

COVID19 | Your Regulatory Roadmap (25 March – 14 April)

What you need to know about the changing regulatory environment

Peak Financial Regulatory Bodies

APRA

- APRA confirmed its regulatory approach to the Term Funding Facility (TFF) announced by the RBA on 19 March 2020. A core component of the TFF is the RBA's commitment to make funding available to ADIs equivalent to 3 per cent of an ADI's total credit outstanding to Australian resident households and (non-related) businesses (the Initial Allowance). APRA will allow ADIs to include the benefit of the Initial Allowance in the calculation of the Liquidity Coverage Ratio, Minimum Liquidity Holdings Ratio and Net Stable Funding Ratio from 31 March 2020, to the extent they have the necessary unencumbered collateral to access the facility ([Link](#)).
- APRA announced it is deferring its scheduled implementation of the Basel III reforms in Australia by one year. This approach is also consistent with the recent decision by the Basel Committee on Banking Supervision (BCBS) to defer, from January 2022 to January 2023, the internationally agreed start dates for the Basel III standards ([Link](#)).
- APRA has postponed the implementation of Reporting Standard HRS 605.0 Private Health Insurance Reforms Data Collection (HRS 605.0) to allow private health insurers (PHIs) to focus their resources on handling the impacts of COVID-19. It was initially scheduled to commence for the quarter ending June 2020 ([Link](#)).

APRA (CONT)

- APRA, along with the RBA and Australian Bureau of Statistics (ABS), announced changes to the reporting obligations of all ADIs and RFCs, effective immediately. These changes are intended to balance the need for entities to dedicate time and resources to maintaining their operations and supporting customers, against the increased need for timely, accurate data for use in the rapidly changing environment ([Link](#)). The changes include:
 - granting a temporary extension of the notification period for changes to accountability statements and maps under the BEAR;
 - the introduction of a new reporting standard for ADIs and RFCs regarding lending to SMEs, to support the Coronavirus SME Guarantee Scheme;
 - early implementation of APRA's November 2019 proposal to standardise reporting due dates for ADI quarterly forms, only where that represents an extension of due dates, and extending this to RFCs;
 - deferral of the introduction of certain new reporting standards until the March 2021 reporting period;
 - deferral of APRA's proposal to determine certain ADI data non-confidential until further notice; and
 - a continuation of parallel reporting of Reporting Standards ARS 331.0 Selected Revenues and Expenses, RRS 331.0 Selected Revenue and Expenses and the ABS Quarterly Business Indicators Survey (QBIS) until the June 2020 quarter.

APRA (CONT)

- APRA and ASIC released a joint letter to superannuation trustees to give trustees guidance to help them manage the financial and operational challenges associated with COVID-19, while continuing to meet their obligations to look after members' best interests. The unusual and challenging circumstances associated with COVID-19 require trustees to make new business arrangements, amend priorities and adjust their short-term investment strategies while remaining in compliance with applicable laws. Trustees need to continue to monitor their liquidity positions, maintain good communication channels, promote awareness and understanding for insurance in superannuation, be vigilant for possible scams and ensure the resilience of their business ([Link](#)).
- APRA has issued a letter to ADIs and insurers outlining their expectations on them to limit discretionary capital distributions in the months ahead, to ensure that they instead use buffers and maintain capacity to continue to lend and underwrite insurance. This includes prudent reductions in dividends, taking into account the uncertain outlook for the operating environment and the need to preserve capacity to prioritise these critical activities ([Link](#)).
- APRA has written to applicants for new banking or insurance and superannuation licences to advise that it is temporarily suspending issuing new licenses for at least six months in response to the economic uncertainty created by COVID-19 ([Link](#)).

RBA

- The RBA is putting on hold the Review of Retail Payments Regulation that was announced on 29 November 2019. It is now expected to be completed by 2021 rather than 2020 ([Link](#)).



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ACCC

- While the ACCC's 2020 Compliance and Enforcement Priorities remain in place, they will re-focus efforts to those priorities of most relevance to competition and consumer issues arising from the impact of COVID-19. The ACCC has established an internal COVID-19 Taskforce which is already communicating directly with businesses to educate them about their obligations in relation to cancellations, refunds and suspension of services as a result of COVID-19. They will also continue to raise awareness of COVID-19 scams ([Link](#)).
- The ACCC has provided a second, conditional, interim authorisation for the Australian Banking Association (ABA) and banks to co-operate to provide supplementary relief packages for individuals and businesses affected by COVID-19 ([Link](#)).
- ACCC Chair Rod Sims spoke via a special webcast edition of the Australian Financial Reviews Banking & Wealth Summit 2020 about the critical role competition has in getting the economy running again post the COVID-19 crisis. Mr Sims stressed that we must protect the economic structure we had going into the crisis, and continue to work on reforms that can set us up for success post-crisis ([Link](#)).

ACCC (CONT)

- Wholesalers of medicines will be able to co-operate to facilitate distribution of essential medication and pharmacy products after being granted interim authorisation by the ACCC. This follows an application by the National Pharmaceutical Services Association (NPSA) to enable businesses to co-ordinate the supply, inventory management, distribution, logistics, and import of pharmaceuticals needed by consumers and hospitals ([Link](#)).
- The ACCC has granted interim authorisation allowing NBN Co and five retail service providers (RSPs) to work together to take measures necessary to keep Australia's telecommunications networks operating effectively during the COVID-19 pandemic as well as support consumers and small businesses adversely impacted by the pandemic. NBN Co and Australia's five biggest retail service providers have formed a special working group, which includes Telstra, Optus, Vodafone Hutchison, TPG and Vocus ([Link](#)).
- The ACCC has issued guidance to assist small businesses to understand their rights and obligations under the Australian Consumer Law when it comes to managing refunds and cancellations. See <https://www.accc.gov.au/media-release/small-business-guidance-about-refunds-and-cancellations-due-to-covid-19> for details.

ACCC (CONT)

- The ACCC has granted interim authorisation for insurance companies and brokers to work together to implement COVID-19 relief measures for certain small businesses. The authorisation applies to Suncorp, Allianz, and QBE Insurance, as well as any other insurers or insurance brokers who choose to take part, as long as they notify the ACCC. The package includes a range of measures, including that existing eligible business customers suffering hardship as a result of the COVID-19 pandemic are able to defer their insurance premium payments for up to six months. The package will apply to insurance premiums that fall due up until 30 June 2020 ([Link](#)).

ACCC (CONT)

- The ACCC has granted interim authorisation to shopping centre owners and managers to discuss and implement rent relief measures for small to medium shopping centre tenants facing hardship because of the COVID-19 pandemic. This follows an application by Shopping Centre Council of Australia Limited (SCCA) and Scentre Group. The ACCC has allowed shopping centre owners and managers to jointly develop a plan to help their small business tenants, including franchisees and licensees, which have a turnover of up to \$50 million pa. The plan could include an offer to defer or reduce rents and other payments, waive interest payments and extend leases ([Link](#)).
- The ACCC has granted interim authorisation to the Australian Energy Market Operator Limited (AEMO) to allow gas and electricity industry participants to co-operate on measures to ensure secure and reliable energy supply and integrity of wholesale markets during the COVID-19 pandemic. The energy sector participants are authorised to undertake measures, including those deemed necessary to minimise the risk of outages, and share resources if necessary to maintain and operate energy infrastructure and coordinate repairs and maintenance ([Link](#)).



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ACCC (CONT)

- The ACCC has granted interim authorisation for Medicines Australia (MA), the Generic and Biosimilar Medicines Association (GBMA) and their members to work together to support the continued supply of essential medicines during the COVID-19 pandemic. Medicines Australia's members include companies that invent, manufacture and supply medicines and vaccines in the Australian market, while GBMA members are involved in the production of generic and biosimilar medicines ([Link](#)).
- The ACCC has granted interim authorisation for major oil refiners and the Australian Institute of Petroleum (AIP) to discuss and put in place measures so fuel supplies remain available during the COVID-19 pandemic, and after the economic shutdown ends. The proposed authorisation will also apply to arrangements between AIP members and suppliers of crude oil and refined fuels, importers, suppliers of storage facilities and trucking or delivery services and wholesalers ([Link](#)).
- The ACCC reported that scammers are trying to exploit Australians financially impacted by the COVID-19 crisis with new superannuation scams being reported to Scamwatch in recent weeks ([Link](#)).

ACCC (CONT)

- The ACCC has granted interim authorisation for members of the Australian Securitisation Forum (ASF) for 12 months to work together to assist smaller lenders to maintain liquidity and issue loans to consumers and small businesses during the economic disruption caused by the COVID-19 pandemic. This follows the announcement of the federal government's \$15 billion Structured Finance Support Fund (SFSF), which will allow smaller authorised deposit-taking institutions (ADIs) and non-ADI lenders to access funding at competitive prices. The SFSF will be administered by the Australian Office of Financial Management (AOFM). The interim authorisation will allow ASF Members to coordinate their input about how the scheme will be administered ([Link](#)).
- The ACCC has granted interim authorization to private health insurers to co-ordinate on providing financial relief to policy holders during the COVID-19 pandemic, and broadening insurance coverage to include COVID-19 treatment, tele-health and medical treatment provided at home. The authorisation was granted following an application lodged by Private Healthcare Australia (PHA), Members Health Fund Alliance and the members of both groups ([Link](#)).

ASIC

- ASIC is helping listed companies raise capital quickly by giving temporary relief to enable certain 'low doc' offers (including rights offers, placements and share purchase plans) to be made to investors, even if they do not meet all the normal requirements. This will assist companies that need to raise funds from investors urgently because of the impact of COVID-19. ASIC will provide temporary relief to allow 'low doc' placements, rights issues and share purchase plans (SPP) where a listed company has been suspended for a total of up to 10 days in the previous 12-month period (up from 5 days previously) ([Link](#)).
- ASIC has written a letter to the real estate institutes in each state outlining concerns about some real estate agents who are advising tenants to apply for early release of their superannuation. ASIC is concerned that the conduct by real estate agents referred to above may constitute unlicensed financial advice in contravention of section 911A of the Corporations Act; or may not be in the best interests of individuals in contravention of section 961B of the Corporations Act ([Link](#)).

AUSTRAC

- AUSTRAC encourages reporting entities to monitor for new and emerging threats and to submit SMRs ([Link](#)). Particular areas which may be more vulnerable, including:
 - Targeting of government assistance programs through fraudulent applications and phishing scams.
 - Movement of large amounts of cash following the purchase or sale of illegal or stockpiled goods.
 - Out of character purchases of precious metals and gold bullion
 - Exploitation of workers or trafficking of vulnerable persons in the community.
 - An increase in the risk of online child exploitation following restrictions on travel.
 - A rise in extremist views either against members of the community or the government.
- AUSTRAC issued guidance on how to comply with KYC requirements during the pandemic, including relying on alternative processes to verify customer identity and practical examples of flexible KYC. See <https://www.austrac.gov.au/business/how-comply-and-report-guidance-and-resources/customer-identification-and-verification/kyc-requirements-covid-19> for details.



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ATO

- The ATO is announcing special arrangements this year due to COVID-19 to make it easier for people to claim deductions for working from home. The new arrangement will allow people to claim a rate of 80 cents per hour for all their running expenses, rather than needing to calculate costs for specific running expenses ([Link](#)).

IP Australia

- IP Australia has released their response plan to the current COVID-19 pandemic situation. For details, see <https://www.ipaustralia.gov.au/about-us/news-and-community/news/business-continuity-and-coronavirus-disease-covid-19-outbreak>

Safe Work Australia

- Safe Work Australia has published new information and resources for responding to COVID-19 ([Link](#)). New resources for employers include:

- Workplace checklist – to help employers identify what to do in the workplace
- How to keep workers safe – a fact sheet overview of what employers need to do
- 5 things to do in your workplace – infographic with practical steps employers can take

New industry-specific information include:

- Early childhood education and care
- In-house services – this includes child minding, domestic cleaning, garden and home maintenance, dog walking and minding, and trades entering a client's home
- Food processing and manufacturing
- Warehousing and logistics
- Public transport
- Fly-in fly out (FIFO) and drive-in drive-out (DIDO) workers
- Health and aged care providers
- NDIS providers
- Marine and airline workers

Safe Work Australia has also issued a Statement of Regulatory Intent for COVID-19 which outlines the enforcement approach of states to Work Health and Safety (WHS) laws during the COVID-19 pandemic.



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Complaints Management and Privacy

AFCA

- AFCA has activated its significant event response plan that identifies and fast-tracks COVID-19 related complaints ([Link](#)). Complaints about COVID-19 will be prioritised and fast-tracked to ensure those impacted have their issues resolved as quickly as possible. AFCA will take into account the circumstances and context in which lenders and other financial firms are currently operating when considering complaints. AFCA understands that firms may be putting in place alternate staffing arrangements and may not be in a position to quickly act on requests for information. For details, see www.afca.org.au/covid-19

AFSA

- On 25 March 2020, changes to Commonwealth bankruptcy law came into effect to support individuals and businesses ([Link](#)). The temporary debt relief measures include an increase to the:
 - Minimum amount of debt that can trigger bankruptcy from \$5,000 to \$20,000
 - Amount of time an individual has to respond to a Bankruptcy Notice from 21 days to six months
 - Temporary debt protection – people who submit the Temporary debt protection form will have six months relief from creditors, an increase from 21 days

These temporary measures will be available for six months. For details, visit www.afsa.gov.au/debtrelief

OAIC

- The OAIC has convened a National COVID-19 Privacy Team between the OAIC and states and territories with privacy laws to respond to proposals with national implications. As entities move fast to find solutions to public health and economic problems, Privacy Commissioners and Ombudsmen reiterate the value of conducting short-form Privacy Impact Assessments to help ensure personal information is handled in a way that is necessary, reasonable and proportionate ([Link](#)).



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Peak Industry Bodies

ABA

- The ABA has released an FAQ style guidance for customers during the COVID-19 pandemic. See <https://www.ausbanking.org.au/covid-19-relief-faqs/> for details.
- Businesses with total business loan facilities of up to \$10 million (up from the \$3 million small business threshold) will now be able to defer repayments for loans attached to their business for six months ([Link](#)). During this period banks have also agreed to not enforce business loans for non-financial breaches of the loan contract (such as changes in valuations). The new measures will apply in all sectors of the economy, and on an opt-in basis, under the conditions that:
 - For commercial property landlords, they provide an undertaking to the bank that for the period of the interest capitalisation, they will not terminate leases or evict current tenants for rent arrears as a result of COVID19
 - The customer has advised that its business is affected by COVID-19
 - The customer was current in terms of existing facilities 90 days prior to applying
 - Interest is capitalised – meaning either the term of the loan is extended or payments are increased after the deferral period.

ABA (CONT)

- The ABA has welcomed the new Code of Conduct for small and medium enterprises leasing principles during the COVID-19 pandemic. The Code outlines a set of principles which are fair and equitable to all parties. They will give clarity to banks when they are dealing with tenants and landlords experiencing financial stress during this difficult time ([Link](#)).
- The ABA welcomed the commencement of the SME Loan Guarantee Scheme. The scheme, which is available until 30 September 2020, allows banks and other lenders to offer SMEs new unsecured loans which have a 50% guarantee from the government. No payments are required from the business for the first six months ([Link](#)).

AusPayNet

- The Australian Payments Network (AusPayNet), the self-regulatory body for the payments industry, confirmed today that the payment industry will be increasing the PIN limit for contactless card payments from \$100 to \$200 to reduce the need for physical contact with the payment terminal ([Link](#)).

FSC

- The FSC has issued a statement on behalf of all FSC Life Insurance Code of Practice subscribers for death claims relating to coronavirus in Australia made under life insurance policies. See <https://www.fsc.org.au/resources/1991-fsc-statement-coronavirus-2/file> for details.

Standards Australia

- Standards Australia remains committed to working alongside business, government and the broader community through this challenging time in responding to COVID-19. COVID-19 is shifting the way industries work, with countless examples of manufacturers moving from product to product to meet domestic shortfalls. Standards underpin the products and services being manufactured at a rapid pace providing checks and guidelines agreed to by industry and governments for the benefit of the Australian community ([Link](#)).



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The Government

Business.gov.au

- Business.gov.au has released guidance for businesses during the COVID-19 pandemic. See <https://business.gov.au/risk-management/emergency-management/coronavirus-information-and-support-for-business> for details.
- The Government has announced the JobKeeper Payment. Affected employers will be able to claim a fortnightly payment of \$1,500 per eligible employee. Learn more about how the JobKeeper Payment can help employers and sole traders ([Link](#)).
- An International Freight Assistance Mechanism has been established to back Australia's agriculture and seafood export sectors ([Link](#)).
- Evictions will be put on hold for 6 months by the states and territories. Landlords and renters are encouraged to talk about short term agreements ([Link](#)).
- There are new restrictions on social gatherings and non-essential services that may impact businesses ([Link](#)).
- The Government has announced a mandatory code of conduct for commercial tenancies to support small and medium sized enterprises (SMEs) ([Link](#)).
- From 1 March to 30 June 2020, the Australian Taxation Office (ATO) is simplifying home office deduction rules so you can claim up to 80c cents per hour you work from home ([Link](#)).

Fair Work Commission

- The Fair Work Commission proposed to vary 103 awards to insert a new Schedule X - Additional measures during the COVID-19 pandemic under section 157 of the Fair Work Act 2009. The variation provides 2 weeks unpaid pandemic leave and the flexibility to take annual leave at half pay. The variations proposed would operate until 30 June 2020 ([Link](#)).

Legislation.gov.au

- The following COVID-19 related laws received royal ascent on 24 March 2020 ([Link](#)):
 - Guarantee of Lending to Small And Medium Enterprises (Coronavirus Economic Response Package) Act 2020
 - Australian Business Growth Fund (Coronavirus Economic Response Package) Act 2020
 - Structured Finance Support (Coronavirus Economic Response Package) Act 2020
 - Appropriation (Coronavirus Economic Response Package) Act (No. 1) 2019-2020
 - Appropriation (Coronavirus Economic Response Package) Act (No. 2) 2019-2020
 - Assistance for Severely Affected Regions (Special Appropriation) (Coronavirus Economic Response Package) Act 2020
 - Boosting Cash Flow for Employers (Coronavirus Economic Response Package) Act 2020
 - Coronavirus Economic Response Package Omnibus Act 2020
- The following COVID-19 related regulations were registered on 2 April 2020 ([Link](#)):
 - National Consumer Credit Protection Amendment (Coronavirus Economic Response Package) Regulations 2020
- The following COVID-19 related laws received royal ascent on 9 April 2020 ([Link](#)):
 - Coronavirus Economic Response Package Omnibus (Measures No. 2) Act 2020
 - Coronavirus Economic Response Package (Payments and Benefits) Act 2020



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The Government

NATIONAL CABINET

- The National Cabinet agreed that states and territories would implement a new mandatory Code of Conduct (SME Commercial Leasing Principles during COVID-19). The purpose of the Code is to impose a set of good faith leasing principles for application to commercial tenancies (including retail, office and industrial) between owners/operators/other landlords and tenants, where the tenant is an eligible business for the purpose of the Commonwealth Government's JobKeeper programme ([Link](#)).

TREASURY

- The Government has set reasonable expectations of energy companies to protect householders and small business customers during the COVID-19 pandemic, outlined today by the Australian Energy Regulator (AER) ([Link](#)). The AER's Statement of Expectations sets out a range measures, including:
 - Waiving any disconnection, re-connection and/or contract break fees for small businesses which have gone into hibernation, along with daily supply charges to retailers, during any period of disconnection until at least 31 July 2020;
 - Offering all households and small businesses who indicate they may be in financial stress a payment plan or hardship arrangement;
 - Not disconnecting customers who may be in financial stress, without their agreement before 31 July 2020 and potentially beyond;
 - Deferring referral of any customer to a debt collection agency for recovery actions, or credit default listing until at least 31 July 2020 and potentially beyond; and
 - Minimising the frequency and duration of planned outages for critical works, and providing as much notice as possible to assist households and businesses to manage during any outage.
- Effective from 29 March 2020, all proposed foreign investments into Australia subject to the Foreign Acquisitions and Takeovers Act 1975 will require approval, regardless of value or the nature of the foreign investor. The temporary change will be achieved by reducing to \$0 the monetary screening thresholds for all foreign investments under the Act. By temporarily reducing the foreign investment thresholds, the Australian Government will ensure appropriate oversight over all proposed foreign investment during this time. To ensure sufficient time for screening applications, the Foreign Investment Review Board (FIRB) will be working with existing and new applicants to extend timeframes for reviewing applications from 30 days to up to six months ([Link](#)).

TREASURY (CONT)

- The Government will provide a historic wage subsidy to around 6 million workers who will receive a flat payment of \$1,500 per fortnight through their employer, before tax. The JobKeeper payment will be paid to employers, for up to six months, for each eligible employee that was on their books on 1 March 2020 and is retained or continues to be engaged by that employer. Employers will receive a payment of \$1,500 per fortnight per eligible employee. Every eligible employee must receive at least \$1,500 per fortnight from this business, before tax. Eligible employers will be those with annual turnover of less than \$1 billion who self-assess that have a reduction in revenue of 30 per cent or more, since 1 March 2020 over a minimum one-month period. Employers with an annual turnover of \$1 billion or more would be required to demonstrate a reduction in revenue of 50 per cent or more to be eligible. JobSeeker Payment is subject to a partner income test. The Government is temporarily relaxing the partner income test to ensure that an eligible person can receive the JobSeeker Payment, and associated Coronavirus Supplement, providing their partner earns less than \$3,068 per fortnight, around \$79,762 p.a. ([Link](#)).
- The Government has passed legislation to support the Government's \$130 billion JobKeeper Payment. The \$1,500 per fortnight JobKeeper payment will be available to full-time and part-time workers, sole traders and casuals who have been with their employer for 12 months or more ([Link](#)).
- The Coronavirus SME Loan Guarantee Scheme has commenced. Under the Scheme, the Government will support up to \$40 billion of lending to SMEs with turnover of less than \$50 million, including sole traders and not-for-profit organisations, with the Government guaranteeing 50 per cent of new loans issued by eligible lenders until 30 September 2020 ([Link](#)).



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