Governance News

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Boards and Directors

Leadership change announced at Microsoft

Bill Gates has said he will step down from both the boards of Microsoft and Berkshire Hathaway 'to dedicate more time to philanthropic priorities including global health and development, education, and …climate change'.

According to The FT, Facebook director Ken Chenault is set to replace Mr Gates on the Berkshire Hathaway board and will step down from the Facebook board in order to do so.

[Sources: LinkedIn 13/03/2020; [registration required] The FT 13/03/2020; 17/03/2020]

Remuneration

The FT reports that Rio Tinto has agreed to pay former CEO Sam Walsh his deferred bonus payments following a confidential dispute resolution process

The FT reports that Rio Tinto has agreed to pay former CEO Sam Walsh almost A$7m (US$4.5m) in deferred bonus payments, following its 2017 decision to postpone doing so in light of regulatory investigations into (alleged) bribery issues. Reportedly, the deferral period expired before investigations by the UK's Serious Fraud Office and the Australian Federal Police had concluded.

The FT quotes Rio Tinto Chair Simon Thompson as commenting that the decision follows a confidential dispute resolution process. 'Following the completion of the confidential and binding dispute resolution process, a decision was made that the amounts should be paid' Mr Thompson is quoted as saying.

The FT quotes Mr Walsh as saying that he is 'pleased that the position with my incentive payments has been resolved in my favour and that there is no basis for those awards to be further deferred by Rio Tinto following the dispute resolution process'.

Why weren't steps taken to ensure the deferral period didn't expire prior to the conclusion of the investigations? The FT quotes Macquarie University's Elizabeth Sheedy as questioning the result on the basis that steps should have been taken to avoid it. 'The whole point of a deferral system is that it allows time for negative information to come out' Professor Sheedy reportedly said.

Professor Sheedy reportedly said that Rio Tinto's deferral scheme should make clear that if there is unfinished regulatory business, the deferral period should be automatically extended until investigations are completed.

Reportedly Mr Walsh is due to receive future payments worth up to A$17m from Rio Tino under incentive schemes covering his tenure as CEO.

[Source: [registration required] The FT 12/03/2020]

53% of Disney shareholders have reportedly voted to approve Disney Executive Chair Robert Iger's $47.5m pay package

The WSJ reports that a narrow majority (53%) of Walt Disney shareholders have voted in support of the nonbinding resolution to approve former Disney CEO Robert Iger's $47.5m compensation package. Mr Iger reportedly stepped down as CEO last month announcing he would remain as Executive Chair and focus on 'creative affairs'. He is reportedly scheduled to retire at the end of 2021.

The WSJ comments the same resolution was accepted at 2019's meeting with 57% voting in favour.

The WSJ comments that shareholders weren't scheduled to vote on new CEO Bob Chapek's pay. Mr Chapek's target compensation is reportedly set at $25 million annually.

[Source: [registration required] The WSJ 11/03/2020]

Shareholder Activism

As You Sow climate resolution set to be considered at JP Morgan's AGM

A shareholder resolution coordinated by As You Sow, pushing for JP Morgan to reduce greenhouse gas (GHG) emissions associated with its lending, in alignment with the goals of the Paris Agreement, is reportedly set to be considered at the company's upcoming AGM after the US Securities and Exchange Commission (SEC) declined to grant an exemption.

Reportedly, As You Sow is pushing ahead with the resolution due to JPMorgan's failure to commit to measure its carbon footprint, or to align the bank's activities with the goals of the Paris Agreement.

As You Sow president Danielle Fugere is quoted as saying, 'JPMorgan's recent announcement to reduce financing of coal mining, certain coal-fired power plants, and Arctic project financing, which represents less than 1 percent of its current financing, is an important first step, but not sufficient to outweigh its other fossil fuel financing activities…The global financial system has a small window of opportunity to reduce financing of high-carbon activities or risk catastrophic levels of global warming. Banks no longer have a free pass to fund high-carbon activities without regard to the impact of their actions.'

The WSJ comments that As You Sow has withdrawn similar shareholder resolutions this year at Wells Fargo, Goldman Sachs, Morgan Stanley, and Bank of America after each committed to assessing ways of measuring their full carbon footprints toward alignment with the Paris goals.

[Source: Investor Daily 13/03/2020]

Starboard has reportedly nominated a slate of directors to the eBay board

The WSJ reports that activist Starboard Value LP is has nominated a slate of directors to the eBay board as a means of securing a change in business strategy. Reportedly, though the number of nominees is unknown, the list is understood to include Starboard's head of research, Peter Feld.

The WSJ comments that the move follows Starboard's victory last year, in winning the right to a say in the appointment of one eBay board seat.

Reportedly, unless a settlement is reached beforehand, Starboard's nominees will face election at the June AGM.

The WSJ comments that a second activist Elliott Management has board representation and holds a stake of more than 4% in the company.

[Source: [registration required] The WSJ 11/03/2020]

Institutional Shareholders and Stewardship

Some super funds are reportedly moving to institute an informal ban on short selling (despite the fact that ASIC has reportedly ruled out instituting such a ban)

The Australian reports that some of Australia's biggest superannuation funds are considering joining a move to institute an informal ban on short selling in a bid to protect investment returns on retirement savings after the Australian Securities and Investments Commission (ASIC) decided against instituting a short selling ban.

Reportedly, UniSuper has already acted, by both: 1) demanding any stock it had lent out in the market be returned immediately; and b) ceasing to lend its stock to short sellers.

The Australian quotes UniSuper chief investment officer John Pearce as saying that he considers the measures necessary because 'we are now in a market gripped by panic and we believe that restricting the ability to short sell is in the best interest of promoting a more orderly market'.

Mr Pearce reportedly went on say that UniSuper's actions are unlikely to shift the market dynamic unless others follow suit. 'We are only one fund and the efficacy of our actions will depend on how many other funds follow a similar path' he reportedly said.

The Australian reports that both REST and AMP Super are understood to be reviewing their securities lending programs. Hedge funds are reportedly opposed to the move.

Separately, the SMH reports that MTAA Super has become the second fund to suspend its stock lending program in an effort to curb short selling.

[Source: [registration required] The Australian 17/03/2020; The SMH 17/03/2020]

More transparency: BlackRock has issued a voting bulletin explaining its rationale for voting against the say on pay resolution and against the reelection of the compensation committee Chair at Qualcomm

BlackRock has released a 'voting bulletin' outlining its rationale for voting against the election of the longest-tenured compensation committee member Harish Manwani and against the advisory vote on compensation (say on pay resolution) at the recent Qualcomm Inc AGM on 10 March.

CEO compensation: insufficient justification provided

BlackRock says that it voted against the one-off 'special grant' to CEO Steve Mollenkopf which was awarded for successfully settling a legal dispute with Apple and related supply/licensing agreements, because it considers that Qualcomm failed to provide sufficient justification for the grant.

'The company did not provide sufficient justification for why this outcome with Apple is outside Mr Mollenkopf's realm of responsibilities as CEO, which are already covered in the company's longterm executive compensation plan' BlackRock states.

'Ultimately, granting this one-off award suggests a pay plan that is not aligned with shareholders' long-term interests, which is difficult to reconcile with ongoing underperformance versus Qualcomm's peers, raising a perceived pay-for-performance disconnect. The prior year's executive compensation plan also included a onetime award which we supported as the award was conditioned on achieving certain performance targets that can help ensure alignment with long-term shareholder interests'.

BlackRock says that the vote against the resolution followed engagement with the Chair on the issue including around: a) the appropriateness of awarding the special grant; and b) the structure of the plan including the company's approach to peer selection, mix of awards over time, and lack of performance, or time-vesting conditions, associated with the special grant.

Vote against the compensation committee chair: a question of director accountability

BlackRock states that because it 'believes that when a company is not effectively addressing a material issue, its directors should be held accountable, we voted against the election of the longest-tenured compensation committee member, Harish Manwani'.

Continued engagement: BlackRock says that its Investment Stewardship team regularly reviews Qualcomm's governance structure and risk profile and that it has previously engaged with the company's board and management team on a range of material issues including: a) board composition; b) corporate strategy; c) oversight of material risk; d) human capital management; and e) adopting TCFD/SASB aligned reporting. BlackRock says that it will continue to engage with Qualcomm's board and management and provide feedback on the quality of relevant disclosures.

The FT comments that BlackRock's vote against the say on pay resolution, played a 'decisive role' in ensuring that Qualcomm lost its non-binding vote on executive compensation. Though, according to the FT, ISS also called on shareholders to vote against it ahead of the meeting.

According to The FT, only 3% of companies lost their 'say on pay votes' last year.

[Source: BlackRock voting bulletin: Qualcomm Inc 10/03/2020; [registration required] The FT 12/03/2020]

Meetings and Proxy Advisers

Samsung has reportedly encouraged shareholders to vote online ahead of the AGM rather than in person in light of the COVID-19 threat

ITNews reports that Samsung Electronics will use electronic voting for the first time at this year's annual general meeting (AGM) on March 18 and has urged shareholders (especially those most vulnerable) to vote online ahead of the meeting, rather than in person, in light of the COVID-19 threat.

In line with guidance from the Korea Centers for Disease Control and Prevention, Samsung has reportedly called in particular for shareholders with symptoms, or who have visited regions with high-risk regions, or who are identified as high-risk such as pregnant women and those aged 65 or above to use electronic voting.

According to IT News the meeting will be equipped with thermal cameras and contactless thermometers, and shareholders with fever or cough symptoms may be restricted from entering. Those with a fever at the scene will reportedly be directed to a location away from the AGM.

Related News: ITNews also reports that memory chip maker SK Hynix plans to seat shareholders about two metres away from each other at the 20 March AGM.

[Source: IT News 17/03/2020]

In Brief | The Australian reports that Coca-Cola Amatil is in discussions with ASIC over holding a hybrid AGM in light of the ban on large public gatherings

[Source: [registration required] The Australian 18/03/2020]

Regulators

COVID-19 response: The Council of Financial Regulators has outlined steps being taken to support the effective operation of Australia's financial markets

The Council of Financial Regulators (Council) has issued a statement confirming that 'Australia's financial system is resilient and it is well placed to deal with the effects of COVID-19' and outlining some steps the regulators are taking to support the continued effective operation of Australia's financial markets. These include the following.

- **RBA measures:** The RBA will be conducting one-month and three-month repurchase (repo) operations until further notice. In addition it will conduct repo operations of six-months maturity or longer at least weekly, as long as market conditions warrant. The Council says that the Australian Prudential Regulation Authority (APRA) is ensuring banking institutions pre-position themselves to take advantage of the RBA's supportive measures.

  In a separate statement, the Reserve Bank of Australia (RBA) said that also it 'stands ready to purchase Australian government bonds in the secondary market to support the smooth functioning of that market, which is a key pricing benchmark for the Australian financial system'.

  The RBA said it would announce further policy measures to support the Australian economy on Thursday 19 March.

- **Review timelines for 'regulatory initiatives':** In light of the disruption being caused by COVID-19, Council members are considering 'how the timing of regulatory initiatives might be adjusted' to enable financial institutes to focus on their core business and assist their customers.

- **Provide relief/waivers:** The Council says that both APRA and the Australian Securities and Investments Commission (ASIC) will 'take account of the circumstances in which lenders, acting reasonably, are currently operating during the prevailing circumstances when administering their respective laws and regulations'. In addition 'each agency will, where warranted, provide relief or waivers from regulatory requirements. This includes requirements on listed companies associated with secondary capital raisings, annual general meetings and audits'.

- **Accelerate the payment of remediation:** ASIC will work with financial institutions to 'further accelerate the payment of outstanding remediation to customers as soon as possible'.

- **Continued flow of credit to customers:** The Council says that both APRA and ASIC acknowledge the importance of the continued flow of credit to affected customers and industries and encourages banks and other lenders to 'work constructively with affected customers during any period of disruption.' The Council says it plans to meet with major lenders to discuss how they can best support households and businesses during the period of disruption and will be 'emphasising the importance of a continuing supply of credit, particularly to small businesses'. The Council will also discuss whether there are impediments to lending that Council members could help to address.
- **Next meeting:** The Council will have its regular quarterly meeting on Friday 20 March at which the impact of COVID-19 on the financial system will be further discussed.

[Sources: Council of Financial Regulators media release 16/03/2020; [registration required] The AFR 16/03/2020; RBA media release 16/03/2020]

ASIC has announced steps to ensure Australian equity markets remain resilient in the face of the impact of the COVID-19 threat

Key Takeouts

- **ASIC will limit the number of trades executed by large market participants each day** until further notice.
- **The action is 'pre-emptive':** ASIC says that 'Australian markets have been strong and resilient over this period, and this action is pre-emptive and intended to maintain those high standards'.

As part of the government's response to COVID-19, the Australian Securities and Investments Commission (ASIC) has announced actions to 'ensure Australian equity markets remain resilient'.

In light of increased trading volumes over the past two weeks and 'exponential increases in the number of trades executed', ASIC has issued directions under the ASIC Market Integrity Rules to a number of large equity market participants, requiring them to limit the number of trades executed each day until further notice. The directions require firms to reduce their number of executed trades by up to 25% from the levels executed on Friday 13 March.

ASIC says that it does not expect these limits to impact the ability of retail consumers to execute trades.

ASIC adds that it will continue to closely monitor market conditions and take action where needed to ensure markets remain fair and orderly.

According to ASIC's statement, there has been no breakdown in equity markets – the action is pre-emptive only. 'Australian markets have been strong and resilient over this period, and this action is pre-emptive and intended to maintain those high standards' ASIC states. Rather, ASIC considers that if 'the number of trades executed continues to increase, it will put strain on the processing and risk management capabilities of market infrastructure and market participants'.

[Source: ASIC media release 16/03/2020]

Central banks have announced coordinated measures to enhance the provision of liquidity via the standing US dollar liquidity swap line arrangements

The Bank of Canada, the Bank of England, the Bank of Japan, the European Central Bank, the Federal Reserve, and the Swiss National Bank have announced coordinated measures to enhance the provision of liquidity via the standing US dollar liquidity swap line arrangements.

The banks have agreed to: 1) lower the pricing on the standing US dollar liquidity swap arrangements by 25 basis points; and 2) to begin offering US dollars weekly in each jurisdiction with an 84-day maturity, in addition to the 1-week maturity operations currently offered.

The changes will take effect with the next scheduled operations during the week of March 16.

According to the statement, the new pricing and maturity offerings will remain in place as long as appropriate to support the smooth functioning of US dollar funding markets.

[Source: Bank of England media release 16/03/2020]

In Brief | APRA has appointed Renee Roberts (former NAB and QBE Insurance executive) as the new executive director of its Policy and Advice Division. Ms Roberts will take up the position on 4 May

[Source: APRA media release 12/03/2020]

Financial Services

ASIC sends a 'message to reporting entities to ensure compliance with their reporting and monitoring obligations under the ASIC Rules'

Key Takeouts

- ASIC has announced that two entities, AMP Life and AMP Capital have agreed to pay penalties to comply with infringement notices issued by ASIC for (alleged historical) failure to comply with certain reporting and monitoring obligations under the ASIC Rules.
- ASIC Commissioner Cathie Armour said that ASIC's actions 'are a message to reporting entities to ensure compliance with their reporting and monitoring obligations under the ASIC Rules.'
- ASIC notes that compliance with the infringement notices is not an admission of guilt or liability and neither entity should be taken to have contravened the ASIC Rules.

The Australian Securities and Investments Commission (ASIC) has released a statement announcing AMP Life Ltd (AMP Life) and AMP Capital Investors Ltd (AMP Capital) have agreed to pay penalties to comply with infringement notices for (alleged) breaches of the ASIC Derivative Transactions (Reporting) Rules 2013 (ASIC Rules).

ASIC notes that compliance with the infringement notices is not an admission of guilt or liability and neither AMP Life or AMP Capital should be taken to have contravened the ASIC Rules.

Details

- **AMP Life Limited (AMP Life) has paid a penalty of $275,500:** ASIC says that it has reasonable grounds to believe that between 31 August 2015 and 26 February 2018, AMP Life failed to: a) report information about 940 transactions on 113 separate business days; b) correctly report collateral information about 9,224 transactions on 388 separate business days; and c) take all reasonable steps to ensure that BNP Paribas Fund Services Australasia Pty Ltd (BNP), on behalf of AMP Life, was reporting information that was complete, accurate and current in accordance with the ASIC Rules.
- **AMP Capital Investors Limited (AMP Capital) has paid a penalty of $250,500**: ASIC says that it has reasonable grounds to believe that between 31 March 2016 and 28 September 2018, AMP Capital failed to: a) report information about 140 transactions on 34 separate business days; b) correctly report collateral information about 9,999 transactions on 417 separate business days; and c) take all reasonable steps to ensure that BNP, on behalf of AMP Capital, was reporting information that was complete, accurate and current.

ASIC says that it 'considers that the breaches arose out of administrative failings', observing that the issues identified show 'inadequacies' in the processes and procedures for monitoring the accuracy of reporting in each case.

The statement adds that AMP Life and AMP Capital have taken and continue to take actions to address and prevent the reoccurrence of similar issues in future.

ASIC Commissioner Cathie Armour said, 'the infringement notices issued to AMP Life and AMP Capital are a message to reporting entities to ensure compliance with their reporting and monitoring obligations under the ASIC Rules.'

[Sources: ASIC media release 17/03/2020; Infringement Notice issued to AMP Life; Infringement Notice issued to AMP Capital]

Incentivising business to deliver 'better social outcomes': The CBA has announced that it has signed a $400 million 'three-year bilateral sustainability-linked loan' with Wesfarmers

The CBA has announced that it has signed a $400 million 'three-year bilateral sustainability-linked loan' with Wesfarmers. CBA says the loan is the 'first in Australia to be linked to achieving better social outcomes and the largest to be offered by a single lender'.

Details

CBA says that the new loan incentivises Wesfarmers to deliver 'better social outcomes' by tying cost of funding to ESG performance. More particularly, by meeting 'ambitious social and environmental targets' in two areas - 1) Indigenous employment; and 2) reduced carbon emissions intensity - Wesfarmers stands to receive a margin discount on their loan. Should the targets not be met, there would be an increase in pricing.

Wesfarmers Executive General Manager Corporate Affairs, Naomi Flutter said that the ESG targets 'align strongly with our [Wesfarmers'] focus on our teams members, local communities and the environment.'

Reflects the growing importance of ESG issues

Commenting on the imitative, CBA's Group Executive for Institutional Banking & Markets, Andrew Hinchliff said that sustainable business practices are growing in importance. 'We're seeing a massive shift in the importance being placed on ESG, with business performance now intrinsically linked to the approach to sustainability. Investors are telling us that sustainable businesses are going to be better run businesses as they focus on the longterm and also on all of their stakeholders'.

Mr Hinchliff went on to say that the initiative accords with CBA's commitment to sustainability. 'We think that sustainable finance has tremendous potential to combine environmental and social impact with responsible capital allocation for corporate Australia, linking organisations' cost of capital with the increasing community expectations and growing focus on a business's environmental and societal impacts' he said.

[Source: CBA media release 13/03/2020]

A Californian regulator has found BNPL services provided by Afterpay are 'illegal loans'. Though Afterpay 'rejects' this assessment, it has agreed to pay $1.5m to settle the allegations

Afterpay has agreed to settle allegations by the Californian Department of Business Oversight (DBO) that its buy-now-pay-later services constituted 'illegal loans' requiring a California Financing Law (CFL) licence.

Under the settlement, Afterpay will: a) only make future loans or extensions of credit to California residents under a CFL license issued to its affiliate, Afterpay US Services, LLC; b) refund US$905,000 in late fees previously paid by consumers; and c) pay an administrative fee to the regulator of US$90,500. Afterpay is required to issue the refunds to consumers within 45 days.

The DBO notes that it reached a similar settlement in January with Sezzle (another BNPL provider) under which Sezzle agreed to pay more than $300,000 in refunds and penalties.

In both cases, the DBO states the 'purported credit sales made by the lenders' merchant partners were not bona fide but, rather, were structured to evade otherwise applicable consumer protections'.

Afterpay's response: In a statement, Afterpay said it 'rejects the view that the company operated illegally' maintaining that the services provided did not require a licence. The statement goes on to say that the company will continue to work closely with the DBO and that it welcomes the 'regulatory clarity that this agreement provides'.

The statement concludes by emphasising the company's 'commitment to consumer protection and responsibility and compliance with applicable laws.'

[Sources: Californian Department of Business Oversight media release 17/03/2020; Afterpay ASX announcement 17/03/2020; [registration required] The AFR 17/03//2020]

Societe Generale Securities Australia Pty Ltd has been charged with breaching client money obligations

The Australian Securities and Investments Commission (ASIC) has announced that the Commonwealth Director of Public Prosecutions is prosecuting Societe Generale Securities Australia Pty Ltd (SGSAPL) for (allegedly) breaching client money obligations.

ASIC alleges that between December 2014 and September 2018 SGSAPL failed to comply with client money obligations, in contravention of criminal offence provisions under sections 993B(1) and 993C(1) of the Corporations Act 2001.

The maximum penalty for each of the charges is 250 penalty units, approximately $45,000

[Source: ASIC media release 18/03/2020]

The ABA says the banking industry is 'well prepared for the impacts of COVID-19' and stands ready to support customers impacted

The Australian Banking Association has issued a statement confirming that the banking industry is 'well prepared for the impacts of the COVID-19 and stand ready to assist Australians impacted'.

ABA CEO Anna Bligh said that 'banks stand ready to support customers and if anyone is in need of assistance, they shouldn't wait but come forward as soon as possible. In particular any business financially impacted by the effects of COVID-19 should contact their bank to be assessed on a case by case basis to access the assistance on offer'.

Separately, the ABA has welcomed the government's stimulus package and reiterated that 'businesses and individuals financially impacted by COVID-19 should contact their bank, who, on a case by case basis, can provide a wide range of assistance.'

[Sources: ABA media release 11/03/2020; 12/03/2020]

APRA has announced a revised implementation timeline for its new data collection solution APRA Connect

The Australian Prudential Regulation Authority (APRA) has released a revised implementation timeline, for its new data collection solution APRA Connect, which will eventually replace Direct to APRA (D2A) as APRA's data collection tool. The revised approach takes into account industry feedback and consideration of longer term regulatory needs, APRA says.

APRA Connect is scheduled to go live at the end of September 2020, with a 'progressive cutover of financial data reporting' to the new system. APRA says that entities will be required to use both D2A and APRA Connect in the medium term.

APRA says that it is 'confident that its revised implementation approach will reduce the effort and impact on reporting entities and facilitate a lower risk transition to the new solution'.

Timelines may shift? APRA says that it may need to revise the timeline in response to the disruption/uncertainty caused by the evolving COVID-19 threat.

[Source: APRA media release 12/03/2020]

In Brief | In response to the continuing uncertainty caused by COVID-19, the RBNZ says that it will delay the start date of increased capital requirements for banks by 12 months to 1 July 2021. 'Should conditions warrant it next year, the Reserve Bank will consider whether further delays are necessary'

[Sources: RBNZ media release 16/03/2020]

Accounting and Audit

United Kingdom | More aggressive stance? The FRC has announced corrections to Galliford's accounts

The UK Financial Reporting Council (FRC) has announced Galliford Try plc (Galliford) has issued corrections to certain statements made in its annual report and accounts for the year 30 June after the FRC identified 'a number of issues'. The issues identified related to the recognition of revenue on construction contracts and the classification of certain cash flows in its cash flow statement.

According to The FRC, the total effect of all the errors identified was to overstate net assets by £94.3m at 30 June 2018.

The FRC notes that the company has 'also reflected on other aspects of its financial reporting, which has led to certain other restatements of comparative information in the interim accounts'.

The corrections/restatements were made in the company's December 2019 annual report.

The FRC says that following the corrective action taken by the company, the FRC's inquiries are now concluded.

FRC Executive Director of Supervision, David Rule commented: 'The FRC found that Galliford Try overstated its revenue in 2018, which the company has now corrected. We will continue to hold companies to account when they do not comply with the requirements of relevant financial reporting standards'.

The FT suggests that the FRC's announcement, which is reportedly the first one of this kind made in more than a year, suggests that the regulator is 'ramping up the policy ahead of its transition to a new statutory regulator called the Audit, Reporting and Governance Authority'.

[Sources: FRC media release 12/03/2020; [registration required] The FT 13/03/2020]

United States | General Electric will reportedly retain KPMG as its auditor for another year, extending a more than century old relationship

General Electric plans to hold its AGM on 5 May, though the company has reportedly cautioned that the date may need to be altered due to the COVID-19 threat.

GE to retain KPMG for a further 12 months: Ahead of the meeting, The WSJ reports that GE has said it will retain KPMG as its auditor for a further 12 months despite signalling that it would explore appointing a new firm.

According to The WSJ, GE said that its decision to retain KPMG took into account feedback from shareholders, including their views on the company's recent financial results, the SEC investigation and recent leadership changes. GE reportedly said that it continues to review proposals from other audit firms and expects to complete the process in the middle of the year.

Reportedly proxy advisory firms have previously recommended a change in light the ongoing Securities and Exchange Commission investigation into the company's accounting practices/accounting issues.

The WSJ comments that KPMG and its predecessor firms have audited GE since 1909, one of the longest auditor-client relationships.

Board change?

- Reportedly GE said it would nominate former Defense Secretary Ash Carter to its board, subject to shareholder approval.
- The GE board has reportedly opposed a shareholder resolution calling for the appointment of an independent board chair. Currently CEO Larry Culp serves as Chair.

[Source: [registration required] The WSJ 12/03/2020]

Risk Management

COVID-19

New business relations unit on COVID-19 established within Treasury

Treasurer Josh Frydenberg has announced the establishment of a new coronavirus business liaison unit in Treasury.

Details

- **Role:** The role of the unit will be to engage with peak business groups on systemic issues relating to coronavirus to ensure issues are addressed by government.

  To allow for information to be disseminated quickly and effectively across the business community, the unit will operate as a source of information for business groups on the government's response to virus and the actions that agencies are taking to support business.

- **Staffing and oversight:** The unit will be staffed by experienced officials drawn from agencies across the Australian Public Service and will work closely with the private sector.

  The Unit will be overseen by Dr Gordon de Brouwer. Treasurer Josh Frydenberg said 'Dr de Brouwer is a highly respected and experienced former public servant having held senior roles across Treasury, the Department of Prime Minister and Cabinet and as the Secretary of the Department of the Environment and Energy. Gordon played a central role in the coordinating of Australia's hosting of the G20 in 2013 and was closely involved in the policy actions taken during the global financial crisis.'

- **Supplement existing liaison efforts:** The unit's work will supplement rather than replace existing stakeholder relationships and liaison work undertaken by government agencies, who will continue to engage closely with business stakeholders. The unit will also work closely with the Chief Medical Officer, the Department of Health and the National Coordination Mechanism in the Department of Home Affairs.

- **Timing:** The Treasurer said that the new Unit will begin operating on Monday 16 March 2020 and will be contacting peak business groups.

[Source: Treasurer Josh Frydenberg media release 16/03/2020]

The Insurance Council of Australia has reportedly declared an 'insurance catastrophe'

The AFR reports that the Insurance Council of Australia (ICA) has declared the COVID-19 pandemic an insurance catastrophe.

The AFR quotes an ICA spokesperson as saying that, the practical implications of this is that insurers will start providing information and data to enable the ICA to 'help government in is deliberations. In this instance it's a fairly low key declaration. It's more of a reference declaration, designed to assist in better understanding the true impact of the disease' an ICA spokesperson is quoted as saying.

Many COVID-19 claims won't be covered?

- Reportedly the ICA has said that though specific policies may differ, the 'majority' of business policies are unlikely to cover losses caused by infectious diseases or similar, so many will exclude claims relating to COVID-19.
- CEO of the National Insurance Brokers Association Dallas Booth reportedly said that businesses forced to cancel events as a result of the pandemic, would also be unlikely to claim on event insurance policies (which typically only cover cancellations due to weather-related causes).
- Mr Booth reportedly said that public liability policies are unlikely to exclude COVID-19 claims, but that businesses should be cautious of putting people in at-risk situations. Mr Booth is quoted as saying 'If you're going to put people into an unsafe position you have to think about your potential exposure. The medical authorities have not come out and said don't have groups of more than 50 people. But a lot of companies are being very cautious about that. You' don't want to put staff, clients or stakeholders in any sort of a dangerous position'.

[Source: [registration required] The AFR 11/03/2020]

The AIST has cancelled the Conference of Major Super Funds (CMSF) because of COVID-19

The Australian Institute of Superannuation Trustees (AIST) has announced that in light of the COVID-19 pandemic, the Conference of Major Super Funds (CMSF 2929) scheduled to run over three days in Adelaide from Wednesday 18 March to Friday 2 0March has been cancelled.

The AIST adds that member funds, service providers and industry partners (and the AIST) are implementing pandemic plans which include restrictions around gatherings of large groups of people and travel.

AIST CEO Eva Scheerlinck said AIST is 'exploring options to potentially reschedule the event and are working to provide virtual online alternatives which allow our members and industry partners the opportunity to engage and learn in a different way.'

[Source: AIST media release 13/03/2020]

Next parliamentary sitting expected to be 'scaled back'?

The AFR reports that it is expected that the last scheduled parliamentary sitting week before the May federal budget will be 'scaled back' in response to the COVID-19 threat.

Prime Minister Scott Morrison is quoted as saying, 'We'll be proposing a set of scaled back arrangements which will enable the Parliament to meet, to do its business, to pass these laws and for us to get on with the job…The focus will be on passing the important legislation that relates to the stimulus package and the health funding'.

[Source: [registration required] The AFR 16/03/2020]

Event CEO and board to receive reduced pay in response to the impact of COVID-19

In a short statement, Event Hospitality and Entertainment announced reductions in CEO pay and board fees in response to the impact of COVID-19.

Specifically, Event said that:

- CEO Jane Hastings, will voluntarily reduce her base pay by $200,000 for up to 12 months from 1 April 2020 to 31 March 2021.
- Chair Alan Rydge and other nonexecutive directors will voluntarily forgo 20% of their director fees for up to 12 months from 1 April 2020 to 31 March 2021.

CEO Jane Hastings said 'The Group's balance sheet remains strong and whilst it's hard to predict how long COVID-19 will impact trading, I am confident we will be well positioned to return to growth once the impact has passed. Whilst our primary focus at this time is the health and safety of our employees and customers, these cost reduction measures in addition to our revenue strategies are important to assist the Group's earnings during an extremely challenging trading period. Given the dynamic and uncertain nature of the COVID-19 outbreak, it is not possible to provide meaningful overall guidance for the Group's earnings for the second half of the financial year.'

[Source: Event Hospitality and Entertainment ASX announcement 13/03/2020; [registration required] The AFR 17/03/2020]

Raising wages and putting on extra staff: The FT reports that Amazon is (temporarily) scaling up to deal with increased demand as consumers stock up

The FT reports that Amazon plans to: a) hire 100,000 extra full and part-time staff to handle the surge in demand caused by COVID-19; and b) raise the hourly wage for workers in its warehouses, delivery infrastructure and grocery stores.

According to The FT, North American employees will see pay increase by $2, UK by £2, and workers in 'many euro countries' approximately €2 an hour. Raising wages will reportedly cost the company $350m. The FT reports that the measures are expected to be in place until at least the end of April.

Reportedly, the move comes after warnings from the company at the weekend that it had run out of some household essentials.

[Source: [registration required] The FT 17/03/2020]

Telecommunications companies have reportedly formed a working group to coordinate the sector's response to COVID-19

The government reportedly convened a virtual roundtable with telecommunications companies this week to discuss their response to COVID-19 and the issue of increased demand as more people work/study from home.

Reportedly, following the meeting, a special working group, led by NBN Co and including senior executives from Telstra, Optus, TPG, Vodafone and Vocus has been formed to coordinate the sector's response.

The AFR comments that firms have already taken steps to respond to the crisis including by increasing their service. Reportedly,

- NBN Co has said it will increase its data capacity allocation to retailers 'to accommodate the expected growth in residential data demand';
- Optus will offer eligible postpaid mobile customers a one-off add-on of 20GB of data during April 2020, while eligible prepaid customers that recharge with $40 or more during April would receive 10GB of extra data; and
- Telstra post-paid customers will be eligible to receive an extra 25GB of data on their plan to use in Australia within 30 days. Pre-paid customers with an active recharge of $40 or more could get 10GB of additional data to use in Australia within 28-30 days.

Telstra and Vodafone have also reportedly directed their office based staff to work from home.

Communications Minister Paul Fletcher is quoted as saying that the discussion confirmed that industry has undertaken thorough preparations to meet the increased demand. 'NBN Co and other industry participants are expecting a change in traffic patterns, with higher traffic levels during the day and increased activity in the suburbs as compared to business districts. All of these factors are being taken into consideration with retail service providers in provisioning the network. Today's roundtable revealed thorough preparation across the telecommunications industry' Mr Fletcher reportedly said.

Reportedly, NBN Co reports that to date, there has been a 6% uptick in traffic but cautioned that the overseas experience suggests that this could increase by up to 40%.

Mr Fletcher has reportedly said that the government will continue to engage closely with the telecommunications sector as circumstances evolve.

[Source: [registration required] The AFR 17/03/2020]

HM Treasury and the Bank of England have announced a COVID Corporate Financing Facility to provide additional help to assist firms to weather the disruption to their cash flows

HM Treasury and the Bank of England have announced a COVID Corporate Financing Facility (CCFF) to provide additional help to firms to 'bridge through' pandemic related disruption to their cash flows.

It's also hoped that the CCFF will 'help to preserve' the lending capacity of the banking system, by providing an alternative source of finance for a wide range of companies.

CCFF scheme

The CCFF will:

- **provide funding to businesses by purchasing commercial paper of up to one-year maturity**, issued by firms
- **offer financing on terms comparable to those prevailing in markets in the period before the Covid-19 economic shock,** and will be open to firms that can demonstrate they were in sound financial health -

eligibility on firms' credit ratings prior to the Covid-19 shock - prior to the pandemic. Businesses do not need to have previously issued commercial paper in order to participate

- **operate for at least 12 months** and for as long as steps are needed to relieve cash flow pressures on firms that make a material contribution to the UK economy.

The Bank of England will implement the facility on behalf of the Treasury and will put it into place as soon as possible. Further details about the CCFF will be released on 18 March.

Other measures

To boost the capacity of the banking system to lend to other companies, the Bank of England is:

- launching a new Term Funding Scheme with additional incentives for lending to SMEs (TFSME). Over the next 12 months, it will offer four-year funding to banks of at least 5% of participants' stock of real economy lending at interest rates at, or very close to, Bank Rate. Additional funding will be available for banks that increase lending, especially to small and medium-sized enterprises (SMEs)
- reducing the UK countercyclical capital buffer rate to 0% of banks' exposures to UK borrowers with immediate effect. This extended banks' capacity to lend to businesses by up to £190bn.

Further measures possible: The statement adds that HM Treasury and the Bank 'will take all further necessary steps to support the UK economy and financial system, consistent with its statutory responsibilities'.

[Sources: Bank of England media release 17/-3/2020]

COVID-19 Risk: Petroleum Ltd CEO and Managing Director Leon Devaney has written to shareholder to reassure them that the company is well placed to weather the threat

Central Petroleum Ltd (Central) CEO and Managing Director Leon Devaney has written to shareholders outlining why he considers Central to be well placed to manage the current economic uncertainty/COVID-19 threat.

Mr Devaney says that because Central has both limited direct exposure to global oil prices, limited exposure to lower spot gas prices he considers that the Company will be well placed to 'navigate these volatile market conditions'.

In addition, he says that the mitigation strategies in place will assist in 'navigating the current choppy market conditions' and the company is in a position, and remains committed to implementing its existing growth strategy.

'In summary, we have built a strong and resilient base. Our Board and management team have experienced market downturns before and will draw on their collective experience to guide Central through the current turbulence. I do not believe that the current market dynamics are sustainable over the long-term, and with prudent financial management we intend to balance challenging market conditions with our significant growth opportunities. I appreciate your continued support and remain confident in realising the potential that our investors have long recognised in Central' he states.

[Source: Central Petroleum ASX Announcement: CEO letter to shareholders 13/03/2020]

In Brief | The Queensland government has announced it will create a new A$500 million loan facility, interest free for the first 12 months, to support businesses to keep people in work and extend the coronavirus payroll tax deferral to all businesses across the state. Separately, the NSW government announced a $2.3bn stimulus package, which includes $700 million in extra health funding and $1.6 bn in tax cuts to support jobs

[Source: Joint media release: QLD Premier and Minister for Trade Annastacia Palaszczuk and Deputy Premier, Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships Jackie Trad 17/03/2020; NSW Premier media release 17/03/2020]

In Brief | The Australian reports that the Federal Government is set to announce a major business package targeted at saving jobs and propping up the aviation, tourism and hospitality sectors

[Source: [registration required] The Australian 18/03/2020]

Climate Risk

Independent MP Zali Steggal says she will defer the introduction of the Climate Bill due to COVID-19

In a short update, Independent MP Zali Steggal said that in light of the evolving threat of COVID-19, and the need for leaders to focus on a response, she has decided defer presentation of the Climate Change Bill from Monday 23rd March to a later date.

Ms Steggal added that she will 'continue to advocate and lobby for the proposed legislation as it remains as important as ever to adapt to and mitigate against climate change, especially as we now experience firsthand the disruptive impacts of global events on our health and economy…The Climate Change Bill campaign will remain active and I will be continuing my discussions with all sides of politics about how we achieve a sensible plan for the future'.

The Guardian had previously reported that Ms Steggal was set to launch an advertising campaign to secure community support for the proposed legislation prior to introducing it on 23 March.

[Source: Zali Steggal email update 17/03/2020; The Guardian 16/03/2020]

Insolvency and Restructuring

In Brief | PwC to petition the Treasurer to temporarily relax insolvency laws? The AFR reports that PwC has suggested that temporarily relaxing the liabilities faced by directors (personal liability for trading while insolvent) could be a way of adding to the support being provided by the business community, by the government's stimulus measures and by the banks during the COVID-19 downturn. 'What we don't want is directors feeling that personal liability and pulling the trigger [placing the business in administration/liquidation] too early, or pulling the trigger at all', PwC's Stephen Longley is quoted as saying

[Source: [registration required] The AFR 17/03/2020]

Corporate Misconduct and Liability

United Kingdom | New annual 'economic crime levy' to be introduced

The FT reports that to fund measures in the National Crime Agency's Economic Crime Plan, UK Chancellor Rishi Sunak has confirmed plans to introduce an annual 'economic crime' levy. Reportedly all groups subject to UK Money Laundering Regulations including banks, accountants, estate agents and solicitors will be required to pay the new levy.

According to The FT, the levy, which will supplement existing public funding and is expected to raise £100m annually, will be used to both fund new technology for law enforcement and to hire more financial investigators.

Reportedly, the Treasury will consult further on the levy 'later in the spring'.

[Source: [registration required] The FT 12/03/2020]

Other News

In Brief | The Federal Court has ruled that Treasurer Josh Frydenberg is eligible to sit in parliament. In finding that the petitioner's submission should be rejected their Honours Allsop CJ, Kenny and Robertson JJ said that 'in short, there is no evidence to support it; it is either contrary to or unsupported by the evidence of Hungarian law as to the position of the Strausz family in 1949 upon leaving Hungary; and it depends upon assertion and metaphor made and drawn from unstated premises rooted in argument, rather than evidence'

[Source: Staindl v Frydenberg [2020] FCAFC 41; [registration required] The Australian 17/03/2020]