

Article Information

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Banking & Finance Summary Updates - February 2020

There have been numerous updates in the industry over the past months from regulators and the Government.

- The ACCC formally implemented the Competition and Consumer (Consumer Data Right) Rules as part of a key development in progressing Consumer Data Right in the banking industry. These Rules came into effect on 6 February 2020. As a result, the consequent consumer data sharing obligations in banking will become mandatory from 1 July 2020. Due to the Rules, the big four banks are now required to share product reference data with the accredited data recipients. They will also need to share information regarding credit and debit card and deposit and transaction account data from 1 July 2020 and mortgage and personal loan data from November 2020. The ACCC are also consulting on a timetable to implement CDR for non-major ADIs which is proposed to commence from 1 July 2021.
- On 10 February 2020, the *Treasury Laws Amendment (2018 Measures No.2) Bill 2019* (Cth) passed the Senate and is expected to come into effect soon. This legislation will expand ASIC's fintech regulatory scope enabling them to exempt certain fintech businesses so they may utilise fintech products and services without an AFSL or ACL.
- On 12 December 2019, APRA opened [consultation](#) for Draft Prudential Practice Guide APG 220 Credit Risk Management (APG 220) which proposes revisions to the current credit risk management framework for authorised deposit-taking institutions.
- ASIC commenced civil penalty proceedings against National Australia Bank Limited in the Federal Court and seeks findings for the several thousand contraventions of the ASIC Act and the Corporations Act such as engaging in Fees for No Service Conduct, failing to issue or issuing defective, fee disclosure statements and failing to establish compliance systems to prevent such failures.
- ACCC have identified that [4WD Supacentre](#) engaged in misleading representations in their advertisements of camp ovens. The ACCC accepted a court-enforceable undertaking requiring 4WD Supacentre to not engage in similar misconduct.
- Similarly, the court has held that [Trivago](#) have engaged in misleading representations regarding their advertisements on hotel rooms. While the hearing on penalties has yet to take place, the court found that Trivago breached the Australian Consumer Law when making misleading representations in their advertisements.
- On 5 February 2020, the Federal Court ordered AMP to pay a \$5.175 million penalty after the court found AMP had failed to take the necessary reasonable steps to ensure its financial planners complied with the best interests duty and related requirements under the Corporations Act.
- US-based Rosen Law Firm is preparing a class action against Westpac following allegations by AUSTRAC that the bank violated the AML/CTF laws more than 23 million times. AUSTRAC alleges that they had failed in their oversight of the AML/CTF risks including a failure to report information in regards to the source of funds and proper record of transactions.
- The AML/CTF Rules have been amended with the introduction of the *Anti-Money Laundering and Counter-Terrorism Financing Rules Amendment Instrument 2019 (No. 3)*. The amendment's start date was 14 December 2019 and was registered on 30 January 2020. Chapter 11 on Compliance Report was repealed and replaced to have generic references to reporting periods so AUSTRAC will not be required to update the chapter yearly. Part 51.2 of the Rules were also repealed and replaced to specifically deal with Western Union Business Solutions (Australia) Pty Ltd.
- On 9 December 2019, ASIC released its anticipated update of *RG 209 Credit licensing: Responsible lending conduct* which provides greater clarity on the ambit of responsible lending, criteria for inquiry obligations and addresses the technological developments in the financial sector.
- ASIC gave their final approval for the new and updated 2019 Banking Code of Practice incorporating the

recommendations of the Financial Services Royal Commission. Some of the changes include ceasing default interest on agricultural loans when farms are affected by natural disaster, providing accessible banking services to those with limited English and living in remote areas and removing formal overdraft and dishonour fees on basic, low fee or no fee accounts for concession card holders.

- Treasury released their [Consultation Paper on Financial Accountability Regime](#) on 22 January 2020 implementing five recommendations from the Financial Services Royal Commission extending the Banking Executive Accountability Regime to all APRA regulated entities.
- Treasury commenced their '[Inquiry into Future Directions for the Consumer Data Right](#)' in January 2020 and plans to consult with industry, consumer and privacy advocates and other interested stakeholders.
- On 29 November 2019, the Reserve Bank of Australia (RBA) published an issues paper as the initial step towards reviewing retail payment regulation.
- From 1 January 2020, public companies, large proprietary companies, and corporate trustees of superannuation entities that are regulated by APRA must have a whistleblower policy available to their officers and employees.
- On 9 January 2020, ASIC announced that they are committed to assisting Australians affected by the bushfires and helping "rebuild their lives" by warning against misleading tradespeople, repairers and firms offering insurance claims, instead encouraging fair and effective approaches to providing help. ASIC also provided a [link](#) on their media release to [MoneySmart's website](#) outlining information on what affected persons can do after a natural disaster.
- On 21 January 2020, OAIC [announced](#) that Australian Government agencies and private sector organisations covered by the Privacy Act 1988 who have been part of the bushfire disaster response can operate under the emergency [Privacy \(Australian Bushfires Disaster\) Emergency Declaration](#) to assist people who have been impacted by the bushfires and coordinate and manage the response.
- On 30 January 2020, APRA published their Policy and Supervision Priorities for 2020 centred around their four core strategic goals of their Corporate Plan which can be accessed [here](#).
- On 13 February 2020, the Select Committee on Financial Technology and Regulatory Technology made the 134 submissions they received available [here](#).
- On 17 January 2020, APRA released their [2019 Year in Review](#), an inaugural publication dedicated to highlighting APRA's actions to protect the financial wellbeing of the Australian community.