Governance News

COVID-19 Special Edition

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COVID-19 Key Developments

COVID-19: JobKeeper and JobSeeker changes announced

The government has outlined changes to the JobKeeper and Coronavirus Supplement ahead of the release of the 23 July economic statement.

The changes were announced following Treasury's three month review of the JobKeeper scheme, which found that 'there is a strong case for continued macroeconomic support beyond September' but that changes should be made to the scheme to ensure support is directed to those businesses most impacted by COVID-19. Treasury also recommended that businesses should be asked to reassess their eligibility for the scheme and also suggested that consideration be given to tapering off payments as the economy recovers.

Key Points

- September cut-off date scrapped: The JobKeeper Payment will be extended by six months to 28 March 2021. The temporary Coronavirus Supplement (for those on income support) will be extended until 31 December 2020.

Changes to JobKeeper

- Changes will not kick in until after the original cut off date: The JobKeeper Payment is currently due to finish on 27 September 2020, there will be no changes to the scheme until after this date.
- Payments will be reduced as the economy reopens and a two tier system will be introduced 'to better align the payment with the incomes of employees before the onset of the COVID-19 pandemic'.
  - For the period 28 September 2020 to 3 January 2021 employees who were employed for less than 20 hours a week on average in the four weekly pay periods ending before 1 March 2020 will receive a reduced payment of $750 per fortnight, dropping to $650 for the period 4 January 2021 to 28 March 2021. Currently all employees receive the same rate.
  - For the period 28 September 2020 to 3 January 2021 employees working more than 20 hours a week on average in the four weekly pay period ending before 1 March 2020 will receive $1200 per fortnight, dropping to $1000 for the period 4 January 2021 to 28 March 2021.
- Employers will be required to reassess their eligibility: From 28 September 2020 businesses, and not-for-profits will be required to reassess their eligibility. In order to continue to be eligible, businesses will need to show that they have continued to suffer an 'ongoing significant decline in [their actual] turnover' over the course of the June and September quarters. Businesses and not for profits will again need to reassess their eligibility for the March quarter. In order to continue to be eligible, they will need to demonstrate that their actual turnover continued to decline in each of the previous three quarters.
- The JobKeeper Payment will continue to remain open to new participants that meet the eligibility requirements.
- Cost: The extension of JobKeeper is expected to cost an additional $16.6bn
- Independent review of the program: An independent evaluation will be conducted at the conclusion of the program.

  [Note: Treasury has released a factsheets on the extension of the JobKeeker payment. These are accessible on the Treasury's website here.]

Coronavirus supplement

- Reduced rate: The temporary Coronavirus Supplement for those on income support will be extended from 25 September 2020 to 31 December 2020 at a reduced rate of $250 per fortnight. Both existing and new income support recipients will continue to be paid the Coronavirus Supplement.
- Eligibility requirements will be tightened: A range of means testing arrangements will be reintroduced from 25 September.

- **Incentives to work will be increased:** The income free threshold for JobSeeker Payment and youth Allowance (Other) will be increased from $106 per fortnight to $300 per fortnight meaning that individuals will be able to earn up to $300 per fortnight without it impacting their JobSeeker payment/their eligibility to receive the Coronavirus Supplement.
- **Waiting times waived until 31 December:** The Ordinary Waiting Period, Newly Arrived Resident's Waiting Period (NARWP) and the Seasonal Work Preclusion Period will continue to be waived until 31 December 2020.
- **Cost:** The new arrangements for the Coronavirus Supplement are expected to cost an additional $3.8 billion.

Initial response

The Business Council of Australia has issued a statement welcoming the measures on the basis that they provide 'certainty' to business. Business Council chief executive Jennifer Westacott said. CEO Jennifer Westacott said, 'We welcome a sensible and targeted approach to phasing out the critical support which has helped keep people connected to their employers and position us for a strong recovery'.

The ABC and Business Insider separately report that the response to the changes has been 'mixed'. According to the ABC, the Australian Council of Social Services has expressed concern about the reduction in payments and has called on the government to permanently increase the JobSeeker base rate. The Federal Opposition has reportedly indicated that it will support the changes, while the Greens have said they will not support any reduction in payments.

[Sources: Prime Minister Scott Morrison media release 21/07/2020; Treasury's three month JobSeeker review; Treasury media release and fact sheets 21/07/2020; BCA media release 21/07/2020; The ABC 21/07/2020; Business Insider 21/07/2020]

COVID-19: Expanded SME loan guarantee scheme announced

Ahead of the 23 July economic statement, Treasurer Josh Frydenberg and Minister for Employment, Skills, Small and Family Business Michaelia Cash jointly announced that the Coronavirus SME Guarantee Scheme will be extended past the 30 September 2020 cut off date.

Details

- **Existing scheme:** Under the existing SME Guarantee Scheme, the government guarantees 50% of new unsecured loans from eligible lenders to eligible SMEs. This initial phase of the Scheme is available for new loans issued by eligible lenders until 30 September 2020.
- **Phase two:** The second phase of the Scheme will start on 1 October 2020 and will be available until 30 June 2021. This phase of the scheme is geared towards supporting businesses as they move out of hibernation to 'adapt to the new COVID-safe economy' as such, the focus of the scheme has shifted from providing access to working capital to now also enabling businesses to 'access more affordable and longer term credit so that they can invest for their future'.
- **The scheme has been expanded in a number of respects**.
  - The scheme has been expanded to enable loans to be provided for a range of purposes beyond providing working capital
  - The maximum loan size available under the scheme has been increased from $250,000 to $1 million per borrower
  - The maximum loan term has been increased from three years to five years. Lenders will also have discretion to offer a repayment holiday period.
  - Secured lending (excluding commercial or residential property) will also be permitted.

Response - Australian Small Business and Family Enterprise Ombudsman has welcomed the announcement

In a statement welcoming the announcement the Australian Small Business and Family Enterprise Ombudsman (ASBFEO) said that the expanded scheme 'will allow small businesses to access the working capital and investment funds they need'.

Australian Small Business and Family Enterprise Ombudsman Kate Carnell added that businesses should consider seeking advice before taking out a loan. 'While this is a good option for viable small businesses that have the capacity to grow, it is always a good idea to seek advice from a trusted, accredited financial advisor before entering into a loan' Ms Carnell said.

Separately, ASBFEO reminded businesses of the importance of ensuring the lender is an Australian Financial Complaints Authority (AFCA) member before taking out a loan. The statement was made following the refusal of Prudent Capital Pty Ltd to engage in mediation to settle a dispute about a loan to a small business. ASBFEO states, 'Small business borrowers can only access a free and independent dispute resolution process for their financial complaints if their lender is an AFCA member. Not all lenders are AFCA members – in fact many are not – and small businesses need to be aware of the risks'.

[Source: Joint media release Treasurer Josh Frydenberg and Minister for Minister for Employment, Skills, Small and Family Business Michaelia Cash 20/07/2020; ASBFEO media releases 20/07/2020; 20/07/2020]

COVID-19: ASIC data shows 25% fewer companies entered voluntary administration in H1 2020 than in H1 2019

The Australian Securities and Investments Commission (ASIC) released business registration data for the first six months of 2020.

Key Points

- In H1 2020 the number of companies entering into voluntary external administration fell 25% on 2019 levels
- New company registrations decreased 2.7% in the first six months of 2020 (as compared with 2019)
- In H1 2020 the number of new business registered with ASIC increased 10.1% on 2019 levels

[Source: ASIC news hub update 17/07/2020]

COVID-19: The AICD has reiterated its calls for the extension of director relief measures

The Australian Institute of Company Directors (AICD) has reiterated its call for the government to extend certain temporary COVID-19 relief measures to the end of the 2020 calendar year in light of the continuing uncertainty/disruption caused by the pandemic.

Specifically, the AICD has called for the extension of: 1) insolvent trading relief; 2) continuous disclosure relief (re-insertion of a fault element into continuous disclosure laws); and 3) the ability for companies to hold virtual shareholder meetings.

In addition, the AICD has called for 'a tapered and targeted phase out of government support and stimulus measures'.

Background

- The AICD has previously written to the Treasurer on the same topic and the letter provides more detail around the AICD's requests.
- Separately, the Governance Institute has also called for temporary reforms to the Corporations Act 2001 (Cth) in Corporations (Coronavirus Economic Response) Determination (No 1) 2020 to be made permanent (see: Governance News 10/06/2020) as have other business groups (see: Governance News 24/06/2020).
- The government appears to be open to considering modernising Corporations Act requirements. For example, in a recent address to the CEDA conference Prime Minister Scott Morrison observed that: 'COVID has shown that our laws have not kept pace with digital technology when it comes to business communications - for example, by requiring business to use paper for storing information, instead of using electronic delivery or adopting new technologies like blockchain. These laws, too, are ripe for modernisation'. The deregulation taskforce subsequently announced that it is prioritising looking at ways to make business communications technology neutral. The Prime Minister's speech and the deregulation taskforce's announcement are covered in more detail in Governance News 17/06/2020. Separately, Senate Select Committee on Financial Technology

and Regulatory Technology Chair Andrew Bragg has said that he considers 'virtual AGMs, electronic signatures replacing "wet" signatures and letting people execute documents electronically are all no brainers' (see: Governance News 08/07/2020).

- However, support for the extension of insolvency trading relief is not universal. In a LinkedIn post, Australian Restructuring Insolvency and Turnaround Association (ARITA) CEO John Winter queried whether extending the relief would be beneficial to businesses overall. 'Looking out for one business at the expense of one, or possibly many others, is naïve' Mr Winter states.

[Source: AICD media release 16/07/2020; AICD letter to the treasurer 10/07/2020]

COVID-19: Next sitting of parliament deferred until 24 August

Prime Minister Scott Morrison has issued a statement advising that the next sitting of parliament has been deferred until 24 August.

The decision was made, the Prime Minister said, in light of the advice from Commonwealth Chief Medical Officer Professor Paul Kelly that there is 'significant risk associated with a meeting of Parliament in the context of the increased community transmission of COVID-19 in Victoria and the trends in New South Wales'.

[Source: Prime Minister Scott Morrison media release 18/07/2020]

In Brief | ACTU has called on the government to invest in a 'jobs-led' COVID-19 recovery and has put forward a five point plan for where the investment should occur. 'Whether it is free and universal childcare, the expansion of public infrastructure investment with locally made materials, free TAFE courses focussed on rebuilding our skills and training sector, support to revitalise our travel and hospitality sectors and regional communities or building a sustainable manufacturing capacity this plan delivers jobs, community infrastructure and a future for Australia' ACTU President Michele O'Neil states

[Source: ACTU media release 20/07/2020]

Boards and Directors

Clive Palmer has been charged with misuse of his position as a director and fraud following an ASIC investigation

The Australian Securities and Investments Commission has announced that following an ASIC investigation, Clive Palmer has been charged with:

- two counts of dishonestly using his position as a director of Mineralogy Pty Ltd (s184(2)(a) of the Corporations Act 2001 (Cth))
- two counts of fraud (dishonestly gaining a benefit/advantage (s408C(1)(d) of the Criminal Code Act 1899 (Qld))

Allegations: ASIC alleges that Mr Palmer dishonestly used his position as a director of Mineralogy Pty Ltd to:

- dishonestly obtain a benefit or advantage for Cosmo Developments Pty Ltd and/or the Palmer United Party (PUP) and others, by authorising the transfer of $10 million contrary to the purpose for which the funds were being held.
- dishonestly obtain a benefit or advantage for Media Circus Network Pty Ltd and/or PUP by authorising the transfer of $2.16 million contrary to the purpose for which the funds were being held.

The matter is being prosecuted by the Commonwealth Director of Public Prosecutions.

[Source: ASIC media release 17/07/2020]

In Brief | French financial regulator the ACPR has called on insurers to separate the Chair from CEO roles in the interests of good governance

[Sources: Reuters 15/07/2020; Bloomberg Law 16/07/2020; ACPR report]

In Brief | Updated practical guidance for aged care boards: The Governance Institute has relaunched its guide to governance in the aged care sector

[Source: Governance Institute media release 16/07/2020; Full text of the guidance: Adding value to governance in aged care]

Diversity and Inclusion

Will there be lasting change in the way companies treat 'hourly workers' post COVID-19?

Yale School of Management's Professor Jeffrey Sonnenfeld has provided a short summary of the key takeaways from the recent Yale CEO summit. The focus of discussion was largely on responding to the current crisis (including issues of racial inequality/injustice) and the challenges for CEOs and for companies in responding appropriately and following through with meaningful change.

Four Key Points

Among other points, Professor Sonnenfeld highlights the following.

- There was general agreement among participants that CEOs have a role to play in speaking out on social issues:
  - Summit participants agreed that CEOs should speak out on key social issues, eg on racial injustice. They also agreed that articulating the role business can play in addressing racial inequality in society is important. The approach taken by CEO of Merck Ken Frazier, who stepped down from President Trump's advisory committee following the events in Charlottesville and has since taken the opportunity to publicly state his reasons for doing so, and to explain in subsequent interviews the reasons behind the protests and the importance of inclusion and racial equality was praised by CEO attendees.
  - A survey shared with participants confirms that the majority of Americans share this view. According to the survey 70% of people expect CEOs to speak out on social issues (including on racial inequality/racial injustice) according to a survey shared with summit participants. The survey also identified that the US public expect CEOs to acknowledge the reasons for recent protests in their responses.
- Participants agreed that public statements need to be matched by meaningful actions focused on opportunities. Improving access to education for minority groups (through donations/financial support) and ensuring access to capital were cited two examples of this.
- Participants agreed that inclusivity within corporations needs to begin with conversations with employees and that responses should be formulated taking into account employee feedback/responses.
- Post-crisis – will there be a lasting change in the way 'essential workers' are treated? Indra Nooyi observed that the COVID-19 crisis has seen a shift in attitudes toward 'hourly workers', now deemed 'essential workers'. Ms Nooyi questioned whether the shift in attitudes would translate into meaningful change eg higher wages, post-crisis. 'What happens when we come out of this pandemic; are we going to be a different humanity? Or, are we going to be like a rubber band and snap right back to the way we were?…I'm hoping and praying that as we come out of the pandemic, we imagine a very different society—that has a conscience and that makes money. I'm not against making money, but not money at all costs on the backs of workers…I want to reserve my judgment' Ms Nooyi is quoted as saying.

[Source: Harvard Law School Forum on Corporate Governance and Financial Regulation 15/07/2020]

Disclosure and Reporting

How to approach reporting on the impacts of COVID-19: The AICD, CAAZ and CPA have released joint guidance

The Australian Institute of Company Directors (AICD), Chartered Accountants Australia and New Zealand (CA ANZ) and CPA Australia have released joint guidance, to assist directors, auditors and preparers of financial reports, in approaching the challenge of reporting on the impacts of COVID-19. More particularly, the guide aims to provide assistance in determining 'how best to disclose necessary information in both the financial report and directors' reports'.

The guidance has been welcomed by Australian Securities and Investments Commission (ASIC) Chair James Shipton as a useful aid for directors, management and auditors in the current environment, and a helpful supplement to other guidance including ASIC's guidance.

Scope of the guidance

The guide is intended to be supplemented by guidance provided by other sources, including guidance provided by the ASIC, the Australian Accounting Standards Board (AASB) and the Auditing and Assurance Standards Board (AUASB).

What's in the guide

The guide is structured to address the impact of COVID-19-related issues on each element of the annual report, 'in the order in which you might expect them to appear in that report'.

- Section 1: provides an 'overview of major risks and issues that should assist entities to identify the nature and extent of the impacts of COVID-19 that are of relevance to the content of annual reports'. ·
- Section 2: highlights some key principles of 'good reporting' and disclosure to consider, including in relation to the topics that ASIC has flagged it will be focusing on during COVID-19 ie asset values, provisions, solvency and going concern assessments, events after year end and disclosures in the financial report and Operation and Financial Review.
- Section 3 outlines how risks/issues covered in sections 1 and 2 of the report may affect the content of the directors' report and/or the Operating and Financial Review (OFR). ·
- Section 4 is focused on director declarations 'about the basis of preparation of the financial statements and about the solvency of the entity'.
- Section 5 is focused the assessment of going concern
- Section 6 discusses how these risks and issues may impact both the preparation of, and disclosure in, the financial statements and the accompanying notes. ·
- Section 7 is focused on the auditor's report. Appendix D of the report provides further detail.

The guidance is supplemented by three case studies illustrating how the issues/considerations outlined in the body of the guide might be translated into practice. Case Study 1 is based on the case study used by ASIC in Regulatory Guide 247 Effective disclosure in an operating and financial review and has been designed to help directors and management consider what they might disclose in a directors' report or OFR.

Case Studies 2 and 3 illustrate how a for-profit and a not-for-profit entity respectively might make disclosures when there is a material uncertainty around going concern and how each entity might undertake scenario modelling and assess probability and determine whether a disclosure is material.

Tips for directors: how to assess the impact of COVID-19

Appendix A of the guide is a non-exhaustive list of 17 questions, adapted from a list issued by the Securities and Exchange Commission, to assist directors in the task of assessing the impact of COVID-19 on their organisation. This is supplemented by a suggested, non-exhaustive list of questions to help guide directors in in the task of engaging with management on the issue of COVID-19 disclosure as well as a list of questions for directors to focus on when holding discussions with auditors.

Announcing the release of the guide AICD CEO and Managing Director, Angus Armour said that from a reporting perspective, the current environment poses unprecedented challenges for directors. 'Australian directors are facing their toughest financial reporting season in decades. Investors and stakeholders are seeking clarity, while directors are grappling with the uncertainty created by global recession and pandemic. There has never been a more challenging period in our modern reporting environment given the level of disclosure that is now required and expected, and the consequences if you get it wrong' Mr Armour said.

In particular, Mr Armour flagged forward looking disclosures as 'particularly difficult'.

The guide, he said should assist directors in making 'fine judgement calls' in the current challenging environment.

[Sources: AICD media release 13/07/2020; Full text of the guide: Impacts of COVID-19 on annual report disclosures, A guide for directors, preparers and auditors]

Cutting through the complexity: SASB and GRI have announced that they will work together to produce materials clarifying how their different standards can be used concurrently

The Sustainability Accounting Standards Board (SASB) and the Global Reporting Initiative (GRI) have announced a 'collaborative workplan' to provide clarity on how the two sets of standards can be used concurrently by organisations and to promote understanding of the different information provided by the two sets of standards.

'Both GRI and SASB believe that providing clarity on the application of their reporting standards, and helping others understand how to use the sustainability performance data they provide, is critical to meeting the needs of all stakeholders' the statement reads.

By the end of 2020, the two organisations plan to deliver 'communication materials' to assist stakeholders to better understand how the two sets of standards may be used concurrently including examples (based on 'real world reports' of the way in which the standards can be used together.

The statement flags that this initial work is expected to lead to identification of further opportunities to collaborate, eg opportunities to consider how the GRI and SASB standards may be developed in the future.

[Source: SASB media release 13/07/2020]

Canada | Mandating reporting under the TCFD or SASB recommendations for TSX listed issuers? The Capital Markets Modernization Taskforce is consulting on over 70 proposals aimed at 'modernising Ontario's capital markets'

The Capital Markets Modernization Taskforce consulting on over 70 proposals aimed at 'modernising Ontario's capital markets'.

Summing up the objectives of the many proposed changes, Taskforce Chair Walied Soliman said that they are aimed at: a) 'streamlining the regulatory governance structure and framework'; b)reducing regulatory/legislative burden on the sector; c) fostering competition between market participants; d) ensuring regulations are 'adaptive to technological advancements'; d) enhancing investor protections; e) aligning regulatory models; and f) enabling businesses to grow/attract investment.

Five interesting proposals

- **Introduction of mandatory (advisory) 'say on pay' votes for TSX listed issuers:** The Taskforce proposes the introduction of a new requirement for TSX-listed issuers 'to have an annual advisory shareholders' vote on the board's approach to executive compensation'. The change is being proposed, the report explains, in light of the 'growing recognition in Canada and globally that periodic advisory votes on executive compensation provide critical input to boards and facilitate shareholder engagement. Many stakeholders have indicated that they support the implementation of a mandatory vote on the board's approach to executive compensation for issuers'. The report makes clear that the Taskforce 'recommends against binding votes because of the importance of preserving the board of directors' decision-making processes and to avoid the risk that shareholder proposal campaigns become too burdensome on issuers'. The Taskforce seeks feedback on whether there are concerns about the proposed new requirement, and views on whether it should be expanded to all reporting issuers.
- **Enhanced ESG disclosure requirements:** The Taskforce proposes to 'mandate [phased] disclosure of material ESG information which is compliant with either the TCFD or SASB recommendations for [TSX] issuers through regulatory filing requirements of the OSC. Where feasible, the proposed enhanced disclosure will align with the global reporting standards of both TCFD and SASB'. The Taskforce seeks feedback on: a) what specific material ESG information is needed beyond what is already being provided under existing disclosure requirements; b) whether a phased approach to implementation 'including a comply or explain model' should be adopted; c) whether there is a need for a 'short term safe haven'; and d) whether ESG disclosures should be subject to existing forward-looking information requirements .
- **Introduction of quarterly filing for institutional investors:** To increase transparency around institutional investors' ownership positions, the Taskforce proposes to introduce a US style requirement for institutional investors to disclose their holdings in securities of Canadian reporting issuers (that have a market capitalisation above a certain threshold) on a quarterly basis. The report observes that the process is currently in place in the US and 'provides a proven framework for similar disclosure that could work in Canada'. The Taskforce seeks views on whether the information would be useful for market participants, what exemptions should be provided and the appropriate timeline for introducing the requirement.

  [Note: The Securities and Exchange Commission is consulting on a proposal to do away with the requirement for 'smaller' institutional investment managers to report quarterly on their US stockholdings. For a brief summary see: Governance News 15/07/2020]
- **A new 'regulatory framework for proxy advisory firms':** The Taskforce propsoes to introduce a new regulatory framework for proxy advisory firms (PAFs) with the aim of ensuring that proxy firms' 'institutional clients are provided with the issuer's perspective concurrent with the PAF's [proxy advisory firms] recommendation report'. More particularly, the Taskforce proposes to:
  - provide issuers with a 'statutory right to rebut (at no cost) the reports published by PAFs, [proxy advisory firms] provided that the issuer published the relevant materials (such as the Management Information Circular) within a specified time period prior to the meeting'. Proxy advisory firms would be required to include the rebuttal in its report to clients.
  - restricting proxy advisory firms from 'providing consulting services to issuers in respect of which PAFs [proxy advisory firms] also provide clients with voting recommendations'.
  - The report explains that the proposed changes are in response to concerns raised by stakeholders about 'the influence of PAFs, errors in the reports produced by PAFs, and conflicts of interest arising

from PAFs' provision of voting recommendations in respect of issuers to which PAFs also provide consulting services'.

- **Reduce the ownership threshold for early warning reporting disclosure from 10 to 5%:** The report observes that at present, shareholders the requirement to disclose beneficial ownership/control/direction over, voting or equity securities of an issuer is triggered when it reaches 10%. In light of the fact that a shareholder can 'generally requisition a shareholders' meeting' if it holds 5% of an issuer's voting securities, and in light of increased levels of shareholder activism, it's proposed that the threshold be decreased to 5%. The Taskforce seeks feedback on whether there are reasons to exclude certain issuers, and whether requiring 'passive investors' to report ownership at the 5% threshold would impose an 'undue burden'.

Timeline: The deadline for submissions is 7 September 2020.

[Sources: Capital Markets Modernization Taskforce consultation report July 2020]

In Brief | The FRC's latest thematic review of company reporting has identified that though companies overall provided 'sufficient information to enable a user to understand the impact Covid-19 had on their performance, position and future prospects, some - particularly interim reports - would have benefited from more extensive disclosure'. The report includes guidance to improve the quality of disclosure going forward

[Source: FRC media release 21/07/2020]

Institutional Investors and Stewardship

Top Story | Effective stewardship means focusing on sustainability: BlackRock stewardship report released

BlackRock's stewardship report provides insights into the rationale underpinning its stewardship approach and voting behaviour as well as flagging its engagement priorities for H2 2020.

Key Takeouts

- BlackRock has issued a report 'to provide clarity and insight' into its approach to engaging with companies on their management/disclosure of sustainability related risks. In particular, the report provides an overview of BlackRock's approach to engagement on climate risk, including insights into its recent voting decisions.
- 'Sustainability is core to value creation': The report emphasises that BlackRock's engagement with companies on sustainability related risks is ultimately aimed at promoting delivery of long-term returns.
- BlackRock's approach to taking 'voting action': The report explains that BlackRock more often elects to vote against the reelection/election of one or more directors to register concern, rather than to vote in favour of a shareholder proposals because BlackRock considers voting against directors to be a 'globally applicable signal of concern'. In addition, BlackRock observes that shareholder proposals are often flawed in some way (eg the timeframe specified may not be achievable) and in this case, voting against a director, still has the effect of signalling agreement that there is an issue.
- Voting record: In 2020, BlackRock took voting action against 53 companies over their failure to adequately disclose/manage climate risk. A further 191 countries have been put on notice to improve, or risk similar action in 2021.
- In H2 2020, BlackRock has flagged its intention to 'refresh' its expectations for 'human capital management and how companies pursue sustainable business practices that support their license to operate more broadly'. In particular, the report highlights board diversity (race/ethnicity/gender) as a key focus when reviewing company directors.

Overview

BlackRock has issued a report 'to provide clarity and insight' into its approach to engaging with companies on their management/disclosure of sustainability related risks. In particular, the report provides an overview of BlackRock's approach to engagement on climate risk, including insights into its recent voting decisions.

The report also emphasises BlackRock's broader focus on other sustainability related risks and gives some insight into its expectations'/priorities going into 2021.

Key Points

BlackRock's approach to sustainability related risks - 'sustainability is core to value creation'

The report emphasises that BlackRock's approach is ultimately aimed at promoting 'governance practices that help create long term shareholder value'. The purpose of engaging with companies on sustainability issues is to ensure that they are 'adequately managing and disclosing sustainability related risks and to hold them accountable if they are not'.

Escalating approach to engagement

The report explains that BlackRock uses both private engagement with individual companies and voting to drive improvement. This involves a 'a natural escalation process'. BlackRock explains, 'If we are not satisfied with a company's disclosures, we typically put it 'on watch' and give the company 12 to 18 months to meet our expectations. (The complexity of many sustainability issues may necessitate detailed reviews of operations by the company if it is to make substantive disclosures that inform investors.) If a company has still failed to make progress after this timeframe, voting action against management typically follows'.

Approach to voting

The report gives some insight into the thinking behind BlackRock's voting behaviour and why BlackRock more frequently elects to register concern through voting against directors, rather than by voting in support of shareholder proposals.

- Voting against directors is a 'globally applicable signal of concern': The report explains that though BlackRock considers both supporting shareholder proposals and voting against directors to be 'valuable tools in the stewardship toolkit' it 'typically employs votes against directors more frequently since they are a globally applicable signal of concern; additionally, significant votes against directors register strongly with both the individual director and the full board, and, importantly, failure to win a substantial majority frequently results in a director stepping down before the next annual meeting'.
- Supporting shareholder proposals? The report states that BlackRock 'may support shareholder proposals' where the proposal addresses issues 'material to a company's business model, which need to be remedied urgently and that, once remedied, would help build long-term value', and where the requests made are reasonable and achievable within the time frame specified. However, the report observes that in some cases 'shareholder proposals address issues that may not be material to the company's business operations or risk or suggest changes that are not reasonably achievable within the specified time frame. In such instances, we generally decline to support the proposals but may vote against directors where we agree that the proposal highlights a failure (such as insufficient climate risk disclosure)'.

Engagement on climate risk

Continuing engagement on the issue: BlackRock has been engaging on climate risk with companies in carbon intensive industries for the past few years and this year stepped up its engagement and focus on climate risk management and disclosure and set the expectation that companies report in line with the TCFD recommendations.

Voting record in 2020: Earlier in the year, BlackRock put 244 companies on notice that their approach to integrating climate risk into their business model and/or climate disclosure was inadequate. Of this group of companies, BlackRock took voting action (voting against the election/reelection of a director; voting against the discharge of directors or the entire board; or supporting a shareholder proposal) at 53 companies. The remaining 191 companies have been placed on a 'watch list' and are expected to make improvements or risk BlackRock taking voting action in 2021.

Broader focus on sustainability issues

While the focus of the report is on climate-related issues, BlackRock emphasises that its approach to sustainability is much broader encompassing other environmental issues (eg sustainable practices in agribusiness) as well as other topics that are 'central to many companies' license to operate' eg human capital management. To illustrate, the report includes a number of examples of instances where BlackRock has taken 'voting action' on the grounds of broader sustainability-related concerns eg sustainable working conditions or diversity and inclusion (among others). BlackRock comments that COVID-19 pandemic has only underlined the relevance of these issues.

Insight into H2 2020 plans

- Initiating engagement with 110 companies on climate risk: BlackRock plans to initiate engagement on climate risk management/disclosure for the first time in H2 2020 with 110 companies (broadly, companies operating in emerging markets and financial services companies) from across a range of carbon intensive sectors. BlackRock comments that 'while we have already had conversations with a number of banks, we plan to increase these engagements over the next year as the sector improves its understanding of Scope 3 disclosures'.
- Human capital management and diversity:
  - BlackRock requested companies to publish disclosure aligned with the SASB standards (including disclosing the racial/ethnic profiles of their US workforces) in January. BlackRock says that as it assesses how companies have responded to the COVID-19 pandemic and 'associated issues of racial equality', it plans to 'refresh' its expectations for 'human capital management and how companies pursue sustainable business practices that support their license to operate more broadly'.

- The report highlights board diversity (race/ethnicity/gender) as a key focus when reviewing company directors.

[Sources: BlackRock's executive summary; BlackRock report: Our Commitment to sustainability; Harvard Law School Forum on Corporate Governance and Financial Regulation 20/07/2020]

Investors urge US regulators to act on the 'systemic threat' that climate risk poses to financial markets

Seventy two institutional investors, private and public sector leaders, former regulators and others have signed a letter coordinated by Ceres, calling on the head of the Federal Reserve (and the heads of other US regulators) to 'consider how their regulatory decisions could exacerbate the climate crisis and urging them to implement a broader range of actions to explicitly integrate climate change across their mandates'.

The letter urges action on the basis that the risks associated with climate change pose a systemic threat to financial markets and that the agencies therefore have a responsibility to act. The letter states,

> 'It is more clear than ever that the climate crisis poses a systemic threat to financial markets and the real economy, with significant disruptive consequences on asset valuations and our nation's economic stability…You lead a critically important agency that has a mandate to protect US market stability and global competitiveness. This carries with it a responsibility to act on the climate crisis right now, and to guide our transition to a net-zero future.'

The letter calls on the agencies to implement the 50+ recommendations in Ceres' recent report – Addressing climate risk as a systemic risk: a call to action for US financial regulators – which outlines the actions Ceres considers regulators should be taking now to safeguard financial stability.

- Recommended actions for the Federal Reserve include (among others):
- undertaking an assessment of the impact that climate changes posts to financial market stability
- integrating climate risk into prudential supervisory and regulatory efforts and coordinating with other agencies (domestically and internationally) to coordinate efforts where applicable
- ensuring systemically important financial institutions are 'adequately addressing climate change' as part of their broader risk management strategies and ensuring that they are prepared for transition risks.
- Investigating how climate risks can be addressed through monetary policy

The full text of the letter is here.

[Source: Ceres media release 20/07/2020; Letter and list of signatories]

Markets and Exchanges

No change? The Securities and Futures Commission of Hong Kong has issued a statement clarifying that it does not anticipate that the enactment of the National Security Law will impact 'Hong Kong's role as the principle conduit for global savings to access Mainland China's capital markets'

The Securities and Futures Commission of Hong Kong (SFC) has released a policy statement in response to concerns raised by 'globally active financial institutions operating in our markets' concerning the 'potential ambit and effect of the new National security Law (NSL)' on their current operations in Hong Kong.

Key Points

The statement says that:

- **The SFC's regulatory approach is unchanged:** 'The SFC will continue to regulate Hong Kong's markets as it has done so before the NSL was enacted'
- **Rules governing market trading activities are unchanged:** The SFC says that 'rules and accepted practices governing market trading activities, including in exchange traded and over-the-counter derivative markets, the use of hedging strategies and activities under Hong Kong's short selling regime, also remain unaltered; all related regulations will be administered by the SFC in the same manner as before the advent of the NSL'.
- **Access to/dissemination of financial market information is unchanged:** The SFC 'is not aware of any aspect of the NSL which would affect or alter the existing ways in which firms and listed companies originate, access, disseminate and transmit financial market and related business information under the regulatory regime it administers'.

The statement goes on to observe that since the enactment of the NSL trading volume has increased 'confirming Hong Kong's role as the principle conduit for global savings to access Mainland China's capital markets'.

[Source: SFC policy statement 19/07/2020]

Regulators

Questions to ASIC: The Parliamentary Joint Committee on Corporations and Financial Services questioned ASIC on a range of issues including the pace of bank remediation programs; superannuation and the Wagyu and Shiraz decision

The Parliamentary Joint Committee on Corporations and Financial Services held a public hearing on 15 July as part of the committee's inquiry on the oversight of the Australian Securities and Investments Commission (ASIC).

Opening statement

Fairness was the theme of ASIC Chair James Shipton's opening statement to the Committee.

Mr Shipton said that ASIC is focused on ensuring the financial services sector 'operates in a manner that is not only resilient but fair, strong and efficient for all Australians'. In the current environment, Mr Shipton said, a key focus for ASIC is protecting vulnerable consumers. 'Where there is significant risk of consumer harm, ASIC will investigate, enforce and prosecute breaches of the law' Mr Shipton said.

Mr Shipton identified some of ASIC's immediate priorities as: 1) protecting vulnerable consumers; 2) maintaining financial system resilience and stability; 3) supporting Australian businesses to respond to the effects of the pandemic; 4) continuing to identify, disrupt and take enforcement action against the most harmful conduct; and 5) continuing to build ASIC's organisational capacity.

Questions to ASIC

Issues raised by the Committee included the following (among others).

Remediation: Senator O'Neill directed a number of questions to ASIC concerning its oversight of bank remediation programs. 'It concerns me greatly that we've been having this conversation over a couple of years. People are particularly pressed at this time, when we're in our first recession in 30 years, in the middle of a pandemic. If the banks cannot respond, is there a deadline and can you act further to admonish them? You've said here you've spent months arguing with them and they are still not compliant with returning money to people that they ripped off. They're giving the money instead to the auditing companies to manage the slowness of the process. It's just plain wrong' Senator O'Neill said. ASIC Chair James Shipton said that ASIC 'certainly share[s] your frustration, and we are doing everything that we can. We are looking forward to a directions power that, from a regulatory tool perspective, will be very useful in this. Trust me, we are utilising all of the tools that we have available'. ASIC Deputy Chair Karen Chester outlined the work ASIC is doing to accelerate the pace of remediation. Ms Chester flagged that ASIC's updated remediation guidance should assist in this. 'What we're going to being doing, commencing shortly, is some consultation on broadening out that remediation guidance to make it unequivocally expand and cover financial services, credit providers and superannuation trustees. That will then empower the entities to just get on with it and get it done more quickly, ideally with less involvement of consultants, because they will, perhaps, know what's acceptable and not acceptable' Ms Chester said.

Responsible lending: ASIC's position on the 'Wagyu and Shiraz' responsible lending appeal outcome: ASIC was asked by Committee Chair James Paterson whether, in light of its loss in Australian Securities and Investments Commission v Westpac Banking Corporation [2020] FCAFC 11, it was time to 'accept the umpire's verdict?' on the correct interpretation of responsible lending requirements. Mr Paterson also suggested that at this point clarity in the law could said to have been reached and that a further appeal could create unnecessary uncertainty. ASIC Chair James Shipton responded by stating that ASIC is currently taking advice on whether to appeal and that a decision will be made in the 'coming days'.

> [Note: The AFR reports that ASIC has since decided not to proceed with a further appeal against the decision. Reportedly, ASIC will however push for the tightening of responsible lending obligations in the Act.]

Uptick in complaints to ASIC is expected to continue: The Commission heard that complaints to ASIC have increased 20% because of the disruption caused by COVID-19, and that given the ongoing uncertainty ASIC is prepared for a 'continuation of an increase'. ASIC Executive Director, Assessment and Intelligence, Warren Day said that ASIC anticipates that going forward there may be an uptick in areas including: insolvency, insolvent trading and phoenix activity. Mr Day said that ASIC is focusing on ensuring businesses have access to clear information about 'what it takes to orderly close and wind down a business so that they don't need to have external administrators appointed at the winding up of that business. That's an area that has some forward-looking focus from us.'

Buy now pay later code: Asked for a status update on the status of the Buy Now Pay Later (BNPL) Code, ASIC Commissioner Sean Hughes said that ASIC has had some informal interaction with the Australian Finance Industry Association (AFIA) on the draft Code. ASIC's initial feedback was that the Code could be strengthened by 'using more definitive language and could more directly address the perceived problems we identified in our Report 600 of overcommitment, excessive late fees and merchant surcharging' Commissioner Hughes said. Asked for ASIC's view on whether self-regulation is appropriate to the sector, Mr Hughes said that ASIC 'haven't formed a view on that issue' but that ASIC's work in monitoring the sector, with a view to making a recommendation to Treasury is ongoing (though ASIC's report has been delayed due to the pandemic). It was suggested that ASIC should make a submission to the fintech inquiry to ensure the inquiry is aware of the regulator's views on the issue.

Superannuation

A number of questions from the committee focussed on ASIC's work in the superannuation sector.

- **Disclosure by superannuation funds - use of member reserves to pay a fine:** Referring to Hostplus' use of reserves to pay an ASIC fine and to subsequent 'cases of other funds using members' money to make political donations' Senator Andrew Bragg asked ASIC for an update on its work on the use of reserves by superannuation funds and disclosure around the issue. ASIC Commissioner Danielle Press took the question on notice saying that 'the work is predominantly in APRA's remit'.
- **Disclosure of fees:** Senator Bragg also asked for an update on ASIC's investigation into Australian Super's communication with members about a recent fee increase in which the fund said that the increase was necessary because of the passage of legislation which was 'effectively designed to reduce fees for members'. Commissioner Press said that ASIC had conducted an investigation and had asked Australian Super to amend its disclosure, which the fund did. ASIC also obtained legal advice 'the effect of which is that Australian Super has not breached its legal obligations as defined in the Corporations Act in a way that would be appropriate to take further action on'. Senator Bragg commented in response, 'I think it's an important threshold issue. The country is heavily invested in this scheme. There will be future opportunities for federal parliament to enact laws designed to get a better deal for the workers who have to save in these super funds. We don't want to see a situation where, every time we try to get a better deal for the members, we see funds hiking fees because we've enacted laws to improve their retirement savings'.

Early release of superannuation scheme: Improper communications/advertising:

- **ASIC's warning to real-estate agents:** Steve Georganas directed a number of questions to ASIC about its monitoring of improper/misleading marketing and other communications to consumers around the early access scheme. Asked whether there had been any follow up on ASIC's 3 April letter to real estate agents concerning communications by some agents to tenants impacted by COVID-19, that they could access their superannuation in order to continue to pay rent, Mr Day said that ASIC's warning appeared to be effective in that the conduct is not continuing. Mr Day said that a similar letter was issued to an unnamed private school but that ASIC's letter was again effective in stopping the conduct.
- **Committee** Chair James Paterson also directed a number of questions to ASIC about its 3 April letter to real estate agents. Mr Paterson questioned whether ASIC's characterisation of the intervention as 'light touch' was an accurate one. 'I don't think threatening people with jail terms for this issue is light touch. I think it's pretty heavy-handed' Mr Paterson said. Mr Paterson also questioned the basis upon which the letter was sent, querying whether ASIC had sufficient evidence. 'It doesn't seem like very strong primary evidence to go off a few tweets which really, frankly, I think would amount to hearsay in a legal context' Mr Paterson commented. Mr Paterson suggested to ASIC that flagging the existence of the early release of superannuation scheme, was not in itself, problematic and may in fact have been helpful for tenants.
- **ASIC continues to monitor advertising by other groups:** Separately, the Committee heard that other than one example of an unnamed private school, ASIC had not found it necessary to issue further cautions though ASIC is investigating a number of other instances of advertising that may be improper/misleading and may issue further

warnings if necessary. Mr Day said 'We're not ruling that out. Obviously, we will consider if we have to write letters to, say, the plastic surgeons guild or whatever that professional body might be named. We'll be careful about what we write in the letter to them. As I said, we're not ruling out looking at those types of things, and those are things we are paying attention to'.

- Follow up on ASIC's Industry Super investigation: Committee Chair James Paterson directed a number of questions to ASIC concerning the regulator's response to the publication by Industry Super Australia of a 'misleading calculator on the cost of withdrawing super early'. The Committee heard that Industry Super amended the assumptions underpinning their modelling at ASIC's request, but that ASIC does not intend to take any further action. ASIC Chair James Shipton said, 'We look at this through the prism of misleading and deceptive conduct. That's a very high bar to reach as a matter of enforcement, and our conclusion was that there was a very low chance that this would meet the bar required by the courts and that it's not possible for us to take this matter further.'
- Provision of limited/general advice: Jason Falinski sought clarification from ASIC on whether Industry Fund Services' position that 'they're able to give general advice as financial planners and that ASIC has said that is okay' was correct. ASIC said that it would take the question on notice.
- Long term risks of withdrawing savings early: Mr Georganas asked ASIC whether the regulator had conducted any investigations into possible 'long term risks' of the scheme. For example, into the possible 'long-term risks to funds, to the insurance product side of superannuation'. Commissioner Press said that Treasury or the Australian Prudential Regulation Authority (APRA) are better placed to answer with respect to the impact on funds. The focus of ASIC's work in this area if on making sure that funds are 'communicating fairly and appropriately with their members, and that they're providing good information to allow members to make the most appropriate choices for them at the time that they are looking to access their superannuation'.

Litigation funding: Senator O'Neill asked a number of questions concerning the issue of litigation funding reform, the details of that reform and when ASIC was informed of planned reforms announced by the Treasurer on 22 May. For context, on 22 May the Treasurer announced that litigation funders would be required to hold an Australian financial services licence and that plaintiffs in class actions would be regulated by ASIC as investors in a managed scheme. The Committee heard that ASIC was not informed until 21 May and has not, at this stage, been provided with any detailed information around what is being proposed beyond what is publicly available. The Committee also heard that 'ASIC's policy advice was not sought'. ASIC Deputy Chair Karen Chester observed however that 'The area of litigation funding and the regulation of litigation funding is a long-standing issue for ASIC. We've had discussions with Treasury from a series of ALRC reports and from the now PJC inquiry where we made a substantive submission on some of the implementation issues. So it's not to be said that ASIC's views on the regulation of litigation funding and how that can be implemented are not well known to Treasury or to the Treasurer'. Senator O'Neill queried the lack of detail, given the proposed 22 August 2020 effective date for the measures.

[Source: Parliamentary Joint Committee on Corporations and Financial Services transcript 15/07/2020 (released 20/07/2020)]

Financial Services

Westpac has released its Culture, Governance and Accountability Reassessment

Westpac has released the culture, governance and accountability reassessment report that was completed following the release of AUSTRAC's Statement of Claim.

Context and scope of the report

Following the release of AUSTRAC's statement of claim, the Australian Prudential Regulation Authority (APRA) requested that Westpac revisit its 2018 self-assessment and accompanying remediation plan to ensure it remains 'fit for purposes', that it appropriately 'targets the underlying root causes' of weaknesses identified; and to determine how oversight and management of the culture, governance and remediation program can be strengthened in light of developments since the original report was completed.

Accordingly, the focus of the reassessment is on Westpac's culture, governance and accountability frameworks and practices as well as on developments since the initial assessment was completed.

Key Findings and Recommendations

Broadly, the report makes three key findings.

1. The report found that there are areas of weakness in the organisation's culture, governance and accountability frameworks and practices which are attributable to five 'root causes': 1) organisational complexity; 2) 'an immature and reactive risk culture in non-financial risk management'; 3) weaknesses in the 'three lines of defence model', especially in the first line (management); 4) lack of non-financial risk management capability; 5) 'challenges in execution and staying the course'. The report observes, that these issues are broadly similar to those identified in the original assessment.
2. Four areas for improvement: The report found that addressing these 'root causes' will require additional work to strengthen the following four areas.
   - Risk culture within the organisation: The report states that 'Westpac's risk culture remains reactive principally in relation to non-financial risk management. It is important for the Board and Group Executives to receive and respond to feedback on how culture is helping or hindering Westpac's progress towards the goal of a proactive and systematic risk culture'.
   - Board and executive oversight of non-financial risk: The report found there is a need to 'refocus oversight of non-financial risk at Board and Group Executive level' and to adjust board committee structures, charters and reporting practices accordingly. 'Given the number of non-financial risk management issues experienced in recent years, further improvements in culture, governance and accountability frameworks and practices are required and must be critical priorities for the Group Executive' the report states.
   - Risk boundaries, frameworks and capabilities: The report found that recommendations from the original self-assessment concerning roles and capabilities across the three lines of defence, risk appetite statements, policies and controls (including for conduct and reputation) remain relevant. For example, the report found that 'blurred roles and responsibilities between Line 1 and Line 2' continue and were highlighted in a number of the recent developments'. Though some progress has been made towards addressing this, the report found that there is a need for 'clearer prioritisation' in setting frameworks, controls and frameworks across the group as well as a need for increased capability and capacity in the second line risk function.
   - First line (management) ownership and capability to manage risk: The report identified a need for the existing remediation program to place more emphasis on first line leadership in risk management, including emphasis on first line accountability as well as a need to upskill 'all employees in risk identification, assessment and mitigation'. The report observes that clarifying risk boundaries and frameworks will help 'sharpen the accountability and authority (empowerment) of first line decision markers to manage risk'.

3. **Need to 'reset' the existing remediation program:** Though some progress has been made on implementing the recommendations of the existing culture governance and remediation program put in place following the 2018 self-assessment (as outlined briefly above), the report concluded that the program needs to be 'reset' to ensure 'rigorous prioritisation, co-ordination and oversight' and to accelerate the pace of change. Chapter six of the report outlines the objectives and deliverables under the renamed customer outcomes and risk excellence program (CORE program).

Announcing the release of the report, Westpac Group CEO, Peter King said that the reassessment 'confirms that our management of non-financial risk is currently not at the standard we set for ourselves. It is clear we have more to do to address these shortcomings, including improving our risk management capability and risk culture which is not where we want it to be'.

Commenting specifically on Westpac's strengthened remediation plan (briefly outlined below), Mr King said 'the program is a company priority and as CEO I'm accountable for its delivery'.

Enhanced remediation program: Customer outcomes and risk excellence program 'CORE program'

The enhanced CORE program is underpinned by three 'pillars' each of which are targeted at addressing specific 'root causes' of the issues identified.

1. Tone from the top: 'recognising that co-ordinated and committed leadership direction and tone are critical to remediating the five root causes identified in the Reassessment'.
2. Clear risk boundaries to enable good decision making: 'providing clarity to employees on risk settings, maximising their room to make good risk decisions within these boundaries'.
3. 'Accountable and empowered people: helping First Line decision makers to manage risk effectively, identify and resolve issues, exercise effective controls and manage projects and change'.

Page 9 of the report includes a graphic summarising the design of the CORE program. Pages 23-26 of the report outline the workstreams, accountabilities, and desired outcomes under each.

How the new plan differs from the old one

The report highlights the ways in which the newly named CORE program has been strengthened to 'fully address root causes and mitigate execution risks'.

Changes to the program include: a) stronger board and executive oversight of the overall program, in addition to existing oversight of activity at the level of individual recommendations; b) ensuring that the focus is on addressing the 'root causes' and on the achievement of the desired outcomes; c) ensuring the program is communicated/treated as a 'critical organisational priority'; d) a 'stronger role for business leaders and functional leaders, modelling the strengthened role of the First line in risk management generally'; and e) broader 'engagement with Westpac's people to ensure the is seen as each employee's responsibility rather than the responsibility of the Risk Function'.

In addition, the enhanced plan includes formal mechanisms to enable 'contentious and program decisions' to be escalated quickly as well as 'increased 'central capacity and capability for coordination of deliverables and interdependencies'.

Measuring progress

The report includes a summary (page 27) of the metrics that will be used (at this stage) to track progress at the overall 'program level'. Metrics are divided into lead indicators, lag indicators and program delivery.

In terms of tracking progress on 'tone from the top' – the board's role/success in promoting a strong risk culture - the report identifies: speak up pulse survey; completion of mandatory leader training and shorter papers to the risk committee and the board among the lead indicators. Misconduct cases, and non-financial risks remaining out of appetite are identifies as lag indicators.

The report observes that the CORE program includes the development of metrics relating to 'the behavioural traits that underly shortcomings relating to culture, governance and accountability practices'.

Timeline

Westpac states that a number of initiatives under the CORE program are already in train and says that going forward it will publicly report on progress.

The delivery date for key milestones under the CORE program is March 2022 Westpac anticipates that 'the actions – particularly around culture – will continually evolve into the future'.

[Sources: Westpac media release 17/07/2020; Culture, Governance and Accountability Reassessment Report]

COVID-19: So far funds have paid out $25.3bn under the government's early release of superannuation scheme

The Australian Prudential Regulation Authority (APRA) has released industry-level and fund-level data on the early release of superannuation scheme for applications received during the period 20 April (inception of the scheme) to 12 July 2020.

- Total payments made since the inception of the scheme have taken an average of 3.2 business days to process, with 96.2% of payments made within five business days.
- Over the week to 12 July, superannuation funds received 581,000 applications.
- Of these, the majority (472,000) were repeat applications bringing the total number of repeat applications received to date to 0.8 million.
- 109,000 were initial applications bringing the total number of initial applications to 2.8 million since inception of the scheme.
- Over the week to 12 July, superannuation funds made payments to 734,000 members worth $6.2 billion.
- Funds have made approximately 3.3 million payments since the inception of the scheme worth a total of $25.3 billion. This figure represents 90% of applications received since inception of the scheme.

[Source: APRA media release 20/07/2020]

Related News: The ACTU questions whether the government has done enough to support workers

In a statement, the Australian Council of Trade Unions (ACTU) said that the high volume of applications is an indication that the government 'has not done enough to support working people and has instead decided to force people to sacrifice their retirements to save the budget bottom line'. The statement goes on to underline the significant impact that withdrawing retirement savings early will have on retirement outcomes for young workers.

[Source: ACTU media release 15/07/2020]

In Brief | $1.26 million (and probably more) lost to scams: The ACCC has issued a warning about an uptick in early release of superannuation scams. ACCC Deputy Chair Delia Rickard cautioned said that 'scammers are increasingly taking advantage of the financial difficulties and uncertainty generated from the COVID-19 pandemic to trick unsuspecting Australians. We are seeing two main types of scams impersonating government departments; fake government threats and phishing scams. Both of these scams can be quite convincing and can lead to significant financial losses or even identity theft'

[Source: ACCC media release 21/07/2020]

In Brief | Business interruption insurance test case – The Financial Conduct Authority is bringing a test case in the High Court 'to resolve some key contractual uncertainties and "causation" issues to provide clarity for policyholders and insurers'

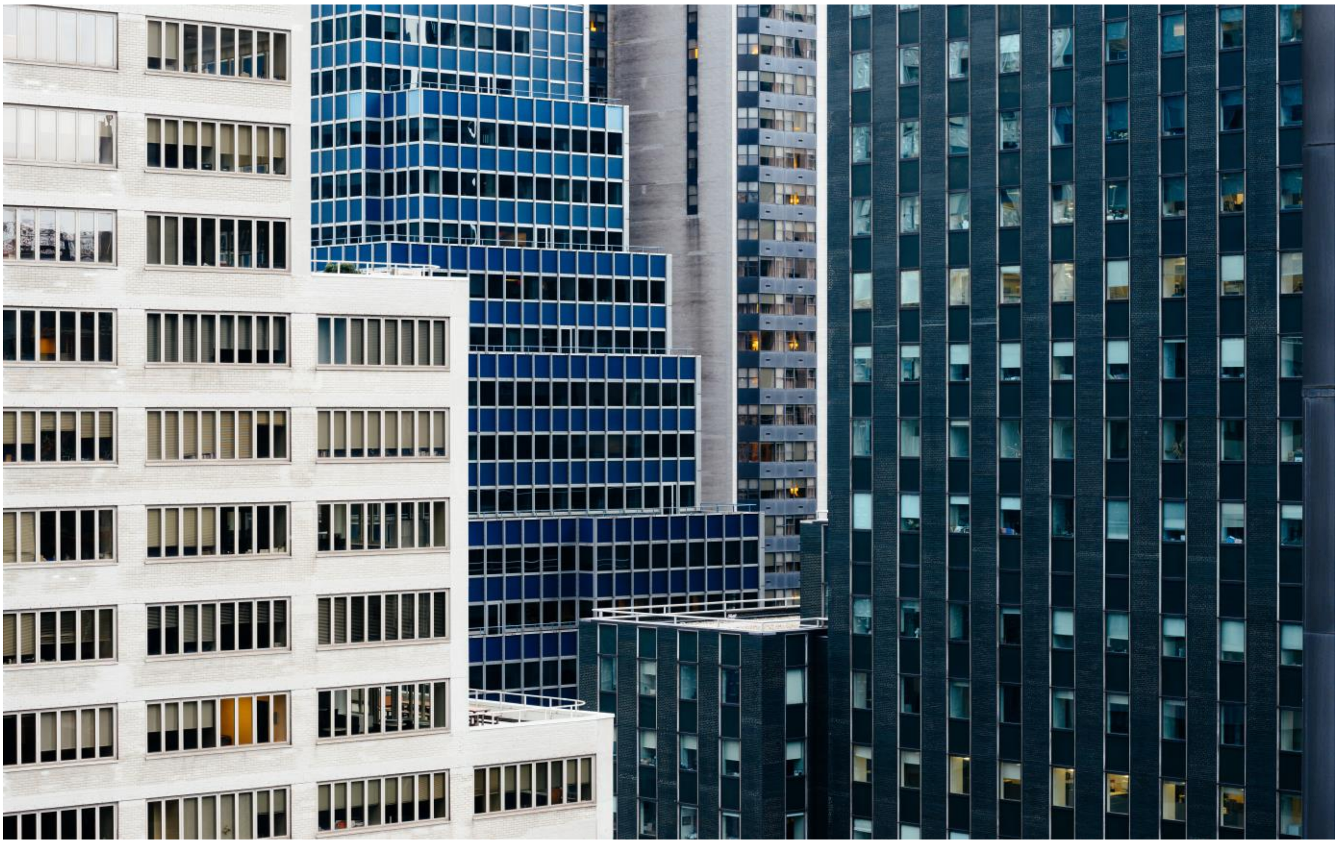
[Source: FCA media release 20/07/2020]

In Brief | The CBA has expanded its support for members of the community impacted by financial abuse because of domestic or family violence. The initiative includes partnering with Good Shepherd to provide free community access to 'specialised financial coaching and solutions' and the roll out of 'trauma informed support' to CBA customers experiencing abuse through an inhouse Community Wellbeing team

[Sources: CBA media release 19/07/2020; [registration required] The Australian 20/07/2020

In Brief | Central Bank Digital Currency on the policy agenda? Reportedly the Japanese government's annual policy roadmap has flagged exploration by the BOJ into the feasibility of issuing central bank digital currencies for the first time. The article speculates that the shift to cashless payments because of COVID-29 coupled with Facebook's planned launch of Libra crypto currency has prompted move

[Source: IT News 20/07/2020]



Accounting and Audit__

Wirecard investigation: ESMA will investigate German regulators' supervisory approach

ESMA probe to be completed by 30 October 2020

- On 25 June, the European Commission invited the European Securities and Markets Authority (EMSA) to conduct a fact finding investigation into the events leading up to the collapse of Wirecard AG.
- On 15 July, ESMA responded by releasing a statement announcing that it will conduct an 'assessment' of German regulators' – BaFin's and the Financial Reporting Enforcement Panel's (FREP) – supervisory response to events in the lead up to Wirecard's collapse. More particularly, ESMA will focus on the regulators' implementation of ESMA's Guidelines on the Enforcement of Financial Information (GLEFI) which are aimed at promoting consistent application and supervision of international financial reporting standards (IFRS) across the EU.
- Timeline: The assessment will be completed by 30 October 2020.

2017 review released

- In 2017 ESMA conducted a review of the different national approaches taken to IFRS implementation across seven member states, including Germany.
- ESMA has now released the previously confidential 2017 report on Germany. The report identified some positive aspects of Germany's supervisory approach but also identified four improvement areas: a) both FREP and BaFin' procedures; b) the cooperation between FREP and BaFin; c) the selection and examination of companies; and d) 'independence and conflict of interests in FREP'.
- At that time, BaFIN also reported that due to its lack of enforcement powers, it was unable to comply with the GLEFI.

[Source: ESMA media release 15/07/2020]

Contacts

Mark Standen
Partner

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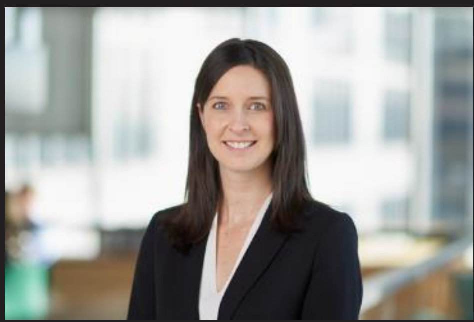
mark.standen@minterellison.com
T +61 2 9921 4902 | **M** +61 412 104 902



Siobhan Doherty
Partner

—

siobhan.doherty@minterellison.com
T +61 2 9921 4339 | **M** +61 413 187 544

Kate Hilder
Consultant

—

kate.hilder@minterellison.com
T +61 2 9921 8785