibsi-news/accc-amends-consumer-data-right-cdr-rules-in-australia/>

ASIC approves variations to the Banking Code

ASIC has approved variations to the Banking Code of Practice (Code), as proposed by the Australian Banking Association (ABA). On 1 January 2021, as part of the Financial Sector Reform (Hayne Royal Commission Response) Bill 2020, which received Royal Assent on 17 December 2020, a new framework commenced for ASIC's approval of codes of conduct. <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2021-releases/21-003mr-asic-approves-variations-to-the-banking-code/>

FASEA denies any deliberate misleading on code consultation

The chief executive of the Financial Adviser Standards and Ethics Authority (FASEA) has admitted that its chief executive wrongly asserted to a Parliamentary committee that submissions around its code of ethics consultations had been made public but claims the CEO's statements were "inadvertent". <https://www.moneymanagement.com.au/news/policy-regulation/fasea-denies-any-deliberate-misleading-code-consultation>

ASIC rebukes claims of 'inadequate' expenses handling

New responses to a parliamentary committee reveal why ASIC chose to delay sending vital documents around chair James Shipton's accounting expenses to the Australian National Audit Office, as the public awaits the outcome of the completed review into the scandal. <https://www.investordaily.com.au/regulation/48482-asic-rebukes-claims-of-inadequate-expenses-handling>

Collaboration is key to combating trade-based money laundering

Over time, criminals have turned to increasingly sophisticated methods to disguise the origins of dirty money and integrate it into the mainstream economy. <https://www.austrac.gov.au/collaboration-key-combating-trade-based-money-laundering>

Read the report and learn more about the risks and challenges posed by TBML: [Trade-based Money Laundering: Trends and Developments](#).

ASIC claims to have planners in its regulatory ranks

ASIC is insisting it has empathy for financial planning licensees. <https://www.moneymanagement.com.au/news/policy-regulation/asic-claims-have-planners-its-regulatory-ranks>

Inquiry into Future Directions for the Consumer Data Right

The Morrison Government has released the Report of the Inquiry into Future Directions for the Consumer Data Right, which looked at how Australia's world-class data sharing regime could be expanded to further benefit consumers and deliver greater choice and convenience. The Consumer Data Right in banking – known as "Open Banking" – is already helping to transform how consumers engage with financial services. <https://ministers.treasury.gov.au/ministers/jane-hume-2020/media-releases/inquiry-future-directions-consumer-data-right>

APRA holds countercyclical capital buffer at zero per cent

The Australian Prudential Regulation Authority (APRA) has released its latest assessment of the appropriate setting for the countercyclical capital buffer (CCyB) for authorised deposit-taking institutions (ADIs). <https://www.apra.gov.au/news-and-publications/apra-holds-countercyclical-capital-buffer-at-zero-per-cent>

FATF updates on global ML/TF risk

The Financial Action Task Force (FATF), the global group that sets international anti-money laundering and counter-terrorism financing (AML/CTF) standards, has published two recent updates relating to international ML/TF risk. <https://www.austrac.gov.au/fatf-updates-global-mltf-risk>

ABA: Digital Identity Legislation: Consultation paper

Banks are actively exploring digital identity initiatives and see the benefit of collaboration between government and industry. The interests of the Australian economy will be better served if there is flexibility to innovate and respond to the needs of consumers and businesses, instead of establishing a single government digital identity scheme. Government can also achieve genuine collaboration with industry without legislation. <https://www.ausbanking.org.au/submission/digital-identity-legislation-consultation-paper/>

AusPayNet releases guide to navigating the Australian payments system

Australian Payments Network (AusPayNet), the self-regulatory body for Australian payments, released a practical guide to help new entrants better navigate the interdependencies within the payments system. https://www.auspaynet.com.au/insights/Media-Release/2020_12_NavigatingPayments

IAASB Raises the Bar for Quality Management

The International Auditing and Assurance Standards Board (IAASB) released its three quality management standards. The standards become effective on December 15, 2022. <http://www.iaasb.org/news-events/2020-12/iaasb-raises-bar-quality-management>

Code of Practice to reflect modern banking

COBA is working to finalise the new Customer Owned Banking Code of Practice in the first half of 2021. As part of the update process, COBA is consulting with stakeholders from across the industry to provide drafting input. <https://www.customerownedbanking.asn.au/news-and-resources/sector-news/code-of-practice>

IN PRACTICE AND COURTS

ASIC Papers open for public comment

ASIC CP 335: Consumer remediation guidance

ASIC has released a consultation paper on proposed updates to [Regulatory Guide 256: Client review and remediation conducted by advice licensees](#). [Consultation Paper 335: Consumer Remediation: Update to RG 256](#) (CP 335) includes clarification of RG 256's application to all financial services licensees, credit licensees and superannuation trustees. Submissions on CP 335 are due by 26 February 2021.

ASIC has also released [Making it Right: how to run a consumer centred remediation](#), a resource that offers immediate help to licensees with the day-to-day design and execution of consumer-centred remediations.

[CP 333 Implementing the Royal Commission recommendations: Reference checking and information sharing](#)

Released 19 November 2020.

Comments close 29 January 2021.

Seeks feedback on ASIC's proposed approach to implementing aspects of the law reform arising from Royal Commission Recommendations 1.6 and 2.7 relating to the reference checking and information sharing protocol for financial advisers and mortgage broker.

[CP 332 Promoting access to affordable advice for consumers](#)

Released 17 November 2020.

Comments close 18 January 2021.

Seeks information from financial advice industry participants and other stakeholders on impediments to the delivery of good-quality affordable personal advice, particularly access to quality 'limited advice': see [20-285MR](#).

ASIC Regulatory Guide

[RG 274 Product design and distribution obligations](#)

Issued 11 December 2020.

This guide is for issuers and distributors of financial products that must comply with the design and distribution.

ASIC Regulatory Documents

15/01/2021 [RG 1 AFS Licensing Kit: Part 1 – Applying for and varying an AFS licence](#) (reissued)

15/01/2021 [RG 2 Licensing Kit: Part 2 – Preparing your AFS licence application](#) (reissued)

Technical updates to add 'providing a claims handling and settling service' as a financial service for the purposes of applying for an AFS licence (in line with the addition of the C12 proof, Insurance Claims Handling and Settling Service Statement to [RG 3](#) on 24 December 2020).

The updated regulatory guides will help applicants prepare an application for an AFS licence (or variation to an existing AFS licence) authorising them to provide an insurance claims handling and settling service. Applicants can apply for an AFS licence or variation with this authorisation from 1 January 2021.

07/01/2021 [ASIC Corporations \(Approval of Variation March 2020 Banking Code of Practice\) Instrument 2021/11](#)

Approves variations of the March 2020 Banking Code of Practice: see [20-003MR](#).

05/01/2021 [ASIC Corporations \(AFCA Regulatory Requirement\) Instrument 2021/0002](#)

Requires the Australian Financial Complaints Authority to amend the Australian Financial Complaints Authority (AFCA) Complaint Resolution Scheme Rules without consultation by inserting a new definition and amending an existing definition.

24/12/2020 [RG 3 AFS Licensing Kit: Part 3 – Preparing your additional proofs](#) (reissued)

Incorporates C12 Proof: Claims Handling and Settling Service Statement to help applicants prepare an application for AFS licences, or for licence variations, seeking a claims handling and settling service authorisation, on commencement of the Financial Sector Reform (Hayne Royal Commission Response) Act 2020 (commencing 1 January 2020).

ATO Alerts

07/01/2021 [Quarterly TBAR due 28 January 2021](#)

If you report quarterly on your self-managed super funds (SMSF's) transfer balance account, your next transfer balance account report (TBAR) is due 28 January 2021.

17/12/2020 [Latest news on tax law and policy](#)

The Government handed down the 2020–21 Mid-Year Economic and Fiscal Outlook (MYEFO) on 17 December 2020, with several proposed changes to tax and superannuation laws.

[ASIC Corporations, Superannuation and Credit \(Amendment\) Instrument 2020/99](#)

Amends the [ASIC Corporations and Credit \(Internal Dispute Resolution— Transitional\) Instrument 2019/965](#) to preserve ASIC's existing internal dispute resolution policy in relation to complaints received by financial firms before 5 October 2021.

APRA consultation: Implementation of AASB 17 for insurance capital and reporting

The APRA has commenced a consultation to update the insurance capital and reporting frameworks in recognition of the implementation of Australian Accounting Standards Board 17 Insurance Contracts (AASB 17). The consultation on the discussion paper will close on 31 March 2021.

The discussion paper is available on the APRA website at: [Integrating AASB 17 into the capital and reporting frameworks for insurers and updates to the LAGIC framework](#).

Information regarding the regulatory responsibilities and approach of ASIC to AASB 17 implementation is available [here](#).

[APRA Consultation: Revised remuneration standard](#)

The APRA has released for consultation a revised remuneration prudential standard designed to strengthen market practice, underpin sound remuneration practices and enhance accountability in the institutions it regulates. The consultation period for revised *CPS 511* will close on 12 February 2021. The response paper, revised standard are available [here](#).

[APRA publishes new FAQ for ADIs on measurement of credit risk weighted assets](#)

The APRA has published a new frequently asked question (FAQ) for authorised deposit-taking institutions (ADIs) on the measurement of credit risk weighted assets relating to insurance stand-by letters of credit.

[APRA optional template to provide structured feedback on draft Reporting Standard ARS 220.0 Credit Risk Management](#)

The APRA has released an optional template to provide structured feedback on the draft Reporting Standard ARS 220.0 Credit Risk Management.

[APRA \\$46 billion reduction in aggregate Committed Liquidity Facility](#)

The APRA has issued a letter to authorised deposit-taking institutions (ADIs) announcing a \$46 billion reduction in the aggregate amount in the Committed Liquidity Facility (CLF), from the amount as at 1 December 2020.

[APRA publishes monthly data on temporary loan repayment deferrals](#)

The APRA has published the latest monthly data for ADIs' temporary loan repayment deferrals due to COVID-19, which includes data at both the industry and entity level.

[APRA Monthly Authorised Deposit-taking Institution Statistics for November 2020](#)

The APRA has released its Monthly Authorised Deposit-taking Institution Statistics (MADIS) publication for November 2020.

[AFCA complaint monetary limits updated](#)

The Australian Financial Complaints Authority (AFCA) has adjusted its monetary limits for complaints for 01 January 2021. A comparison of the monetary limits that apply for complaints received up to 31 December 2020 and the new monetary limits that apply to complaints received from 1 January 2021 can be found [here](#).

[AFCA: Debt agreement administrators \(DAAs\) to be AFCA members by 1 January 2021](#)

From 1 January 2021, all registered DAAs must be AFCA members in accordance with the Bankruptcy (Registered Debt Agreement Administrator Conditions) Determination 2020.

To find out more about AFCA's jurisdiction to accept complaints lodged against DAAs, and the types of complaints we can and cannot consider, see the [Debt Agreement Administrators Fact sheet](#).

AFCA Current Matters

[Xinja return of deposits](#) (Updated December 2020)

[Important information for consumers about the Freedom Remediation Program](#) (Updated December 2020)

[DH Flinders Pty Limited v Australian Financial Complaints Authority](#) (Updated December 2020)

AFSA: Guidelines for debt agreement administrators

This document seeks to provide some guidance to practitioners in relation to COVID-19 and its effect on our stakeholders. The changes outlined here will remain in place until 31 December 2020.

For updated general guidelines for practitioners, see [Practitioners: COVID-19 and updated advice from the Inspector-General](#).

[ASFA: Temporary debt relief measures ended on 1 January 2021](#)

In March 2020, the Australian Government announced a series of changes to bankruptcy law, as part of the wider economic response to the COVID-19 pandemic. As of 1 January 2021, those temporary changes have ceased. An amendment has also been made to adjust the bankruptcy threshold. This means: the minimum amount of debt that can trigger bankruptcy is \$10,000, down from \$20,000 and the amount of time an individual has to respond to a bankruptcy notice is 21 days, reduced from six months.

[FASEA releases 2020 Amendment Legislative Instrument for Relevant Providers Degrees, Qualifications and Courses Standard](#)

FASEA has registered the 2020 Amendment Legislative Instrument and Explanatory Statement for its Relevant Providers Degrees, Qualifications and Courses Standard on the Federal Register of Legislation.

[AASB: Research Report 15](#)

Compares Australian and selected overseas jurisdictions' auditor remuneration disclosure requirements and identifies factors that could be considered in implementing the Parliamentary Joint Committee on Corporations and Financial Services Inquiry into the Regulation of Auditing recommendation on the audit and non-audit services fee disclosure requirements.

[AASB: Exposure Draft 305 Amendments to Australian Accounting Standards – Lease Liability in a Sale and Leaseback](#)

Amendments to AASB 16 Leases have been proposed to specify the method a seller-lessee uses in initially measuring the right-of-use asset and liability arising in a sale and leaseback transaction. The amendments would also address how the seller-lessee subsequently measures that liability. Please have your say and send your comments to the AASB by 21 February.

[AASB: Invitation to Comment 42 Business Combinations under Common Control](#)

Comments are invited on possible new accounting requirements for business combinations under common control – where mergers and acquisitions occur involving entities within the same group. The aim of the possible requirements would be to reduce diversity in practice and to improve transparency and comparability in reporting these transactions. Please have your say and send your comments to the AASB by 17 July 2021.

[AASB Reminder: Exposure Draft ED 301: Classification of Liabilities as Current or Non-current—Deferral of Effective Date](#)

The AASB is proposing to defer the effective date of issued [AASB 2020-1 Amendments to Australian Accounting Standards – Classification of Liabilities as Current or Non-current](#) (March 2020) by one year to annual reporting periods beginning on or after 1 January 2023 via ED 301 *Classification of Liabilities as Current or Non-current—Deferral of Effective Date*.

IASB reviews package of IFRS Standards for group accounting

The International Accounting Standards Board (Board) is calling for feedback on the IFRS Standards for group accounting—IFRS 10 *Consolidated Financial Statements*, IFRS 11 *Joint Arrangements* and IFRS 12 *Disclosure of Interests in Other Entities*. Further information about post-implementation reviews can be found in the Handbook. The deadline for comments is 10 May 2021.

[IASB proposes amendment to its leases Standard to improve accounting for sale and leaseback transactions](#)

The International Accounting Standards Board has proposed to amend IFRS 16 Leases by specifying how a company measures the lease liability in a sale and leaseback transaction. Exposure Draft Lease Liability in a Sale and Leaseback is open for public comment until 29 March 2021.

[IASB consults on possible new accounting requirements for mergers and acquisitions within a group](#)

The Board has launched a public consultation on possible new accounting requirements for mergers and acquisitions involving companies within the same group—business combinations under common control. Access the Discussion Paper [Business Combinations under Common Control](#). The deadline for comments is 1 September 2021. Access a [fact sheet](#) about the Board's project and the [Snapshot](#), which provides a more detailed summary of the Discussion Paper.

Deadline Extended for IAASB's Discussion Paper on Fraud and Going Concern

Fraud and going concern are important public interest issues for the IAASB. To allow adequate time for all of our stakeholders to respond to the IAASB's Discussion Paper, [Fraud and Going Concern in an Audit of Financial Statements: Exploring the Differences Between Public Perceptions About the Role of the Auditor and the Auditor's Responsibilities in a Financial Statement Audit](#), the closing date of this consultation has been extended to February 1, 2021.

[AUSPAYNET Payments Monitor – 18 December 2020](#)

AusPayNet's CEO, Andy White, outlines what's top of mind heading into 2021. This edition also highlights the new 'Navigating Payments for New Entrants' guide, recent event series, review of AusPayNet's constitution and governance architecture and more.

ABA Submissions

18/12/2020 [Digital Identity Legislation: consultation paper](#) – to Digital Transformation Agency

CASES**[Hastie Group Limited \(in liq\) v Multiplex Constructions Pty Ltd \(Formerly Brookfield Multiplex Constructions Pty Ltd\) \[2020\] FCA 1824](#)**

PRACTICE AND PROCEDURE – Pleadings – Amendment – Application for leave to file Second Further Amended Originating Process and Points of Claim – Application for leave to file further amended Concise Statements – Whether substantially different case

PRACTICE AND PROCEDURE – Multiple respondents – Whether common issues exist in relation to all respondents – Applications to remove respondents from proceedings

PRACTICE AND PROCEDURE – Costs – Whether costs thrown away – Whether costs thrown away should be taxed and paid forthwith – Whether costs thrown away should be paid on an indemnity basis

COURTS AND JUDICIAL SYSTEM – Cross-vesting – Whether proceedings ought to be transferred to Supreme Court of New South Wales – Accrued jurisdiction of Federal Court of Australia

Corporations Act 2001 (Cth); Federal Court of Australia Act 1976 (Cth); Federal Court Rules 2011 (Cth)

Jurisdiction of Courts (Cross-vesting) Act 1987 (Cth); Personal Property Securities Act 2009 (Cth)

[Stack v AMP Financial Planning Pty Limited \[2020\] FCA 1839](#)

GROUP PROCEEDINGS – practice and procedure – multiple group proceedings – consolidation of proceedings – cooperative litigation protocol – joint solicitors for the applicants on the record – potential conflict of interest – need for a contradictor to supervise the operation of litigation protocol – no contradictor necessary – costs of consolidation application – orders made

[In the matter of Todae Solar Pty Ltd \[2020\] NSWSC 1890](#)

CORPORATIONS – Voluntary administration – Deed of company arrangement – Leave to commence proceedings against company subject to deed of company arrangement in relation to its property – Where Plaintiff's property in possession of company – Whether Plaintiff's title to property established – Whether to order delivery of property where uniquely manufactured in accordance with contractual specifications.

Second, it seeks an order under s 93 of the Civil Procedure Act 2005 (NSW) that, subject to an agreed payment to be made by Ausgrid to Kerden, Kerden deliver certain equipment ("Ausgrid Equipment") to it.

There is no risk that the grant of leave will result in the deed administrator being drawn into several proceedings or incurring wasted costs, where it is not taking an active part in the proceedings; and a determination of the proceedings in Ausgrid's favour is to the advantage of other creditors of TSPL

[Pirovic v Barbieri \[2020\] NSWSC 1892](#)

CONTRACTS – MORTGAGES AND SECURITIES – Mortgages – Mortgage contracts – Whether certain monies were advanced to plaintiffs and intended to be secured by mortgage – Where contract contained an "all monies" clause – Construction of "all monies clause" CONTRACTS – MORTGAGES AND SECURITIES – Mortgages – Mortgage contracts – Covenants – Construction of covenants concerning repayment of principal and interest – Where mortgagor liable to repay mortgage and accrued interest on demand for repayment CONTRACTS – Formation – Consideration – Where mortgagee promised mortgagor that she and her husband could live in property subject of the mortgage for as long as they wished and he would not call upon the mortgage until the property was sold – Whether mortgagor's promise part of the consideration provided

for mortgage contract ESTOPPEL — Promissory estoppel — Where mortgagee promised mortgagor that she and her husband could live in property subject of the mortgage for as long as they wished and he would not call upon the mortgage until the property was sold at the time mortgagor executed mortgage document — Whether mortgagee estopped from making demand under mortgage prior to conditions being fulfilled MORTGAGES AND SECURITIES — Mortgages— Whether demand made

[Turner v O'Bryan-Turner \[2021\] NSWSC 5](#)

In the 2019 Proceeding, her honour makes the following orders:

1. Declare that the First and Second Promissory Notes (as defined in these reasons) were void and of no effect.
2. Declare that, by reason of the First and Second Promissory Notes being void and of no effect, Owen John Turner owes no moneys to Allawah Pastoral Pty Ltd pursuant to the First or Second Loan Agreements (as defined in these reasons) or at all.
3. Declare that the unregistered First and Second Mortgages (as defined in these reasons) are inoperative and do not secure any moneys loaned by Owen John Turner to Allawah Pastoral Pty Ltd.
4. Order that the First and Second Mortgages (as defined in these reasons) be delivered up to the solicitors for the plaintiff in the 2019 Proceeding for cancellation.

EQUITY — Fiduciary duties — Breach — Rule in Barnes v Addy — Knowledge requirements — Where mother acted in breach of fiduciary duty — Receipts and assistance by children

EQUITY — Vitiating factors — Undue influence — Unconscionable dealing — Where transactions undertaken by son — Mental incapacity of father

Bills of Exchange Act 1909 (Cth), ss 5, 89(1), 90, 95

[Onza Industries Pty Ltd v Tingalpa Tyre & Mechanical Pty Ltd \[2021\] QSC 1](#)

EQUITY — TRUSTS AND TRUSTEES — POWERS, DUTIES, RIGHTS AND LIABILITIES OF TRUSTEES — INDEMNITY, LIEN AND REIMBURSEMENT — whether the defendant had a liability to reimburse Ira Plath for money he contributed to the purchase of the subject property, both at the time of the initial purchase and subsequently to discharge the mortgage over the property, as well as for renovation works undertaken to the property

[YIC Industrial Pty Ltd & Anor v Spa Investments Pty Ltd & Ors \[2020\] QSC 378](#)

PROCEDURE — CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS — ENDING PROCEEDINGS EARLY — SUMMARY DISPOSAL — SUMMARY JUDGMENT FOR DEFENDANT OR RESPONDENT: STAY OR DISMISSAL OF PROCEEDINGS — where the plaintiffs brought proceedings to set aside a judgment of this court which they allege was obtained by fraud — where the defendants apply for summary judgment against the plaintiffs on the basis that the proceeding is an abuse of process and/or no cause of action is shown — where, in the alternative, the defendants

apply to strike out the statement of claim — whether there is a proper evidentiary basis from which fraud could be inferred — whether the proceeding has any real prospect of success — whether there should be summary judgment for the defendants

PROCEDURE — CIVIL PROCEEDINGS IN STATE AND TERRITORY COURTS — JUDGMENTS AND ORDERS — AMENDING, VARYING AND SETTING ASIDE JUDGMENTS AND ORDERS — ACTION TO REVIEW OR SET ASIDE JUDGMENT OR ORDER — WHERE FRAUD, MISREPRESENTATION OR SUPPRESSION OF MATERIAL FACTS -- where the plaintiffs brought proceedings to set aside a judgment of this court which they allege was obtained by fraud — whether there were two related companies with the same name, one of which was deregistered at the relevant time — where what is effectively pleaded is that by a conspiracy between the defendants the previous proceedings have been prosecuted at trial and defended on appeal in the name of a deregistered company based on security documents bearing the name of the deregistered company — whether there is any evidentiary basis to find that the judgment was obtained by fraud

In the loan agreement, the mortgage and the guarantees, the lender appeared as Spa and Pioneer Company 1. Judgment should be given for the defendants. [82] That will still leave the second defendants with a judgment in favour of Pioneer Company 1. It is a mystery why rectification of the loan agreement, mortgage and guarantees has not been sought

[Re Grocon Pty Ltd \(admins apptd\) \(No 2\) \[2020\] VSC 859](#)

CORPORATIONS — Application by administrators appointed to large corporate group for extension of convening period for concurrent second meetings of creditors pursuant to s 439A(6) of the Corporations Act 2001 (Cth) — Thirty eight companies in administration — Time needed for thorough assessment of proposal for deed of company arrangement — Complex corporate group structure and intercompany loans — Additional time needed to continue discussions with proponent for deed of company arrangement — Extension of three and a half months granted — Re Riviera Group Limited [2009] NSWSC 585; (2009) 72 ACSR 352

[Rich v Auswide Constructions Pty Ltd \(No 2\) \[2020\] QDC 330](#)

CONTRACTS — PARTICULAR PARTIES — PRINCIPAL AND AGENT — RELATIONS BETWEEN PRINCIPAL AND THIRD PERSONS — WHAT ACTS OF AGENT BIND PRINCIPAL — DISPOSITIONS BY FACTORS AND MERCANTILE AGENTS — defendant purchased the vessel from a third party — the vessel was returned to the third party for repairs — third party sold the vessel to the plaintiff — whether the third party was a mercantile agent — whether the mercantile agent was acting in the ordinary course of business — whether the plaintiff purchased the vessel in good faith MacKinnon J held that, in having possession of the truck pursuant to the hire purchase agreement, Mr Heap was not in possession of it as a "mercantile agent", but as a bailee and therefore the sale of the truck by him to Staffs was not rendered valid as against the defendant by the equivalent to subsection 3(1) of the Queensland Factors Act

LEGISLATION**Commonwealth****Acts**[Treasury Laws Amendment \(2020 Measures No. 6\) Bill 2020](#)

Assent Act no: 141 17 December 2020

A Bill for an Act to amend the law relating to taxation, competition and charities, to make various minor and technical amendments of the statute law in the Treasury portfolio, to repeal certain obsolete Acts, and for related purposes.

Note: The [Review into Open Banking in Australia](#) (the Open Banking Report) has been certified as being informed by a process and analysis equivalent to a regulation impact statement for the purposes of implementing the Consumer Data Right and Schedule 2 to the Bill.

Regulations[ASIC Corporations \(Approval of Variation of March 2020 Banking Code of Practice\) Instrument 2021/11](#)

11/01/2021 – This instrument approves variations of the March 2020 Banking Code of Practice.

ASIC did not consult on the proposed changes to the variations to the timeframes banks have to respond to complaints under the Code because ASIC considered that such consultation was unnecessary given the minor and technical nature of the proposed variation.

[ASIC Corporations \(AFCA Regulatory Requirement\) Instrument 2021/0002](#)

05/01/2021 - This instrument requires the Australian Financial Complaints Authority to amend the Australian Financial Complaints Authority (AFCA) Complaint Resolution Scheme Rules without consultation by inserting a new definition and amending an existing definition.

[Accounting Standard AASB 1048 Interpretation of Standards](#)

23/12/2020 - This Standard provides an up-to-date listing of Australian Interpretations and Framework documents and ensures the effectiveness of references.

[Accounting Standard AASB 2020-9 Amendments to Australian Accounting Standards – Tier 2 Disclosures: Interest Rate Benchmark Reform \(Phase 2\) and Other Amendments](#)

18/12/2020 - This instrument provides relief for entities reporting under the Tier 2 – Simplified Disclosures framework from disclosing the initial financial effects of interest rate benchmark reform.

[Corporations \(Relevant Providers Degrees, Qualifications and Courses Standard\) Amendment Determination \(No. 1\) 2020](#)

18/12/2020 - This instrument amends the Corporations (Relevant Providers Degrees, Qualifications and Courses Standard) Determination 2020 to modify the list of bachelor and higher degrees, and equivalent qualifications determined for the purposes of the education and training standard that relevant providers (financial planners and advisers) must meet under paragraph 921B(2)(a) of the Corporations Act 2001.

[Banking \(prudential standard\) determination No. 7 of 2020](#)

11/12/2020 - This instrument revokes the Banking (prudential standard) determination No. 9 of 2014, including Prudential Standard APS 222 Associations with Related Entities and determines Prudential Standard APS 222 Associations with Related Entities.

Acts[Financial Sector Reform \(Hayne Royal Commission Response\) Act 2020](#)

21/12/2020 - Act No. 135 of 2020 as made

[Anti-Money Laundering and Counter-Terrorism Financing and Other Legislation Amendment Act 2020](#)

21/12/2020 - Act No. 133 of 2020 as made

[Corporations \(Fees\) Amendment \(Hayne Royal Commission Response\) Act 2020](#)

21/12/2020 - Act No. 137 of 2020 as made

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