

## **TAXATION**

### **Legal professional privilege and data leaks: ATO DIS**

ATO has issued a decision impact statement on the High Court's decision in *Glencore International AG & Ors v FCT & Ors* [2019] HCA 26.

### **Natural disaster scam: ATO warning**

ATO has warned taxpayers about a new SMS scam which promises an 8% bonus on 2020 tax returns to victims of recent natural disasters.

### **Foreign resident CGT changes: ATO admin treatment**

ATO has set out its administrative treatment in relation to CGT changes to the principal assets test for foreign tax residents with indirect interests in TARP.

### **ATO releases deceased estate data package**

As an interim measure to the disclosure of protected information of deceased person to managers of the estate, the ATO has developed a deceased estate data package.

### **TPB review of CPE: increase proposed**

Tax Practitioners Board has released a discussion paper on the core elements of its CPE policy requirements including its views on increasing hours.

### **Government response to Taxpayer Engagement report**

Treasury has released the government's response to the report of the House of Reps Standing Committee on Tax and Revenue into taxpayer engagement.

### **IGTO data packs reveal top five complaint issues**

Inspector-General of Taxation and Taxation Ombudsman has released quarterly reporting packs containing data about complaints received over the last five years.

## **Accountant pleads guilty to false invoice charges**

ASIC has reported a Melbourne accountant has plead guilty to two counts authorising the making a false or misleading document.

## **Second conviction for Operation Elbrus**

ATO has reported a second conviction has been obtained in connection with Operation Elbrus involving payroll services companies (including Plutus Payroll).

## **Government rejects changes to remote area tax concessions**

The government has rejected the Productivity Commission's recommendations for changes to remote areas tax concessions and payments.

## **Illegal phoenixing Bill receives Royal Assent**

Bill to implement the new phoenixing offences to prohibit creditor-defeating dispositions and holding directors accountable has received Royal Assent.

## **GST margin scheme valuation rules – ATO draft determination**

ATO has issued a draft determination specifying requirements for making valuations for the purposes of the margin scheme.

## **ATO loses appeal in case about interest on overpaid GST**

Full Federal Court has dismissed ATO's appeal against a 2018 decision concerning the payment of interest on RBA surplus.

## **FINANCIAL SERVICES**

### **FASEA approves additional prior learning and bridging courses**

Financial Adviser Standards and Ethics Authority has approved the recognition of coursework to attain a profession designation from AFA and SAFAA.

## **ASIC powers and penalties; mortgage brokers: Bills receives Assent**

Bills to grant ASIC new enforcement and supervision powers and introduce a best interests duty for mortgage brokers have received Royal Assent.

## **Financial adviser charged with dishonestly using clients' money**

ASIC has reported a former financial adviser has been charged with 11 counts of dishonestly applying to his own use property belonging to another.

## **ASIC draft guidance on best interests duty for mortgage brokers**

ASIC has released a consultation paper on draft guidance for the new best interests duty for mortgage brokers.

## **SUPERANNUATION**

### **SMSF investment strategy requirements: ATO guidance**

ATO has provided further guidance on the investment strategy requirements for trustees of SMSFs.

### **SMSF in-house asset exemption for intermediary LRBAs**

ATO has released a draft legislative instrument proposing to provide an in-house asset exemption for a specific type of limit recourse borrowing arrangement.

### **ATO flags top five errors for SMSF annual returns**

ATO has flagged the top five mistakes made on SMSF annual returns and provided advice on how to avoid them.

## **ASIC action against SMSF auditors for breaches**

ASIC has reported that it has taken action against a number of SMSF auditors for alleged breaches of the auditor independence rules and auditing standards.

## **Super guarantee amnesty Bill awaits Assent**

Legislation to implement the super guarantee amnesty has passed all stages without amendment and awaits Royal Assent.

## **REGULATOR NEWS**

### **Superannuation regulatory roles: ASIC/APRA welcome reforms**

In a joint letter, ASIC and APRA have welcomed the government's exposure draft legislation proposing to increase the role of ASIC in superannuation.

### **APESB Technical Updates and Guidance Notes**

The APESB website has been updated with the following content:

- APES GN 30 *Outsourced Services*
- APES GN 31 *Professional and Ethical Considerations relating to Low Doc Offering Sign-offs*

### **The ACNC focusing on removing duplicated reporting where it exists**

The national regulator of charities, Australian Charities and Not-for-profits Commission ([ACNC](#)) was established in December 2012.

### **The ASBFEO want to hear from you**

The Australian Small Business and Family Enterprise Ombudsman wants to hear from members about the impact on small business from the Coronavirus.

## **TAXATION**

### **Legal professional privilege and data leaks: ATO DIS**

The ATO has issued a [decision impact statement \(DIS\)](#) on *Glencore International AG & Ors v FCT & Ors* [2019] HCA 26 stating that the decision has no implications for the practices of the Commissioner as it reflects the ATO's existing view on the law.

In *Glencore*, the High Court unanimously rejected an attempt by the Glencore group to rely on legal professional privilege (LPP) to prevent the ATO from using documents that were leaked as part of the "Paradise Papers". The plaintiffs had sought an injunction restraining the defendants – the Commissioner, a Second Commissioner and a Deputy Commissioner - from making any use of "the Glencore documents" which had been created for the sole or dominant purpose of legal advice by a law firm in Bermuda (Appleby). The High Court unanimously held that LPP is only an immunity (that is a defence) from the exercise of a power which would otherwise compel the disclosure of privileged communications. It is not a source of positive rights. In other words, LPP is a "shield" and not a "sword".

The ATO said the High Court's decision reflects what the Commissioner has always understood to be the law. While the High Court did not need to deal with the possible operation of s 166 of the ITAA 1936, the Commissioner considers that the decision in *FCT v Donoghue* [2015] FCAFC 183 correctly states the operation of s 166. In relation to the High Court's general observations concerning equitable remedies available to restrain an apprehended breach of confidential information, the ATO maintains that equitable remedies for breach of confidentiality would not have been available against the Commissioner. Nevertheless, the ATO accepted that the decision does not affect the right of a taxpayer to refuse to furnish documents that are privileged in response to the exercise of a power of compulsory disclosure.

**Comments** are due by 27 March 2020.

## Natural disaster scam: ATO warning

The ATO has [warned](#) taxpayers about a new SMS scam which promises an 8% bonus on 2020 tax returns to victims of recent natural disasters. This particular scam includes a link to a fake myGov website which looks genuine.

ATO Assistant Commissioner Karen Float said this is a classic case of fraudsters impersonating the ATO to collect people's personal information and armed with your details, scammers can do things like get a loan or commit fraud in your name, access your bank account and shop using your credit card, lodge tax returns, or steal your superannuation.

Anyone who has fallen victim to a tax related scam or impacted by disaster is encouraged to contact the ATO as well as their tax or BAS agent, when they are ready, to discuss their situation. A scam can also be reported online at <https://www.ato.gov.au/reportascam/#reportscam> or by calling the ATO on 1800 806 218. Further information is available on <https://www.ato.gov.au/individuals/dealing-with-disasters/>

## Foreign resident CGT changes: ATO admin treatment

The ATO has set out its [administrative treatment](#) in relation the CGT changes to the principal asset test for foreign tax residents with indirect interests in taxable Australian real property (TARP). It says taxpayers will need to review their tax returns lodged since 9 May 2017 to determine if an amendment is required and those taxpayers who lodged their return in accordance with the changes do not need to do anything.

The changes to the foreign resident CGT regime were implemented by the [Treasury Laws Amendment \(Reducing Pressure on Housing Affordability Measures\) Act 2019](#). The amendments apply the principal asset test on an associate inclusive basis to CGT events happening from 7.30pm (AEST) on 9 May 2017 to ensure that foreign tax residents cannot avoid a CGT liability by disaggregating indirect interests in Australian real property.

## ATO releases deceased estate data package

There have been significant concerns raised that agents and legal practitioners have been unable to access information that relates to a deceased's affairs. Consequently, the executor/administrator is forced to deal with the ATO. Such

persons may not have the associated expertise in tax, thereby slowing down the process and causing delays in the preparation of final returns, etc.

The ATO earlier registered the [Taxation Administration \(Remedial Power - Disclosure of Protected Information by Taxation Officers\) Determination 2020](#) (CRP 2020/1) which modifies the operation of the taxpayer confidentiality rules in s 355-25(2) of Sch 1 to the TAA. The modification ensures that a taxation officer will be able to disclose protected information of a deceased person to the registered tax agent, BAS agent, or legal practitioner of an executor or administrator of the estate of the individual who has died.

The Tax Office [advises](#) that it expects the approval process will be completed by mid-May. As an interim measure, it has developed a [deceased estate data package](#). This extracts relevant tax and income information about a deceased client from the ATO's systems. The ATO can provide this information to an executor or administrator who has received a grant or probate or letters of administration. The [release](#) sets how the package can be obtained, either by the legal personal representative or by registered tax agents who have been appointed by the executor or administrator to represent the deceased client's estate.

## **TPB review of CPE: increase proposed**

The Tax Practitioners Board (TPB) is seeking feedback to assist in reviewing its current policy on continuing professional education (CPE) for registered tax practitioners. TPB Discussion paper [TPB\(DP\) D1/2020](#) has been released raising a number of consultation points in considering core elements of the TPB's CPE policy requirements, including its proposed revised views on increasing CPE hours for tax practitioners by over 30%.

"Tax practitioners have an obligation to maintain their CPE requirements and this is vital to ensure they continue to hold relevant and contemporary knowledge and skills", said Michael O'Neill, Secretary/CEO of the TPB. "This review represents a real opportunity for us to both understand how tax practitioners view the existing system and to obtain input into the process for defining our CPE policy requirements moving forward".

**Submissions** are due by 18 March 2020.

## Government response to Taxpayer Engagement report

Treasury has released the [Government's response](#) to the [report](#) of the House of Reps Standing Committee on Tax and Revenue into Taxpayer Engagement with the Tax System. In its inquiry, the Committee examined the ATO's points of engagement with taxpayers and other stakeholders, and reviewed its performance against advances made by revenue agencies in comparable nations. The report asked what taxpayers should now expect from a modern tax service which is largely or partly automated.

The report made 13 recommendations. The Government's response to the key recommendations are listed below.

- The response stated that a review of Australia's tax system is not necessary "at this time". This was stated in the context of the number of reviews that have already taken place (eg, Henry, Board of Taxation, Productivity Commission, IGT reviews etc).
- The Australian Government does not consider introducing ABN withholding system based on the New Zealand model is necessary "at this time" considering recent developments in the taxable payments reporting system (TPRS). Consideration of reform to Australia's withholding regime "might be" appropriate in the future, but only after there has been time to assess the effectiveness of the TPRS regime.
- The Government notes the recommendation to introduce a standard deduction for work-related expenses. However, it considers that it is a long-standing principle of the Australian tax system to tax a person on their income after accounting for legitimate costs incurred in earning that income. Deductions for costs incurred in producing income recognise that people incur different costs in producing income and permitting deductions is intended to equalise the treatment between those who incur costs in producing their income and those who do not.
- The ATO agrees with the recommendation to adopt a roadmap for the abolition of paper-based returns, including testing and trialling with user groups. However, for the foreseeable future, the Committee recommended that the ATO maintain paper-based returns and the distribution of paper publications on request to those people who choose to engage this way. Additionally, taxpayers seeking non-digital tax resources for tax returns at a MyGov Shopfront should be assisted on site.

## **IGTO data packs reveal top five complaint issues**

The Inspector-General of Taxation and Taxation Ombudsman (IGTO) has released quarterly reporting packs for [Q1](#) and [Q2](#) of 2019-20 summarising data about complaints received by the IGTO over the last five years.

The Top five complaint issues with the ATO in Quarter two involved debt collection; lodgment and processing; payments of tax refunds and employer super; communications; and audit and review. Meanwhile the Top five complaint issues with the Tax Practitioner Board (TPB) involved breaches of the code of conduct; registration; sanctions; unregistered tax agent action; and registration and taxpayer details. The data also provides a brief look into the IGTO's Key Performance Indicators (KPI) and Key Performance Areas (KPA) and how its tracking in those focus areas.

## **Accountant pleads guilty to false invoice charges**

ASIC has [reported](#) that a Melbourne accountant has pleaded guilty in the County Court of Victoria to two counts of authorising the making of a false or misleading document required by or for the purposes of the Corporations Act 2001. ASIC alleged that the accountant was engaged to provide services to NewSat Limited (a satellite communications provider), and authorised the making of two invoices for accounting services that were false or misleading contrary to s 1308(2) of the Corporations Act. Those invoices caused NewSat to make payments to a private company. The accountant will be sentenced in the County Court of Victoria on a date yet to be set.

## **Second conviction for Operation Elbrus**

The ATO has [reported](#) that a man been sentenced in the Parramatta District Court to three years and four months' jail (with a non-parole period of three years) after pleading guilty to dealing in proceeds of crime in excess of \$200,000 between 2016 and 2017.

The successful prosecution marks the second conviction in connection with the Operation Elbrus investigation into a large scale and organised tax fraud conspiracy. It is alleged to involve a group that used payroll services companies (including Plutus Payroll) to divert PAYG withholding tax and GST owed to the ATO.

The ATO said 14 individuals have been charged as part of Operation Elbrus, which was uncovered through a joint ATO and AFP investigation in May 2017, and is a key focus of the Serious Financial Crime Taskforce ([SFCT](#)). The ATO noted that this conviction follows that of a former general manager of Plutus Payroll who also pleaded guilty to conspiring to defraud the Commonwealth in August 2019 and was sentenced to four years and six months' jail (with a non-parole period of three years).

## **Government rejects changes to remote area tax concessions**

The Productivity Commission has released its final report on the [remote area tax concessions and payments](#). The report looks at the effects of the zone tax offset, remote area allowance (RAA) and FBT remote area concessions on people and businesses in remote areas.

The Commission has called for the zone tax offset to be abolished or, if retained, reconditioned to limit it to very remote areas. At the same time, the Commission said the RAA's boundaries should be updated as its current zones do not reflect contemporary definitions of remoteness. In relation to the FBT remote area concessions, the Commission called for the boundaries to be updated and simplified, and also recommended changes to exemptions for employer-provided housing.

The Federal Government has [rejected](#) the Commission's recommendations in the report.

## **Illegal phoenixing Bill receives Royal Assent**

The [Treasury Laws Amendment \(Combating Illegal Phoenixing\) Bill 2019](#) has received Royal Assent as Act No 6 of 2020. The Bill implements the new phoenixing offences to prohibit creditor-defeating dispositions of company property and penalise those who engage in or facilitate such dispositions. It also seeks to ensure that directors are held accountable for misconduct by preventing directors from improperly backdating resignations or ceasing to be a director when this would leave the company with no directors.

The Commissioner will also have the power to collect estimates of anticipated GST liabilities and make company directors personally liable for their company's GST liabilities in certain circumstances. At the same time, the operation of s 8AAZLG of the TAA has been extended to authorise the Commissioner to retain tax refunds where a taxpayer has failed to lodge a return or provide other information to the Commissioner that may affect the amount the Commissioner refunds.

## **GST margin scheme valuation rules – ATO draft determination**

The ATO has issued [Draft A New Tax System \(Goods and Services Tax\) Margin Scheme Valuation Requirements Determination 2020 \(MSV 2020/D1\)](#), specifying requirements for making valuations for the purposes of the margin scheme under Div 75 of the GST Act. For the purposes of Div 75, various requirements are proposed for the following valuation methods:

- Valuation by a professional valuer;
- Valuation based on the consideration received by the supplier under the contract of sale;
- State Government or Territory Government department valuation; and
- Valuation obtained by the Commissioner in certain circumstances.

**Comments** are due by 10 March 2020.

## **ATO loses appeal in case about interest on overpaid GST**

The Full Federal Court has dismissed the ATO's appeal against a 2018 decision concerning the payment of interest on a RBA surplus that arose where the taxpayer had overstated its GST liability: [FCT v Travelex Limited \[2020\] FCAFC 10](#) (Full Federal Court, Kenny, Derrington and Steward JJ, 14 February 2020).

The taxpayer's business included supplying foreign currency on the departure side of the customs barrier at international airports in Australia. In September 2010, the High Court held that that such supplies were GST-free. As a result, the taxpayer had overstated its GST liability for the November 2009 tax period (the "test period" chosen for the purposes of these proceedings). The ATO eventually credited the taxpayer's RBA with the overpaid amount, creating an RBA surplus which it paid to the taxpayer. The ATO nominated 16 December 2009 (the date the taxpayer lodged the November 2009 BAS) as the "effective date of allocation".

It was accepted that the taxpayer was entitled to interest under the Taxation (Interest on Overpayments and Early Payments) Act 1983 (the Overpayments Act) on the refunded amount. However, there was a dispute as to the day from which the interest was payable (known as the RBA interest day). A majority of the Full Federal Court has upheld the first instance decision that the RBA interest day was the 14th day after the day on which the RBA surplus arose (ie 30 December 2009). This was because the taxpayer was not required to give a notification to the ATO under s 8AAZLG of the TAA containing particulars of an amount of under-claimed GST credit. (If it had been required to give notification, the RBA interest day would have been the 14th day after the taxpayer wrote to the ATO in June 2012 notifying it of the

amount of the refund.) The majority also held that the ATO's power as to how to allocate credits and debits to an RBA extended to determining the "effective date" of an allocated amount. Accordingly, the ATO's nomination of 16 December 2009 as the "effective date of allocation" was legally effective.

## **FINANCIAL SERVICES**

### **FASEA approves additional prior learning and bridging courses**

The Financial Adviser Standards and Ethics Authority (FASEA) has [approved](#) the recognition of coursework to attain a professional designation from the Australian Financial Advisers (AFA) and Stockbrokers and Financial Advisers Association (SAFAA) as part of its education standards for financial advisers.

FASEA Chief Executive Officer, Stephen Glenfield, said advisers who have completed coursework to attain the FChFP and/or ChLP designation between May 2009 and June 2013, offered by the AFA, have been awarded one credit recognition for prior learning (RPL). Advisers who have completed Professional Diploma in Stockbroking coursework to attain the SAFAA Specialist designation from 2001, offered by SAFAA, have been awarded one credit RPL. The approved RPL courses have been added to FASEA's Approved Recognition of Prior Learning [list](#) and will be added to a future Degree, Qualifications and Courses legislative instrument.

FASEA also confirmed its approval of the Financial Advice Regulatory and Legal Obligations and the Behavioural Finance Client and Consumer Behaviour bridging courses for Swinburne University. The bridging courses are available for existing advisers to meet the Education Standard.

### **ASIC powers and penalties; mortgage brokers: Bills receives Assent**

The following financial sector reform Bills have received Royal Assent:

- [Financial Sector Reform \(Hayne Royal Commission Response - Stronger Regulators \(2019 Measures\) Bill 2019](#) (Act No 3 of 2020) - grants ASIC new enforcement and supervision powers in response to the recommendations of the ASIC Enforcement Review Taskforce and Banking Royal Commission. In particular, ASIC's licensing powers have been strengthened by replacing the

AFS licence requirement that a person be of "good fame and character" with an ongoing requirement that they be a "fit and proper person" at both the time of application and subsequently. Date of effect: the day after the Bill received assent. Although the power to share intercepted telecommunications with ASIC will also apply to information held by an interception agency before Royal Assent to the Bill.

- [Financial Sector Reform \(Hayne Royal Commission Response - Protecting Consumers \(2019 Measures\) Bill 2019](#) (Act No 2 of 2020) - introduces a best interests duty for mortgage brokers and bans certain conflicted remuneration from 1 July 2020.

### **Financial adviser charged with dishonestly using clients' money**

ASIC has [reported](#) that a former financial adviser based in Townsville has been charged with 11 counts of dishonestly applying to his own use property belonging to another, contrary to s 408C(1)(a) of the Criminal Code Act 1899 (Qld).

ASIC has alleged that between March 2006 and December 2017, the former financial adviser accessed and transferred around \$1.1 million from his clients' superannuation, pension and personal savings accounts. It is alleged that he used his clients' savings to fund his personal lifestyle expenses. Due to changes to the Criminal Code during the period of offending, ASIC said the charges carry various maximum penalties of 10-14 years' jail.

The former adviser appeared at Townsville Magistrates Court on 10 February 2020 for the first mention of the matter. He was granted bail and ordered to surrender his passport.

### **ASIC draft guidance on best interests duty for mortgage brokers**

ASIC has released a consultation paper ([CP 327](#)) on draft guidance for the new best interests duty for mortgage brokers.

The new obligations have been legislated following Royal Assent to the [Financial Sector Reform \(Hayne Royal Commission Response - Protecting Consumers \(2019 Measures\) Bill 2019](#) (Act No 2 of 2020). The legislation, recommended by the Banking Royal Commission, introduces a best interests duty for mortgage brokers and bans certain conflicted remuneration from 1 July 2020.

The draft guidance is structured around the key steps common to the credit assistance process of brokers, such as gathering information, considering the product options available and presenting options and a recommendation to the consumer.

**Comments** on the draft guidance are due by 20 March 2020. ASIC intends to publish final guidance before the obligations commence on 1 July 2020.

## **SUPERANNUATION**

### **SMSF investment strategy requirements: ATO guidance**

The ATO has provided [further guidance](#) on the investment strategy requirements for trustees of self-managed superannuation funds (SMSFs).

This updated guidance follows the ATO contacting 17,700 SMSFs in August 2019 where the SMSF annual return data indicated that they may be holding 90% or more of their retirement savings in one asset or a single asset class. The ATO had expressed concern that these SMSFs may not have given due consideration to the risks associated with a lack of diversification when formulating and reviewing their investment strategy under reg 4.09 of the SIS Regs. The SMSFs contacted also used a limited recourse borrowing arrangement (LRBA) to acquire the single asset or asset class (typically property).

The ATO has now provided further guidance on what trustees need to consider when drafting their SMSFs investment strategy, including: (i) what should be included in the strategy; (ii) when and how often the strategy should be reviewed; and (iii) what action the ATO will take if the fund's investment strategy doesn't comply with the law.

### **SMSF in-house asset exemption for intermediary LRBAs**

The ATO has released a Draft Legislative Instrument proposing to provide an in-house asset exemption under s 71(1)(f) of the SIS Act for a specific type of limited recourse borrowing arrangement (LRBA) - called an "Intermediary LRBA".

Draft [Superannuation Industry \(Supervision\) In-house Asset Determination – Intermediary Limited Recourse Borrowing Arrangement Determination 2020 \(SPR](#)

[2020/D1](#)) proposes an in-house asset exemption for an investment by a self-managed super fund (SMSF) in a related trust (ie a holding trust) for an "intermediary LRBA" under s 67A, where the trustee does not borrow directly (but maintains the borrowing of a third party).

The [Draft Explanatory Statement](#) notes that a holding trust in an LRBA is a "related trust" of the SMSF, and would be an "in-house asset" of the fund but for the exemption under s 71(8) of the SIS Act. This exclusion provided by s 71(8) only covers circumstances where an LRBA is undertaken by the trustee of the fund. That is, to be excluded from being an in-house asset under s 71(8), the fund must borrow the amount directly.

**Date of effect:** 24 September 2007.

**Comments** are due by 13 March 2020.

## **ATO flags top five errors for SMSF annual returns**

The ATO has [flagged](#) the following top five mistakes made on SMSF annual returns (SARs) and how to avoid them when lodging a SAR:

1. Bank account not unique to the SMSF.
2. Incorrect electronic service address (ESA) provided.
3. SMSF's assets not valued at market value.
4. Trying to lodge with zero assets.
5. Lodging a SAR without auditor details.

## **ASIC action against SMSF auditors for breaches**

ASIC has [reported](#) that it has taken action against a number of SMSF auditors for alleged breaches of the auditor independence rules and auditing standards, including failing to comply with Continuing Professional Development (CPD) requirements and otherwise not being a fit and proper person due to bankruptcy. The ASIC action included moves to disqualify, suspend and/or add conditions to the registration of, a number of SMSF auditors in NSW, Victoria and NT.

## **Super guarantee amnesty Bill awaits Assent**

The Government's Super Guarantee amnesty legislation, the [Treasury Laws Amendment \(Recovering Unpaid Superannuation\) Bill 2019](#), has passed all stages without amendment and effectively awaits Royal Assent. The Bill establishes the Government's Super Guarantee (SG) amnesty which will run until six months after the day the Bill receives assent. It will apply to SG shortfalls up until the quarter starting on 1 January 2018 (inclusive). To qualify for the amnesty, a disclosure must be made to the ATO in the approved form (and must not have been previously disclosed).

Under the amnesty, employers can self-correct SG underpayments without incurring additional penalties that would normally apply. Importantly, employers can claim a tax deduction for payments of SG charge or contributions made during the amnesty period (the SG charge is otherwise non-deductible). Assistant Minister, Jane Hume, said employers will not be totally "off the hook" and must still pay all SG shortfall amounts owing to their employees, including the nominal interest and GIC (but not the \$20 administrative component). Rather, the amnesty encourages employers to come forward and pay outstanding SG amounts by not hitting them with the penalties usually associated with late payment. If employers do not take advantage of the amnesty, they will face significantly higher penalties when they are caught - a minimum 100% penalty on top of the SG shortfall, Ms Hume said.

## **REGULATOR NEWS**

### **Superannuation regulatory roles: ASIC/APRA welcome reforms**

In a [joint letter](#) to registrable superannuation entity (RSE) licensees, APRA and ASIC have welcomed the Government's exposure draft legislation proposing to increase the role of ASIC in superannuation, as recommended by the Banking Royal Commission. The draft legislation, released on 31 January 2020, proposes reforms to support APRA and ASIC to carry out their roles as co-regulators in superannuation. The reforms will expand ASIC's role as conduct regulator, while retaining APRA's role as the prudential and member-outcomes regulator in superannuation. ASIC said the changes to its role will be accompanied by an enhancement in the co-operation and collaboration between APRA and ASIC. Legislative reform to further increase this co-operation and collaboration is also proposed.

ASIC Commissioner Danielle Press said the reforms will strengthen ASIC's ability to effectively regulate superannuation trustee conduct and focus on consumer protections. If the proposed reforms are implemented, ASIC said most trustees should not have to take additional steps to comply with the new regime. ASIC said it will write to 25 trustees who will need to take action to comply with proposed AFS licensing changes. Specific changes for superannuation trustees are included in [Appendix A of the letter](#).

## APESB Technical Updates and Guidance Notes

The APESB website has been updated with the following content:

### APES GN 30 *Outsourced Services*

- [Technical Update](#)
- [Guidance Note](#)

### APES GN 31 *Professional and Ethical Considerations relating to Low Doc Offering Sign-offs*

- [Technical Update](#)
- [Guidance Note](#)

**The revised guidance notes are available to download as Interactive PDFs which include dynamic links to sections and sub-sections, pop-up definitions upon mouse rollover for defined terms and links to external websites.**

Subscribe to APESB Updates [here](#).

## The ACNC focusing on removing duplicated reporting where it exists

The national regulator of charities, Australian Charities and Not-for-profits Commission ([ACNC](#)) was established in December 2012. The ACNC has been working with Commonwealth, state and territory regulators to reduce red tape for charities, with a focus on removing duplicated reporting where it exists. In incidences of duplicated reporting, the ACNC has established *transitional reporting arrangements*. For more information on these arrangements [click here](#).



## **The ASBFEO want to hear from you**

The Australian Small Business and Family Enterprise Ombudsman wants to hear from members about the impact on small business from the Coronavirus. Specifically, what has been your experience with interruption to business operations, either your own, your clients or employer. Have you or are you aware of economic downturn, lack of customers, customers being unable to come into Australia or go overseas or any other impact.

We would appreciate all feedback. Please send comments to [ipagroupfeedback@publicaccountants.org.au](mailto:ipagroupfeedback@publicaccountants.org.au).