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ISSUE 75



BANKING SECTOR NEWSLETTER

Welcome to Issue 75 of our Banking Sector Newsletter.

In this issue, we refer to an article on the outlook of interest rates in response to the Reserve Bank's purchase of Commonwealth Government securities through its bond buying program.

In other news, lenders are preparing for the conclusion of COVID-19 loan repayment deferrals which are due to expire on 31 March 2021.

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

IN THE MEDIA

Responsible lending law overhaul could leave people 'drowning in debt'

Financial counsellors predict everyday consumers will feel the impact of debt and irresponsible lending for years if the Government goes ahead with plans to wind back responsible lending laws. <https://www.abc.net.au/news/2021-02-01/financial-counsellors-plead-to-keep-responsible-lending-laws/13103658>

Extend reference checking to management and boards says FPA

While the financial advice industry was largely on the path to professionalism and efficiency, background checks when hiring new advisers needs to be more robust, ASIC said. People providing general advice or in management and board positions should be subject to just the same reference checking as financial advisers, according to the FPA. <https://www.moneymanagement.com.au/news/financial-planning/extend-reference-checking-management-and-boards-says-fpa>

APRA releases its policy and supervision priorities for 2021

The Australian Prudential Regulation Authority (APRA) has released its policy and supervision priorities for the coming year. Consistent with APRA's strategic objectives detailed in its Corporate Plan, a key focus is

to further enhance the resilience and crisis readiness of Australia's financial system. <https://www.apra.gov.au/news-and-publications/apra-releases-its-policy-and-supervision-priorities-for-2021>

Collateralised borrowing spiked amid financial stress: RBA

The RBA has studied the role of collateral in credit markets under stress, and has found that collateralised borrowing rose for some segments during the GFC. <https://www.mortgagebusiness.com.au/breaking-news/15321-collateralised-borrowing-spiked-amid-financial-stress-rba>

ASIC consults on financial reporting and AGM deferral relief for companies in external administration

ASIC has released Consultation Paper 337 Externally administered companies, seeking feedback on proposals to reduce the regulatory burden for externally administered companies. <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2021-releases/21-009mr-asic-consults-on-financial-reporting-and-agm-deferral-relief-for-companies-in-external-administration/>

ASIC warns investors of imposter bond scams

ASIC is warning investors of a rise in imposter bond investment offers. Scammers pretend to be associated with well-known domestic and international financial service firms and offer high yield bond investments to investors. <https://asic.gov.au/about-asic/news-centre/find-a-media-release/2021-releases/21-010mr-asic-warns-investors-of-imposter-bond-scams/>

Loan repayment deferrals phasing out

As the COVID-19 repayment deferral period concludes at the end of this quarter, some lenders have stopped accepting new applications for deferrals. Lenders have begun preparing for the looming conclusion of the COVID-19 loan repayment deferrals, which is scheduled to expire on 31 March 2021. <https://www.mortgagebusiness.com.au/breaking-news/15329-loan-repayment-deferrals-phasing-out>

AFCA Rules change following ASIC direction

AFCA has amended its Rules to provide clarity for consumers and financial firms regarding AFCA's jurisdiction to receive complaints about the conduct of an authorised representative of an AFCA member. <https://www.afca.org.au/news/media-releases/afca-rules-change-following-asic-direction>

Fixed interest rates may have reached rock bottom, say economists

If the Reserve Bank has no more three-year government bonds to buy by mid-2021, it may no longer be able to put downwards pressure on the benchmark yield for banks fixed mortgage products. <https://www.abc.net.au/news/2021-01-20/rba-bond-purchases-point-to-low-fixed-rate/13070512>

IN PRACTICE AND COURTS

ASIC Papers open for public comment

[CP 337 Externally administered companies: Extending financial reporting and AGM relief](#)

Released: 28 January 2021.

Comments close: 11 March 2021.

[CP 336 Financial requirements: Treatment of lease assets](#)

Released: 11 December 2020.

Comments close: 26 February 2021.

[CP 334 Proposed changes to simplify the ASIC Derivative Transaction Rules \(Reporting\): First consultation](#)

Released: 27 November 2020.

Comments close: 1 March 2021.

[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.

[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.

ASIC Regulatory Documents

21/01/2021 [INFO 240 AFS licence applications: Providing information for fit and proper people and certain authorisations](#) (reissued)

21/01/2021 [INFO 244 Credit licence applications: Providing information for fit and proper people](#) (reissued)

Updated to include a new section on when ASIC may accept alternative evidence that a fit and proper person is subject to another fit and proper requirement for some controllers and officers of controllers in lieu of criminal history checks, bankruptcy checks and statements of personal information.

APRA's 2021 Supervision and Policy Priorities

The APRA has released its policy and supervision priorities for the coming year, delivering APRA's proposed policy and supervision priorities for the coming 12 to 18 months. Copies of APRA's Policy and Supervision Priorities are available below:

[APRA's Policy Priorities - 2021](#).

Published 1 February 2021

[APRA'S Supervision Priorities - 2021](#).

Published 1 February 2021

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

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

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

The APRA 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 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](#).

[Australia's Personal Property Securities Register – AFSA statistics release December quarter 2020](#)

Personal Property Securities Register (PPSR) statistics for the December quarter 2020.

[AUSTRAC: Consultation now open on Rules for AML/CTF reforms](#)

The reforms, known as Phase 1.5, will increase the resilience of our financial system against criminal threats, while making it easier for businesses to understand and comply with their obligations. The draft Rules to support the implementation of the Phase 1.5 reforms are now available for review and consultation.

[AFCA Rules change following ASIC direction](#)

The updated AFCA Rules apply to complaints received by AFCA from 13 January 2021 onwards. Complaints received before 13 January 2021 will be handled by AFCA under the previous Rules. As the vast majority of complaints AFCA considers are between parties with a direct relationship (e.g. a bank to a bank customer) these complaints are not impacted by the Rules change.

AFCA Current Matters

[Xinja return of deposits](#) (Updated January 2021)

FPA Submissions

[Financial Sector Reform \(Claimant Intermediaries\) Regulations 2020 Exposure Draft](#) Treasury (25 January 2021)

[Consultation Paper 332: Promoting access to affordable advice for consumers](#) ASIC (18 January 2021)

[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 recently 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 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 International Accounting Standards 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.

CASES

[Energy World Corporation Limited v Standard Chartered Private Equity \(Singapore\) Pte Ltd \(No 2\) \[2021\] NSWSC 8](#)

CONTRACTS – Construction – Interpretation of Notes Deed Poll and related terms and conditions – whether the transfer of Notes by first defendant to second defendant was a Permitted Transfer – whether first defendant was obliged to offer the right to purchase the notes to second to fourth plaintiffs - held transfer was a Permitted Transfer. Uniform Civil Procedure Rules 2005 (NSW), r 42.1

[SOMMERVILLE KALGOORLIE PTY LTD -v- GULLAN PTY LTD \[2021\] WASC 14](#)

Property law - Application to extend caveat - Turns on own facts

Conditions subsequent - This deed is subject to and conditional upon on or before the Condition Date: (b) the Landlord obtaining finance approval to complete the Development, with any such finance approval to be obtained within 60 days of the fulfilment of the condition in clause

LEGISLATION

Commonwealth

Acts Compilation

[Cross-Border Insolvency Act 2008](#)

25/01/2021 - Act No. 24 of 2008 as amended

[National Consumer Credit Protection Act 2009](#)

20/01/2021 - Act No. 134 of 2009 as amended

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