

## **TAXATION**

### **Tax agent banned for obstructing tax laws**

The TPB has released a compliance case study regarding a tax agent who was found to have knowingly obstructed the administration of taxation laws.

## **FINANCIAL SERVICES**

### **Further Financial Accountability Regime rules registered**

The Assistant Treasurer has announced the release of further rules relating to the operation of the Financial Accountability Regime.

## **SUPERANNUATION**

### **Paying super on Government Paid Parental Leave**

The Treasurer has announced that the Government will pay superannuation on Paid Parental Leave ("PPL") from 1 July 2025.

### **Consultation paper released to refine super performance test**

Treasury has issued a consultation paper entitled Annual Superannuation Performance Test - design options.

## **SUSTAINABILITY**

### **APESB's Roundtable on IESBA's EDs on Sustainability and Using the Work of External Experts**

APESB is holding a virtual roundtable on **26 March 2024 between 10.00am and 3.00pm** to seek feedback on two new exposure drafts issued by the International Ethics Standards Board for Accountants (IESBA)

## **REGULATOR NEWS**

### **ASIC News**

Updates from ASIC in the past week including media releases, news, articles and speeches.

### **APRA news**

Updates from APRA in the past week including media releases, news, articles and speeches.

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## **TAXATION**

### **Tax agent banned for obstructing tax laws**

The TPB has released a [compliance case study](#) regarding a tax agent who was found to have knowingly obstructed the administration of taxation laws and failed to comply with the requisite tax obligations. The Board Conduct Committee ("BCC") found the tax agent, whether in an individual capacity or as the sole director of certain companies (including a registered tax agent company):

- lodged multiple income tax returns and BAS's containing overstated deductions or credits and/or underdeclared income;
- failed to pay multiple tax debts by their due dates;
- failed to cause two companies to comply with their superannuation employer obligations;
- failed to cause multiple entities to lodge numerous statements to the ATO by their respective due dates; and
- caused a registered tax agent company to rack up multiple infraction findings from the ATO.

Based on this persistent disregard for the obligations under the Code of Professional Conduct, the BCC found the tax agent had ceased to meet the registration requirement to be a fit and proper person. The tax agent's registration was terminated and a 5-year ban from re-application for registration was imposed.

## **FINANCIAL SERVICES**

### **Further Financial Accountability Regime rules registered**

The Assistant Treasurer [has announced](#) the release of further rules relating to the operation of the Financial Accountability Regime ("the FAR").

The FAR applies to:

- banks (which are currently subject to the Banking Executive Accountability Regime) – from 15 March 2024;
- insurance and APRA-regulated superannuation entities – from 15 March 2025.

The Government registered the [Financial Accountability Regime \(Minister\) Rules 2024](#) ("the Minister Rules"). These rules prescribe a range of matters in support of the FAR, in particular:

- responsibilities and positions of accountable entities in each sector which make someone an "accountable person" subject to the FAR; and
- the threshold (based on total asset size) above which an entity is required to provide the regulators with additional accountability statements and maps.

ASIC and APRA have also issued a [joint media release](#) stating that other materials released include the following:

- [Financial Accountability Regime Act \(Information for register\) Regulator Rules 2024](#) – these prescribe information for inclusion in the FAR register of accountable persons;
- [Financial Accountability Regime \(Consequential Amendments\) Transitional Rules 2024](#) – these prescribe information to be provided by authorised deposit-taking institutions ("ADIs") in relation to their existing accountable persons under the BEAR at the transition point to the FAR;
- [ASIC/APRA letter](#) to all authorised deposit taking institutions and their authorised non-operating holding companies – in this letter, the regulators have announced a "no-action position" in relation to certain matters that depend on the Ministerial Rules for the period between 15 March and 30 June 2024.

## **SUPERANNUATION**

### **Paying super on Government Paid Parental Leave**

The Treasurer [has announced](#) that the Government will pay superannuation on [Paid Parental Leave](#) ("PPL") from 1 July 2025. Further details of this measure, including cost, will be released in the Budget.

The Treasurer states that this reform builds on the Government's work to "modernise" PPL and expand the payment to a full six months by 2026. The expansion to Australia's Paid Parental Leave is currently before the Senate – in the [Paid Parental Leave Amendment \(More Support for Working Families\) Bill 2023](#) – which will give families an additional 6 weeks of PPL. If passed, families will have access to an extra two weeks of leave (22 weeks total) from 1 July 2024, which will increase to 24 weeks from July 2025 and 26 weeks from July 2026.

The Treasurer states that this builds on changes which commenced in July 2023 to give more families access to the payment, including through a "more generous" \$350,000 family income test.

### **Consultation paper released to refine super performance test**

Treasury has issued a consultation paper (the "Paper") entitled [Annual Superannuation Performance Test - design options](#). The Paper seeks views on options to improve the sophistication of the Annual Superannuation Performance Test (the "Test") and the specific questions raised within it.

Four broad options have been presented in terms of improving the operation of the Test:

1. Status quo - retain the current testing framework, "but improve it";
2. Alternative single-metric - consideration of a different single-metric framework that would better assess performance. This paper includes three specific examples which

- are the Sharpe ratio, a peer comparison, and a simple-reference portfolio frontier;
3. Multi-metric framework - consideration of a multiple metric framework that provides a more fulsome assessment of performance. This option includes two specific examples which are a framework that aligns with the APRA heatmaps, and a targeted three-metric test; and
  4. Alternative framework - an opportunity for stakeholders to put forward an option they see as most fitting to improve the operation of the performance test.

The Paper makes clear that the Government is open to alternative proposals from stakeholders other than those indicated.

**Submissions** are due by 19 April 2024.

## **SUSTAINABILITY**

### **APESB's Roundtable on IESBA's EDs on Sustainability and Using the Work of External Experts**

The exposure drafts are on:

- the International Ethics Standards for Sustainability Assurance (IESSA) and ethics standards for sustainability reporting; and
- Using the Work of an External Expert

The proposed standards aim to foster greater trust in all publicly communicated sustainability information through the application of a consistent ethical approach.

A presentation on the key proposals will be provided by APESB's CEO and IESBA Board Member, Channa Wijesinghe and IESBA Director Geoff Kwan.

In preparation for the session, attendees are encouraged to review the IESBA's Exposure Drafts and explanatory memorandum at [www.ethicsboard.org](http://www.ethicsboard.org).

#### **Registration:**

If you are interested in attending, please email [ann.chang@apesb.org.au](mailto:ann.chang@apesb.org.au) by **COB Tuesday, 19 March 2024**, to register your interest.

Registered attendees will receive an email next Thursday 21 March 2024 with details of the Zoom login and the agenda for the event.

## **REGULATOR NEWS**

### **ASIC News**

ASIC has released the following updates in its Newsroom section:

- [8 March 2024 – MEDIA RELEASE – ASIC disqualifies former ASX listed Merlin Diamonds director Joseph Gutnick for four years](#) – ASIC has disqualified Joseph Gutnick of St Kilda East, Victoria from managing corporations for four years under s 206F of the *Corporations Act 2001* (Cth) as a result of his failure to meet his obligations as a director of three companies in liquidation between 2016 and 2020. The companies owed over \$43 million to various unsecured creditors in government and community organisations. He is banned from managing corporations until 3 March 2028.
- [8 March 2024 – MEDIA RELEASE – ASIC and APRA issue final rules and further guidance for the Financial Accountability Regime](#) – ASIC and APRA have issued the final version of rules and advice to assist financial services providers to implement the Financial Accountability Regime. The new rules raise the standards of risk management and governance for APRA-regulated entities and their officers.
- [7 March 2024 – NEWS ITEM – ASIC consults on registered liquidator registration guidance](#) – ASIC seeks feedback from interested parties including insolvency practitioners, professional associations and the clients of registered liquidators on proposed changes to Regulatory Guide 258 Registered Liquidators: Registration, disciplinary action and insurance requirements. A consultation paper has been issued. The current RG 258 was issued when the new regime for liquidators commenced. Submissions on proposed changes are open until 2 May 2024.
- [7 March 2024 – MEDIA RELEASE – ASX pays \\$1,050,000 penalty for order information transparency failure](#) – ASX Ltd has been fined for failing to comply with market integrity rules following an ASIC investigation. ASIC considered that ASX had breached the rule about pre-trade transparency to make information available regarding orders on its trading system over 8,000 times in a period spanning 2019 to 2022. This is the first time ASIC has issued an infringement notice against a market operator.
- [6 March 2024 – NEWS ITEM – ASIC calls on insurers to improve claims handling practices](#) – ASIC has reminded general insurers of their obligations about insurance claims as Australian financial services licensees, particularly following severe weather events. ASIC will continue to focus on this area. Misconduct in insurance claims handling is a key enforcement priority for ASIC in 2024.
- [5 March 2024 – NEWS ITEM – Have your say: Your online experiences with ASIC](#) – ASIC has called for feedback from users of its Registry digital services including business owners, company officeholders and members of the public. Interviews with respondents will be conducted this month. Expressions of interest close on 8 March 2024.
- [4 March 2024 – ASIC succeeds in conflicted remuneration case against financial advice licensee](#) – Division 4 of Part 7.7A (Best interests obligations and remuneration) of the *Corporations Act 2001* (Cth) relates to conflicted remuneration for financial services licensees. The Federal Court has found that R M Capital Pty Ltd did not take reasonable steps under s 963F to ensure that its representative, the SMSF Club Pty Ltd, did not accept conflicted remuneration. Accepting conflicted remuneration is also not permitted under s 963G. The judgment is available [here](#).
- [4 March 2024 – MEDIA RELEASE – ASIC shuts down nearly 3,500 scam website, steps up surveillances in push to protect consumers](#) – Between July and December 2023, ASIC took down 3,490 investment scam websites. The courts also handed down \$60 million in civil penalties and nine criminal convictions in ASIC investigations. A further 19 new civil proceedings were filed and another 19 new criminal litigations

started.

- [1 March 2024 – MEDIA RELEASE – It's a scam! Celebrities are not getting rich from online investment trading platforms](#) – The National Anti-Scam Centre is a joint project of the ACCC and ASIC which is aimed at disrupting investment scams. The Centre warns consumers about fake news articles and deepfake videos of public figures purporting to endorse and link to online trading scams, particularly on social media.
- [1 March 2024 – MEDIA RELEASE – ASIC disqualifies NSW director for maximum five years after failure of seven companies](#) – ASIC has disqualified Alaa El Hassan of Sydney from managing corporations for five years, under s 206F of the *Corporations Act 2001* (Cth) due to his involvement in seven companies that went into liquidation during 2018 and 2019. He was a director of seven companies which operated across a variety of industries including the hospitality, construction, cleaning and electrical industries. The companies owed over \$3.7 million to unsecured creditors including the Australian Taxation Office, RevenueNSW and former employees.

## APRA news

APRA has released the following updates in its News and publications section:

- [7 March 2024 – MEDIA RELEASES – APRA revokes Islamic Bank's restricted banking licence](#) – APRA has agreed to a request from Islamic Bank Australia to revoke its licence as a restricted authorised deposit-taking institution. The licence had been granted in July 2022 but had not been used to launch any products or take any deposits in the time since.
- [4 March 2024 – MEDIA RELEASES – APRA amends authorised deposit-taking institution licence for Avenue Bank to remove restrictions – APRA has granted an unrestricted licence to Avenue Bank Ltd to operate as an authorised deposit-taking institution licence. In September 2021, APRA permitted Avenue to operate with a restricted licence.](#)

## Proposed legislative amendments and consultations

- [7 March 2024 – The Treasury – CONSULTATIONS – Standard definitions and standard cover for insurance – The Australian Government had previously flagged its intention to improve consumers' understanding of insurance products. The Treasury has released a consultation paper to explore aligning the terminology used by insurers regarding natural hazards for insurance contracts. Submissions may be made until 4 April 2024.](#)