

Financial Services Institute of Australasia
policynews

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Finsia's policy initiatives

Navigating reform – the global financial crisis and Australia's response

The Finsia-Access Economics report, *Financial Services Regulation – Australia's Comparative Advantage* will be released in October. Finsia's Policy Advisory Groups are currently working with the Access Economics team on the analysis and draft recommendations. The results of the Finsia member survey will also be published in the next edition of *PolicyNews*.

Consumer finance and the generational wealth divide

The Finsia-UMR study on the impact of the Global Financial Crisis on generational trends in relation to household debt and savings levels, mortgage stress and retirement savings strategies will be released at the Finsia-MCFS 2009 Consumer Finance Symposium (details on page 11). Prepared in conjunction with the Consumer Finance Advisory Group, this context paper will canvass the policy issues for debate at the Symposium.

Inquiry into financial products and services in Australia

In February 2009, the Hon Bernie Ripoll MP, Chair of the Parliamentary Joint Committee on Corporations

and Financial Services, launched an inquiry into the underlying issues associated with financial services company collapses. The Committee is considering, among other things, the role played by financial advisers, the state of the general regulatory environment, licensing arrangements and remuneration models.

Last month, Finsia provided a submission to the Parliamentary Joint Committee addressing a number of the terms of reference. The submission noted that with an ageing population, Australia risks a future undersupply of qualified professionals working across the industry including financial advising. The submission noted that in this context, Finsia is keen to ensure that, in the community as a whole and particularly among graduates, financial advising is recognised as a valuable and integral subsector of the financial services industry.

It is expected that the Parliamentary Joint Committee will table a report to Parliament by 23 November 2009.

Financial Services Conference 2009

In the past 18 months, the global financial services industry has experienced extraordinary upheaval. As the dust settles and the green shoots of recovery begin to sprout, the focus for the players still in the game has shifted from survival to recovery.

The inaugural Finsia Financial Services Conference will address the new agenda for our industry post global financial crisis, including future challenges, opportunities and regulatory changes.

Wednesday 28 October 2009, 8.30am – 5:10pm, Hotel Sofitel, 61-101 Phillip Street, Sydney, Australia.

Speakers include: **Tony D'Aloisio**, Chairman of ASIC; **Dr John Laker**, Chairman of APRA; **Commissioner Charles McCreevy** from the European Commission for Internal Markets and Services; **Craig Drummond SF Fin**, former CEO, Goldman Sachs JB Were; **Dr Malcolm Edey**, Assistant Governor (Financial System) of the Reserve Bank of Australia; **Steve Tucker**, CEO of MLC; **Paulo Maia**, CEO, HSBC Australia; **John Sutton**, CEO Bankwest; among many others.

For further information and to register, please visit the Finsia website: www.finsia.com/annualconference



Russell Thomas F Fin
Director of Policy and
Professional Development

WANTED: EXPERT WITNESSES

Finsia has periodically been approached by the Australian Securities and Investments Commission, the Australian Taxation Office and legal firms to assist in identifying appropriately skilled senior industry practitioners, who are prepared to provide advice related to the operations of financial markets and products.

This advice may be in the form of written expert reports or expert evidence in the courts or before administrative delegates, and will need to be specific to cover the facts, matters and assumptions relied upon to come to a specific conclusion.

We invite our senior members to update their personal details by visiting www.finsia.com/Login, using their ID and password, making sure you indicate your willingness to act as an expert witness in your area of expertise.

If you have any questions, please contact **Russell Thomas** or **Rosemary McLauchlan** at Finsia on + 61 2 9275 7900.

International developments

UK plans for financial markets reform

On 8 July 2009, the UK Government published a consultation paper entitled *Reforming Financial Markets*. The paper sets out the Government's analysis of the causes of the financial crisis, the actions already taken to restore financial stability, and proposals for further reform of the financial system. The proposals focus on significant reform of the way banks are regulated, with more emphasis on the risks financial firms can present to the economy and greater protections for consumers. They include:

- > New plans for the Financial Services Authority (FSA) to place higher capital requirements on firms that present greater risks to the system and measures to deal with the potential failure of institutions that could have a significant impact on the economy
- > Steps to help consumers make better informed choices, including a national money guidance service funded by a levy on the financial sector and a new independent consumer education body and
- > A strengthened framework for financial stability to deal with system-wide risks. This will include legislating to set up a new Council for Financial Stability, comprising representatives of the Bank of England, the FSA and the Treasury to monitor system-wide financial stability and respond to long-term risks as they emerge.

The paper includes two annexes containing consultation questions. Annex A sets out firm policy proposals for new primary legislation. Annex B sets out areas in which the Government is engaging in further discussion before presenting firm policy proposals. Responses to the consultation questions are due by 30 September 2009. A copy of the document and the media release are available at www.hm-treasury.gov.uk under Newsroom, Press notices.

IOSCO principles on outsourcing by markets

On 13 July 2009, the Technical Committee of the International Organization of Securities Commissions (IOSCO) released its report entitled *Principles on Outsourcing by Markets – Final Report*. The report complements an earlier IOSCO report on outsourcing of financial services by financial intermediaries. The report notes, however, that outsourcing by markets poses risks that differ in their nature and magnitude from the risks arising from outsourcing by financial intermediaries. It sets out six principles that market operators should consider when outsourcing their processes, services or functions. The principles are also designed to assist market regulators in their oversight of markets. The report is available at www.iosco.org under News.

OTC derivatives and central counterparties

On 20 July 2009, the IOSCO Technical Committee and the Committee on Payment and Settlement Systems (CPSS) announced that they have set up a working group to review the application of the 2004 CPSS-IOSCO *Recommendations for Central Counterparties* to clearing arrangements for over-the-counter (OTC) derivatives. This follows various efforts to improve bilateral clearing and settlement arrangements for OTC derivatives and more recent proposals for centralized clearing and settlement of OTC derivative transactions such as credit default swaps and interest rate swaps. The working group will examine key issues that can arise when central counterparties provide services for OTC derivatives and identify any areas in which the 2004 *Recommendations* might be strengthened or expanded to address risks associated with central clearing of OTC derivatives. A copy of the media announcement is available at www.iosco.org under News.

CPSS broadens its membership

The Committee on Payment and Settlement Systems (CPSS) announced on 24 July 2009 that the central banks of Australia, Brazil, China, India, Mexico, Russia, Saudi Arabia, South Africa and South Korea had accepted the Committee's invitation to join. The CPSS now consists of 23 representatives, from Australia, Belgium, Brazil, Canada, China, the European Central Bank, France, Germany, Hong Kong SAR, India, Italy, Japan, Mexico, the Netherlands, Russia, Saudi Arabia, Singapore, South Africa, South Korea, Sweden, Switzerland, the United Kingdom and the United States. The media release is available at www.bis.org under Press releases.

Progress on trans-Tasman single economic market

The Australian Treasurer, the Hon Wayne Swan MP, and the New Zealand Finance Minister, the Hon Bill English MP, made further progress towards a single economic market for Australia and New Zealand at their recent annual bilateral meeting held in Brisbane. The Ministers signed a memorandum of understanding to establish a trans-Tasman retirement savings portability scheme. The scheme will enable Australians and New Zealanders to transfer retirement savings between certain Australian superannuation funds and New Zealand KiwiSaver funds. The Ministers also finalised the new Australia-New Zealand tax treaty, and continued discussions on regulatory harmonisation. The joint media release and further information about retirement savings portability can be found at www.treasurer.gov.au under Media releases and at <http://billenglish.co.nz>

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Australia's superannuation system under the microscope

On 29 May this year, Senator the Hon Nick Sherry, then Minister for Superannuation and Corporate Law, announced the details of the *Review into the governance, efficiency, structure and operation of Australia's superannuation system* including the membership of the Expert Panel and the terms of Reference. The review will be chaired by Mr Jeremy Cooper SF Fin (and a member of Finsia's Policy Advisory Council), recently retired from his role as Deputy Chairman of the Australian Securities and Investments Commission (ASIC).

Mr Cooper will be joined by seven part-time members, including Mr Sandy Grant, Mr Brian Wilson, Mr Kevin Casey, Mr Greg Evans and Dr David Gruen (announced on 29 May) and two further members, announced by the Hon Chris Bowen MP, Minister for Financial Services, Superannuation and Corporate Law on 4 August – Ms Heffron and Mr Martin.

Terms of reference

The review is structured around examining and analysing Australia's superannuation system in light of four threshold areas:

Governance: examining the legal and regulatory framework of the superannuation system, including issues of trustee knowledge, skills and training; and thoroughly assessing the risks involved in the use of debt and leverage and the development of investment options that lead to a weakening of the diversification principle in the superannuation system

Efficiency: ensuring the most efficient operation of the superannuation system for all members, whether active or passive members and whether making compulsory or voluntary contributions, including removing unnecessary complexities from the system and ensuring, in light of its compulsory nature, that it operates in the most cost effective manner and in the best interest of members

Structure: promoting effective competition in the superannuation system that leads to downward pressure on system costs, examining current add-on features of the superannuation system; and, examining other structural legacy features of the system; and

Operation: maximising returns to members, including through minimising costs, covering both passive defaulting members, who should receive maximum returns and value for money through soundly regulated default products, and active selecting members, who should not be negatively impacted by conflicts of interest that may inhibit advice being in the best interest of members.

In a recent industry speech (ASFA Luncheon, 18 June 2009), Mr Cooper expanded on the terms of reference and gave some indication of the specific concerns to be addressed by the Review. In particular, he drew attention to the issue of market timing risk for those retirees who were caught in the severe market downturn of late 2008. *'The Review will look at how funds might be better prepared to cushion the impact of market gyrations on members approaching retirement, while still providing them with acceptable returns.'*

The economic downturn has certainly impacted Australians' confidence in the value of their superannuation and Mr Cooper indicated that the *'a big part of the success of the Review will be about confidence building. Confidence as a nation: that we have the world's best super system. Confidence as an industry: that the system works – is flexible, reliable and stable.'*

Finsia's Policy Advisory Council and Managed Funds & Superannuation Advisory Group, will be actively participating in the Review process.

Australia's superannuation system in context

As recently as 20 years ago, less than 50% of full time employees were covered by superannuation, with private sector coverage at only 30%. Unlike other developed countries, Australia did not have a contributory earnings-related public pension scheme. Rather, Australians largely relied on either the age pension and/or private savings, and in the minority of cases, workplace-based defined benefit schemes.

Under the Labor Party's Accord Mark II in 1986, agreement with the union movement was reached to compensate employees for inflation with a 6% wage increase, half of which would accrue in the form of a 3% employer superannuation contribution, to be paid into an individual account in an industry fund ('award superannuation').

The impact of this award superannuation was to increase the coverage of occupational superannuation from 40% to nearly 80% of all employees. However, these schemes were difficult to enforce and therefore the Commonwealth Government introduced the Superannuation Guarantee Charge in 1992, which has raised the level of coverage among employees to almost 100%.

Over the past decade, the Superannuation Guarantee Charge has increased to 9%. From 2005, employees have been able to choose their superannuation fund, and many superannuation fund members can choose their investment strategy. Further reforms have included the introduction of a government co-contribution, a rebate for spouse contributions and superannuation splitting on divorce, the introduction and then abolition of the superannuation surcharge, and an increase in the age at which superannuation contributions can be made.

In 2006, as part of Finsia's *Saving the Future – can the under-40s afford to grow old?* campaign, Finsia presented the findings from the economic modelling prepared on its behalf by Access Economics. This economic modelling drew upon the results of the Finsia/Crosby/Textor research regarding the under-40s and attitudes towards retirement savings. The modelling considered a range of potential policy options: in particular, the potential impact on Australians of an additional 3% superannuation contribution.

The concerns raised by the Commonwealth Government's second Intergenerational Report (2007) regarding the adequacy of the 9% compulsory contribution will not be at the forefront of this particular review. Nonetheless, as confidence in the superannuation system improves, the adequacy of Australian's retirement incomes and the public financing challenge associated with greater dependence on the age pension, is likely to return to the policy agenda.

Recommendations from past inquiries

The recent market downturn and the severe impact on retirees is certainly a catalyst for examining the structure and operation of the superannuation system. However, some of the issues raised have also been considered in various parliamentary inquiries over the past decade. This section provides a brief snapshot of some of these reviews and their findings.

Inquiry into the structure and operation of the superannuation industry (2007)

In 2007, the Parliamentary Joint Committee on Corporations and Financial Services inquired into the structure and operation of the *Superannuation Industry (Supervision) Act 1993* (C'th) (SIS Act), with particular reference to uniform capital requirements applying to trustees, the relevance of APRA standards, the role of advice in superannuation, market trends including the rise of self managed super funds and the demise of defined benefit funds.

Selected recommendations:

- > APRA, in consultation with peak superannuation bodies and academics, should undertake empirical research on the strengths and weaknesses of superannuation systems operating in other OECD countries in order to develop a framework for benchmarking Australia's superannuation system against international best practice.
- > APRA and the superannuation industry should strive to find common ground in compulsory and specific disclosure by funds of expenditure on advertising and promotion.
- > A strong case was made for APRA to clarify the trustee's specific obligations under the SIS Act in order for it to better accommodate the existence of member investment choice.
- > Existing definitions of financial advice restricted fund members' access to advice on issues where consumer protection should not, on the face of it, be a serious concern. Exemptions from part of the disclosure obligations should apply where superannuation advice does not involve the recommendation of a product and does not include remuneration for the advice.

With respect to remuneration, the Committee expressed concern with 'shelf fees' which can be anti-competitive and may encourage products to be listed and subsequently recommended that may not be in the best interests of the client. However, the Committee did not recommend a ban on commission-based remuneration.

Inquiry into superannuation savings of people under 40

In May 2006, the House of Representatives Standing Committee on Economics, Finance and Public Administration handed down its report on *Improving the superannuation savings of people under 40*. The Committee was tasked with the challenge of investigating any barriers or disincentives that may impact on under 40s contributing above the 9% compulsory superannuation levy.

Selected recommendations:

- > Default scheme for voluntary contributions – the Committee recommended that when a new employee commences work they be automatically placed in a 'voluntary' contribution arrangement which they could choose to opt out of at any time, preferably operating through salary sacrifice. The starting point in savings contributions could be a default rate of three per cent with periodic adjustments.
- > Compulsory Guarantee – the Committee recommended that the Superannuation Guarantee threshold not be increased by government and that consideration be given to reducing it, following consultation with employers and employees.
- > Superannuation literacy and planning – the Committee recommended that the government develop a benchmark savings target to encourage savings goals and retirement planning, and a retirement saving matrix to show the level of saving required to achieve various retirement incomes and lifestyles. Also, that the government require all superannuation funds to provide individualised superannuation projections to their members in annual statements. These projections should utilise ASIC-regulated investment assumptions and should include future outcomes for higher and lower levels of contributions.

Finsia's superannuation policy initiatives

Over the coming year, Finsia's policy team will provide updates on the progress of the Cooper Review into Australia's Superannuation Industry. For further information on past campaigns relating to superannuation, please visit the policy campaigns section of the Finsia website: www.finsia.com

Also, the results from the Finsia-UMR consumer polling on generational wealth trends and the impact of the GFC, which included a number of superannuation issues, will be released at the Finsia-MCFS Consumer Finance Symposium on 27 August 2009 and will be discussed in the next edition of *PolicyNews*.

New Zealand update

Committee appointed to set competence standards for financial advisers

A 10-member committee has been appointed to develop competence standards for financial advisers. The independent committee will develop the code of conduct that financial advisers will be legally obliged to comply with from late 2010. The code is expected to commit the adviser industry to do business in a professional and ethical manner. It will also determine the qualifications and level of experience required to become an authorised adviser.

Legislation requires the Code Committee to have between seven and 11 members. Seven of the new appointments are for three-year terms; the other three members will serve one year.

Commissioner for Financial Advisers, Annabel Cotton, expects the code to be drafted by early 2010. See www.seccom.govt.nz

Securities (Disclosure) Amendment Bill passed

The Securities (Disclosure) Amendment Bill amends the Securities Act 1978 by allowing businesses to issue a simplified disclosure prospectus for certain securities, instead of a full registered prospectus and investment statement. This change is intended to reduce the need to duplicate information that is already publicly available under the continuous disclosure obligations.

The Act also makes technical changes relating to the categories of people exempt from disclosure requirements, designed to benefit small and medium-size businesses that traditionally seek capital by 'shoulder-tapping' known investors. See www.seccom.govt.nz

RBNZ releases Non-Bank Risk Management Guidelines

On 13 July 2009, the Reserve Bank released its Risk Management Programme Guidelines for Non-Bank Deposit Takers. Deposit taking finance companies, building societies and credit unions are required to have a risk management programme from 1 September 2009. In the programme companies will need to show how they will identify and manage credit risk, liquidity risk, market risk and operational risks, appropriate to each institution's particular circumstances.

Risk management programmes will also need to show how an institution plans to address stress events that could disrupt their business, and identify the responsibilities of governing bodies and senior management. The Reserve Bank has also provided responses to questions raised in submissions, which can be found on the Bank's website. See www.rbnz.govt.nz

International Risk Management Standard ISO 31000

The international ballot on the new international risk management standard ISO 31000 has been completed. Twenty-six countries including Australia and New Zealand voted for the standard. The standard will now go forward for publication without significant alteration.

It is expected that the standard will be published after 9 October 2009. The standard will become the new Australian and New Zealand risk management standard and will be identical to the international standard but with a local preface. It will supersede AS/NZS 4360:2004 – Risk Management.

Draft Australian/New Zealand Standards on Business Continuity Management

The Standards Australia/Standards New Zealand Joint Technical Committee OB/7 Risk Management recently released three draft Australian/New Zealand Standards on Business Continuity Management. The first (part 1) related to specification, the second (part 2) relates to practice and the third (part 3) relates to assurance. The Joint Technical Committee invites Finsia members to comment on the technical content, wording and general arrangement of these draft Standards.

Comments are sought by 21 September 2009. For further information see www.standards.org.au and www.standards.co.nz

Australian legal update

New anti-cartel laws commence

The *Trade Practices Amendment (Cartel Conduct and Other Measures) Act 2009* (C'th), which was assented to on 26 June 2009, came into force on 24 July 2009. Under the Act, the court and the Australian Competition and Consumer Commission (ACCC) have new powers to fight serious cartel behaviour. Companies and individuals that fix prices or reduce choice by distorting the ordinary flow of competition face up to 10 years in jail. The ACCC can also authorise the Australian Federal Police to use telephone interception as part of any criminal investigation.

Bankruptcy amounts indexed

On 22 July 2009, the Insolvency and Trustee Service Australia released details of the latest indexation of

thresholds, limits and other amounts in the *Bankruptcy Act 1966* (C'th) and the *Bankruptcy Regulations 1996* (C'th) that are changed in line with the Consumer Price Index or the base pension rate. Details of the new amounts are available at www.itsa.gov.au under Quick links, current amounts.

Meeting irregularities

In a recent case, the Federal Court of Australia found that the will of the members of an unlisted registered managed investment scheme to remove the responsible entity should not be overturned on the basis of alleged irregularities. The members of the City Pacific First Mortgage Fund ('the scheme') passed resolutions to remove City Pacific Ltd as the responsible entity of the scheme and appoint Trilogy Funds Management Ltd

in its place. City Pacific Ltd sought a declaration that the members' decision and the subsequent alteration of the records of the Australian Securities and Investments Commission were ineffective to remove it as responsible entity.

The Court held that the members' decision was not invalidated by progressive disclosure of information in documents provided before the meeting. The Court further held that the decision of the scheme members was not invalidated by the failure to pass two separate votes on the resolutions required under s601FM of the *Corporations Act 2001* (C'th).

In the matter of City Pacific Ltd; City Pacific Ltd ACN 079 453 955 v Bacon (No. 2) [2009] FCA 772

Regulatory reviews

Licensing regime for margin lenders

On 13 July 2009, the Australian Securities and Investments Commission (ASIC) released consultation papers on the training and financial requirements for firms that offer or advise on margin lending facilities, being two of three policy proposal papers on margin lending licensing requirements. The third is on dispute resolution: see page 8. Under the proposed Corporations Legislation Amendment (Financial Services Modernisation) Bill 2009 (discussed in previous editions of *PolicyNews*), margin lending will be regulated as a financial product, and providers and advisers will be subject to the existing Australian Financial Services (AFS) licensing framework.

Consultation Paper 108 *Margin lending: training of financial advisers* and Consultation Paper 109 *Margin lending: Financial requirements* outline

how ASIC proposes to apply the AFS requirements in these two areas to margin lending. Current holders of an AFS licence will need to apply for a licence variation if they intend to provide margin lending services. Submissions on each paper are due by 10 August 2009. Copies can be obtained at www.asic.gov.au/credit

Licensing regime for credit providers

On 15 July 2009, ASIC released two consultation papers comprising the first part of its policy proposals for implementing the proposed National Consumer Credit Protection regime (discussed in previous editions of *PolicyNews*). A consultation paper on dispute resolution requirements for credit providers has also been released: see page 8. Among other things, the new regime will require persons who engage in certain credit activities to

obtain an Australian Credit Licence from ASIC. Credit licensing is proposed to commence on 1 January 2010.

Consultation Paper 110 *General conduct obligations for credit licensees* outlines ASIC's expectations for compliance with the general conduct obligations in cl 47(1) of the National Consumer Credit Protection Bill 2009. Consultation Paper 111 *Compensation and financial resources arrangements for credit licensees* explains how ASIC proposes to apply these two requirements to credit licensees. Submissions on each paper are due by 12 August 2009.

On 29 July 2009, ASIC released Consultation Paper 113 *Competence and training for credit licensees*. The training requirements involve competence at the licensee level (organizational competence) and training standards for representatives, including employees and agents of a licensee (representative training).

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Regulatory reviews

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The paper sets out how ASIC proposes to interpret these requirements as they apply to credit licensees. Submissions close on 20 August 2009. A copy of the consultation papers and related media releases can be obtained at www.asic.gov.au/credit

Dispute resolution requirements for margin lenders and credit providers

On 27 July 2009, ASIC released Consultation Paper 112 *Dispute resolution requirements for consumer credit and margin lending*, setting out its proposed policy on the dispute resolution requirements that margin lenders and credit providers will need to meet under the Corporations Legislation Amendment (Financial Services Modernisation) Bill 2009 and the National Consumer Credit Protection Bill 2009, respectively. The dispute resolution requirements are similar to those that currently apply to holders of an AFS licence and their representatives. Submissions close on Friday 11 September 2009. A copy of the media release and consultation paper can be obtained at www.asic.gov.au/credit

Consumer rights

On 26 July 2009, the Minister for Competition Policy and Consumer Affairs, the Hon Dr Craig Emerson MP, released an Issues Paper entitled *Consumer rights: Statutory implied conditions and warranties* on behalf of the Commonwealth Consumer Affairs Advisory Council (CCAAC). The paper examines the adequacy of existing laws on implied warranties and conditions in the *Trade Practices Act 1974* (C'th) and in state and territory fair trading and goods laws. The review by the CCAAC will inform the development of the Australian Consumer Law that is currently underway.

Consumer complaints about problems experienced in exercising rights to a refund or to have a product replaced or repaired where it is faulty is one of the largest categories of complaints

received by consumer agencies.

The purpose of the review is to find regulatory and non-regulatory ways to address these problems. Submissions are due by 24 August 2009. A copy of the paper is available at www.treasury.gov.au/ccaac under (What's new).

Taxation of employee share schemes

On 24 July 2009, the Assistant Treasurer, Senator the Hon Nick Sherry, announced the timetable for the final round of industry consultations on the taxation of employee share schemes, and released the terms of reference for the Board of Taxation (BOT) review of two substantive issues in this area. An exposure draft bill will be released soon with a two-week consultation period. The BOT will report to Senator Sherry on technical issues within approximately one month of the release of the exposure draft bill. It is intended to introduce the legislation in the Spring sittings of Parliament.

The two substantive issues to be examined by the BOT were left unresolved in Senator Sherry's Policy Statement of 1 July 2009, which sets out the Government's final position on the tax treatment of shares and rights acquired under employee share schemes. The Policy Statement applies to shares and rights acquired on or after 1 July 2009.

The substantive issues are:

- (1) how best to determine the market value of employee share scheme benefits; and
- (2) whether employees of start-up, research and development, and speculative-type companies should benefit from a tax deferral arrangement despite not being subject to a real risk of forfeiture.

The BOT is to report on these issues by 28 February 2010. The media releases of 1 July 2009 and 24 July 2009 are available at <http://assistant.treasurer.gov.au>

International developments

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Due diligence guidelines for investment managers

On 29 July 2009, IOSCO's Technical Committee published *IOSCO Good Practices in relation to Investment Managers' Due Diligence when investing in Structured Finance Instruments* (Investment Manager Due Diligence Practices). The report sets out guidelines to assist investment management industry participants and regulatory bodies in assessing the quality of the due diligence procedures regarding investments in structured finance instruments (SFIs) by collective investment schemes that are offered to retail investors. The Practices are based on five key messages, which include: 'If you do not understand a SFI, do not buy it'. The guidelines were developed in cooperation with industry representatives following a recommendation in the Technical Committee's *Report on the Subprime Crisis* (May 2008). The media release and report are available at www.iosco.org/news

Financial Crisis Advisory Group recommendations

The Financial Crisis Advisory Group (FCAG) is a body formed at the request of the International Accounting Standards Board and the US Financial Accounting Standards Board to consider financial reporting issues arising from the global financial crisis. On 28 July 2009, the FCAG published a report setting out four main principles and a series of recommendations relating to accounting standard-setting activities and other changes in the international regulatory environment following the crisis. The report highlights the importance but also the limits of financial reporting. A copy of the report is available at www.iasb.org under News.

Industry news

Corporate governance reporting continues to improve

The latest review by the Australian Securities Exchange (ASX) of reporting against the ASX Corporate Governance Council's Principles and Recommendations, released on 10 July 2009, shows that listed entities continue to improve their corporate governance reporting. ASX's supervision subsidiary, ASX Markets Supervision (ASXMS), reviewed the FY08 annual reports of 1,510 listed entities that reported with a 30 June balance date. This represented approximately 72% of all listed entities at the time and was not limited to a specific entity size or market sector. Overall reporting levels – the aggregate of adoption of recommended practices and of 'if not, why not' reporting – rose to 96.3% in 2008, up from 90.5% last year. This is the highest level since ASX began the annual review in 2004. The overall reporting level for the top-500 listed entities also increased, rising to 97.6% in 2008, up from 94% in 2007. See www.asx.com.au under Media Centre.

Review of trading by directors in 'blackout' period for Q1 2009

The ASX released on 1 July 2009 its latest review of securities trading by directors during the 'blackout' period. The review was conducted by ASX Markets Supervision (ASXMS) on all Directors' Interest Notices lodged between 1 January 2009 and 31 March 2009 (Q1 2009). The blackout period is defined as between the close of a listed entity's financial period and the announcement of its half-year or full-year results. The ASXMS review examined trading by directors during this period for possible contraventions of the publicly disclosed trading policy of the entity concerned. The review found that 0.8% of all active (ie on-market) trades by directors in Q1 2009 contravened the trading policies of the entities concerned, compared to 1.1% in Q3 2008 and 0.3% in Q1 2008. See www.asx.com.au under Media Centre.

ACCI survey of investor confidence

The April 2009 Australian Chamber of Commerce and Industry Survey of Investor Confidence, released on 8 July 2009, shows that economic activity and general business conditions continued to deteriorate over the first three months of 2009 with expectations for the next three to 12 months at new record lows. Own Business Conditions, sales and profitability are at their lowest level since the survey began in 1998. Future expectations, together with every other major indicator, continue to be pessimistic, with Own Business Conditions projections falling into negative territory for the first time in this survey's 11 year history. See www.acci.asn.au under Surveys.

COAG progress report

The Hon Lindsay Tanner MP, Minister for Finance and Deregulation, and the Hon Dr Craig Emerson MP, Minister for Small Business, Independent Contractors and the Service Economy, released on 5 July 2009 a progress report on reforms to move Australia towards a seamless national economy.

The report discusses decisions taken at the Council of Australian Governments meeting held in Darwin on 4 July 2009, including:

- > Intergovernmental agreements on the single Australian Consumer Law and a national system for registering business names
- > Measures to speed up development assessments
- > Further steps to reform food regulation and
- > National regulation of maritime safety with the Australian Maritime Safety Authority to become the national safety regulator for all commercial shipping in Australian waters.

See www.financeminister.gov.au under Media Releases.

Guarantee of state and territory borrowing

The Treasurer, the Hon Wayne Swan MP, announced on 24 July 2009 the formal commencement of the Guarantee of State and Territory Borrowing. This Guarantee is designed to ensure that State and Territory Governments maintain their nation-building infrastructure investment. The global recession has severely constricted liquidity in state government bond markets. Supporting liquidity in these markets is critical to maintaining the capacity of state and territory governments to deliver on nation-building investments. From today State and Territory governments will be able to apply to the Reserve Bank of Australia, as the administrator of the Guarantee, for a guarantee over their eligible borrowings. The Reserve Bank will process applications, and details of the securities which are covered by the Guarantee will be published on the website at www.stateguarantee.gov.au

APCA discussion paper

In late July 2009, the Australian Payments Clearing Association released a discussion paper providing a contribution to the industry debate on developing new online payment alternatives. APCA has analysed the competitive dynamics of the existing online payments market in Australia, reviewed overseas comparisons and sought to identify service gaps for future consideration by industry participants. The paper is available at www.apca.com.au

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Industry news

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Revised smarter banking consumer guide released

The Australian Bankers' Association has updated and re-published its consumer booklet *Smarter Banking: Make the most of your money*. This consumer booklet, which can be accessed online as well as in hard copy, is designed to help consumers choose a bank account that suits their needs and explains how to minimise fees. The revised booklet is part of an ongoing commitment by the banking sector to a financial literacy program called Broadening Financial Understanding. See www.bankers.asn.au under Media Centre.

RIAA annual Benchmark Report

The Responsible Investment Association Australia is calling on the investment industry to participate in its annual benchmark study. The report, entitled *Responsible Investment Benchmark Report 09*, details the size and growth of the Australasian responsible investment market.

The report is prepared by Corporate Monitor and captures the breadth and depth of activity in the marketplace, both from a quantitative perspective and from a narrative perspective. Industry participants who have contributed previously are asked to provide Corporate Monitor with the relevant data and new participants are asked to contact Corporate Monitor to ensure their data can be included in the study. See <http://responsibleinvestment.org> under News & events.

Fiduciary responsibility in investment

The Asset Management Working Group (AMWG) of the United Nations Environmental Program Finance Initiative recently released a report entitled *Fiduciary responsibility – legal and practical aspects of integrating environmental, social and governance issues into institutional investment*. The report provides a legal roadmap for fiduciaries looking for concrete steps to operationalise their commitment to responsible investment. The report is available at www.unepfi.org under Publications.

SuperRatings final report released

On 27 July 2009, the final industry returns for the year to 30 June 2009 for Australia's major investment options were released. These indices show significant variations over both short and long term periods, demonstrating the critical need for Australians to get involved in their super, and especially to understand where their super is invested. See www.superratings.com.au under Latest media.

Telstra white paper on technology and the Gen Y market

A Telstra white paper launched on 20 July 2009 claims that Australian financial services institutions have untapped opportunities to secure their share of the Generation Y market by offering them enhanced services on mobile devices and through social media.

Telstra collaborated with social researcher Hugh Mackay, Roy Morgan Research and the Customer Service Institute of Australia to produce the white paper entitled *ICT as a Driver to Improve Service to Generation Y for Financial Services*, which explores issues relating to attracting and retaining Generation Y as customers and as employees. See www.telstra.com/enterprise/t_blank for the full report.

CAMAC report on market integrity

On 30 July 2009, the Corporations and Markets Advisory Committee (CAMAC) released its report *Aspects of Market Integrity (June 2009)*. In November 2008, CAMAC was asked to advise the Government on four types of practice that have the potential to damage the integrity of the market and investor confidence:

- > directors' interests in the securities of listed companies and margin lending
- > 'blackout' trading by company directors
- > spreading of false and misleading information and
- > disclosure of information to analysts.

The report is available at www.camac.gov.au under What's new.

New S&P/ASX Emerging Companies Index

Standard & Poor's (S&P) and the Australian Securities Exchange (ASX) announced on 30 July 2009 the launch of an Australian microcap equity benchmark, the S&P/ASX Emerging Companies Index, which is available from 3 August 2009. The creation of this Index follows lengthy consultation with stakeholders in this market segment and is designed to provide an investable industry benchmark for Australian microcap funds. The S&P/ASX Emerging Companies Index has a maximum of 200 constituents with stocks ranked between 350 and 600 by total market capitalisation eligible for inclusion. See www.asx.com.au under Media Centre.

This event is jointly presented by:



Finsia and Melbourne Centre for Financial Studies Consumer Finance Symposium

Proposed national framework for credit regulation

Finsia and the Melbourne Centre for Financial Studies are delighted to present the second annual Consumer Finance Symposium, featuring industry leaders and the latest updates on regulatory and compliance issues.

The workshop-based event focuses on three key areas: the impact of the *National Consumer Credit Protection Bill 2009* and the *Corporations Legislation Amendment (Financial Services Modernisation) Bill 2009*; how the global financial crisis is affecting the generational wealth divide; and the interplay between proposed responsible lending obligations with financial literacy initiatives.

Speakers

- > **Senator the Hon. Nick Sherry**, Assistant Treasurer
- > **Dr Martin Fahy F Fin**, CEO, Finsia
- > **Professor Deborah Ralston F Fin**, Director, MCFS
- > **Greg Kirk**, Senior Executive Leader – Deposit takers, credit and insurance providers, ASIC
- > **Hilde Marais**, Director, Financial Risk Management, Risk Advisory Services, KPMG
- > **Andrea Beatty F Fin**, Partner, Mallesons Stephen Jaques
- > **Catherine Birchall**, Managing Director, Money 101
- > **Professor Steve Worthington F Fin**, Department of Marketing, Monash University
- > **Robert Turnbull**, Special Counsel, Macpherson & Kelley
- > **Benedict Davies F Fin**, Finsia Consumer Finance Advisory Group Member
- > **Dr David Cousins**, Professorial Fellow, Centre for Regulatory Studies, Monash University
- > **Professor Marilyn Clark-Murphy F Fin**, Professor of Finance, Edith Cowan University
- > **Sara Harman SF Fin**, Senior Investment Adviser, Harman Stockbroking and Financial Services
- > **Ian Gilbert**, Director – Retail Policy, Australian Bankers' Association
- > **Dave Watson**, Project Director, National Consumer Credit Protection, Personal Banking Risk, National Australia Bank
- > **Gerard Brody**, Senior Manager, Financial Inclusion, Brotherhood of St Laurence

Key learning outcomes:

- Understand the impact of the *National Consumer Credit Protection Bill 2009*, and how proposed legislative changes may affect you.
- Learn about the harmonising of Australia's credit law regime.
- Hear practical examples of what the new licensing requirements will entail and the timeline for implementation.
- Find out more about the proposed new obligations regarding responsible lending.
- Discuss and debate the implications of regulatory reform for financial literacy initiatives.
- Be the first to hear the outcomes of Finsia's *Generational Wealth Divide* report.

Event details

UPDATE > INTERACT > PROGRESS

Thursday 27 August 2009

Time

7.15am Registration
7.30am Breakfast address
8.30am Workshop 1
9.50am Morning tea
10.20am Workshop 2
11.40am Workshop 3
12.40pm Networking luncheon
1.25pm Academic workshop
5.30pm Close

Venue

Hotel Windsor,
111 Spring Street,
Melbourne

RSVP

Wednesday
24 August 2009

PD points

Symposium: four
Breakfast only: one

Symposium cost (GST inc)

\$385.00 members
\$577.50 non-members

Breakfast only (GST inc)

\$77.00 members
\$115.50 non-members
\$44.00 Student rate
research workshop

Group booking discount

Save 10% on bookings of
three or more

For more information:

visit www.finsia.com/V42,
complete the registration
form and mail or fax to:

Finsia – PO Box H99,
Australia Square, NSW 1215

F > 02 9275 7999

or contact the Finsia events team:

T > 1300 346 742

E > events@finsia.com

Financial Services Institute of Australasia

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Australia

Head Office/ NSW and ACT

Level 16, One Margaret Street,
Sydney NSW 2000
PO Box H99, Australia Square,
NSW 1215 Australia
T > 1300 FINSIA (1300 346 742)
+61 2 9275 7900
F > +61 2 9275 7999
members@finsia.com

QLD

Level 3, 10 Felix Street,
Brisbane QLD 4000
T > 1300 FINSIA (1300 346 742)
+61 7 3002 0700
F > +61 7 3002 0799
members.qld@finsia.com

SA and NT

Level 3 NAB House,
22 King William Street,
Adelaide SA 5000
T > 1300 FINSIA (1300 346 742)
+61 8 8113 8500
F > +61 8 8113 8599
members.sa@finsia.com

VIC and TAS

Level 43, 80 Collins Street,
Melbourne VIC 3000
T > 1300 FINSIA (1300 346 742)
+61 3 9666 1000
F > +61 3 9666 1099
members.vic@finsia.com

WA

Level 2, NAB House,
50 St Georges Terrace,
Perth WA 6000
T > 1300 FINSIA (1300 346 742)
+61 8 9233 8900
F > +61 8 9223 8999
members.wa@finsia.com

New Zealand

Auckland

Level 12, AMP Building,
29 Custom Street West,
Auckland NZ
PO Box 106826
Auckland NZ 1143
T > +64 9 909 7534
F > +64 9 909 7531
members.nz@finsia.com

Wellington

Level 6, Wakefield House,
90 The Terrace,
Wellington NZ 6143
PO Box 10-793
Wellington NZ 6143
T > +64 4 473 5069
F > +64 4 499 1990
members.nz@finsia.com

International

PO Box H99, Australia Square,
NSW 1215 Australia
T > +61 2 9275 7900
F > +61 2 9275 7999
members@finsia.com

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