

CLARITY

20
SPRING
PKF

UNCERTAINTY IN UNCERTAIN TIMES



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WELCOME TO THE SPRING EDITION OF CLARITY



Welcome to our Spring 2020 edition of Clarity. Our aim is to deliver greater clarity and understanding to our clients on the current and emerging accounting and audit issues. We also look to provide thought leadership, and share our knowledge and expertise, in areas that will solve problems and create solutions for clients. We hope you find this edition of value and please feel free to contact your local Audit and Assurance Partners for any further assistance.



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...it is important that Boards and Senior Management ensure their organisations have adequate controls in place to actively monitor, assess and respond to this type of expertly informed, publicly available, highly valuable intelligence
————— ”

IS YOUR AML/CTF PROGRAM EFFECTIVELY MANAGING RISK?

Almost 12 months on, are you confident your organisation responded appropriately to the Child Sexual Exploitation intelligence released by the Australian Transaction Reports and Analysis Centre (AUSTRAC) Fintel Alliance in November 2019?

The Australian Federal Police have made further arrests this month into child sexual exploitation as a result of information reported to AUSTRAC.

Back in November 2019, the highly successful private-public sector partnership ‘Fintel Alliance’ published learnings from two years’ worth of global law enforcement investigations into the sexual exploitation of children.

The paper provides indicators that can be used to identify behaviours that may indicate actual or suspected criminal activity associated with this heinous crime.

Whilst we have seen increased attention and emphasis placed on effective financial crime management over the last few years, it is important that Boards and Senior Management ensure their organisations have adequate controls in place to actively monitor, assess and respond to this type of expertly informed, publicly available, highly valuable intelligence.

With almost 12 months passed since the Child Sex Exploitation indicators were released, organisations should now be in a position to produce evidence that they have used this information to enhance their Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) controls, inclusive of changes to:

- Customer risk profiling;
- Transaction monitoring;
- Regulatory reporting;
- Training and refresher programs; and
- Financial crime investigations, reporting and analysis.



In order to demonstrate effective risk management, and a genuine desire to prevent, as opposed to potentially facilitate irreversible harm to the most vulnerable members of our community, organisations must ensure their AML/CTF program, is:

- Established, understood, and consistently implemented across the organisation;
- Operating as intended, with deficiencies known and being actively addressed with adequate Board and Senior Management oversight;
- Dynamic, with evidence of periodic and as needed updates to reflect and keep stakeholders well-informed of regulatory change and industry insight; and
- Managed by capable and sufficiently qualified and resourced personnel.

As further intelligence is released from the Fintel Alliance and other credible sources, organisations must ensure they maintain evidence of receipt, assessment, and appropriate action.

For AML/CTF advice and support, please reach out to the capable team at PKF today. We will discuss your needs and deliver a tailor made, independent and effective review or advisory service that will provide your organisation with an accurate view of the current state, along with value add enhancement suggestions to help drive continued framework maturity. ■

UNCERTAINTY ON UNCERTAINTY FOR NFPS

The recent reporting season has seen many Not-For-Profits (NFPS) ask the question 'what impact will the COVID-19 pandemic have on my financial statements?' The pandemic has significantly increased levels of uncertainty in the economy coupled with inherent levels of uncertainty in financial reports, leading to uncertainty on uncertainty.

While those charged with governance have battled hard to identify and respond to the impacts of the pandemic on operations, an increasing number of entities are now struggling to understand the impact that the pandemic has on their financial statements.

Below are the critical areas of financial statements which are being impacted by the COVID-19 pandemic, along with the response required by those charged with governance:

- **Directors/Operations Report** – those charged with governance must ensure their directors/operations report details the current impact from the pandemic (i.e. border restrictions, government funding) on the financial performance and position of the entity, in a manner in which users can comprehend and understand;
- **Events After the Reporting Period** – financial statements must include disclosure of the impacts on the entity post balance date and the extent to which these are known or uncertain;
- **Going Concern/Solvency** – notes to the financials should detail the impacts on going concern and management's responses to any impacts noted. Enhanced disclosures are required if events or conditions are identified that may cast significant doubt on the entity's ability to continue as a going concern;
- **Estimates and Judgements** – the pandemic has likely impacted key inputs and assumptions used in critical estimates and judgements, such as discount rates and future growth rates. All estimates and judgements need to be considered each reporting period and not simply 'rolled forward from the prior year';



- **Loans and Receivables** – recovery of loans and receivables has been pervasively impacted by the pandemic and this impact needs to be factored into any loss provisioning and disclosed appropriately in the financial statements;
- **Property and Financial Assets** – where assets are held at fair value, the underlying value may have been impacted by the pandemic. While the impact may not necessarily be negative, management are required to ensure that fair value calculations are appropriate given the current economic and market conditions; and
- **Impairment** – the assessment of impairment includes critical inputs, estimates and judgements which may have been significantly impacted. Management must assess whether any impairment indicators are present, consider whether impairment testing methodology is appropriate given the current economic conditions and disclose any impacts.

Regulators are looking for evidence that management and those charged with governance have documented their consideration and responses to the impacts of the COVID-19 pandemic on financial statements. In particular, the Australian Charities and Not-For-Profits Commission (ACNC) Governance Standard 5 details 'The duties of Responsible Persons', which requires charities to undertake reasonable steps to make sure that Responsible Persons are subject to, understand and carry out the duties set out in the standard.

It is critical that users of financial statements have the entire picture of the impact of the pandemic on entities' financial performance and position. Even if the pandemic has not had a material adverse impact, users need to be able to understand this from their reading of the financial statements.

Please contact your local PKF office if you require any support or guidance. ■



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”



CASUAL EMPLOYEES AND LEAVE: TO DISCLOSE OR NOT TO DISCLOSE?

The landmark *Workpac v Rossato* case had caused significant confusion around casual employees and potential leave entitlements following a casual employee engaged by a labour hire firm to work at a mine successfully claiming leave entitlements. Currently, beyond the case law casual employees do not have access to any leave entitlements apart from long service leave (subject to state legislation).

The Australian Securities and Investments Commission (ASIC) recently confirmed their key focus areas for the financial reporting season and declared that “Companies should consider whether they should provide for additional employee entitlements (including annual leave, personal and carer’s leave, compassionate leave, public holiday pay, and redundancy payments) for past and present ‘casual employees’ who were employed in circumstances covered by the *Rossato* decision.”

What does ASIC’s guidance mean for business?

ASIC expects you to take up a provision, contingent liability or other disclosure in the 2020 financial report if you fall into the category similar to *Rossato* or you engage casual employees who may potentially fall into the circumstances covered by *Rossato*.

What does it mean for this year’s financial report?

Depending on the circumstances of your casual employees, you may find yourself having to disclose a contingent liability, or even account for a provision if there is a chance you may need to pay these entitlements in the future. The chance of a future appeal does not alleviate the need for a provision or contingent liability in your 30 June 2020 financial report.

The table on the next page outlines some potential scenarios and how they may apply to you for your 30 June 2020 financial report:

When calculating the potential impact, it is important to note that in the *Rossato* case



there was no allowance for the offset of casual loadings to reduce the entitlement liability. Therefore, any contingent liabilities or employee entitlements to be included in your financial report should use the same basis.

Please contact your local PKF office if you require any support or guidance. ■



“When calculating the potential impact, it is important to note that in the Rossato case there was no allowance for the offset of casual loadings to reduce the entitlement liability.”

Accounting Treatment	Application	Financial Impact
<p>Contingent liability under AASB 137 Provisions, Contingent Liabilities and Contingent Assets</p>	<p>CA contingent liability would sometimes be necessary where there is the potential for a future payment of entitlements to casual employees, but the obligation is not yet fully known, or the amount cannot be reliably determined.</p> <p>This may arise where:</p> <ul style="list-style-type: none"> casual employees are similar but not exactly aligned with the Rossato scenario for casuals; and the potential cost of payments to past and present casual employees is material. 	<p>Disclosure only.</p> <p>The disclosure should include:</p> <ul style="list-style-type: none"> description of the liability; details about what has caused the liability (i.e. the effect of the Rossato case); and quantification of the potential future payments due (where possible).
<p>Provision or accrual of employee benefits due to casuals under AASB 119 Employee Benefits</p>	<p>This will only be necessary where there is a known obligation to make entitlement payments to your casual employees who are impacted.</p> <p>This could arise where:</p> <ul style="list-style-type: none"> your casual workforce is closely aligned with that of the Rossato case meaning there is a high probability that entitlements will need to be paid; it has been agreed by management that the amounts will be paid; or there has been successful court action against your business relating to paying entitlements to casuals. 	<p>Dr Employee costs Cr Employee entitlements</p> <p>Depending on the circumstances that arise, the amount may need to be adjusted through retained earnings or directly as an expense in the year in which the provision is made.</p>





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“ This means a ransomware attack, a computer system failure, or the sudden disappearance of a cloud service could require Australian businesses operating in New Zealand to report when data can't be accessed and where the loss of access causes harm ”

NEW PRIVACY LAWS IN NEW ZEALAND COULD AFFECT AUSTRALIAN BUSINESSES

From December 2020, New Zealand's privacy laws will change. Businesses will have to report for the first time when data becomes inaccessible, as well as when it is accessed by unauthorised parties. This is a significant difference in practical interpretation of the Australian laws to date and will have implications for businesses that operate in either jurisdiction.

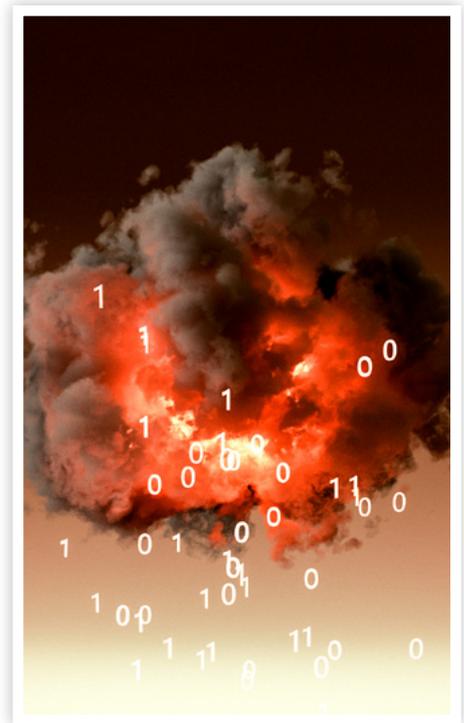
This means a ransomware attack, a computer system failure, or the sudden disappearance of a cloud service could require Australian businesses operating in New Zealand to report when data can't be accessed and where the loss of access causes harm.

Australian businesses that are subject to the [Australian Privacy Principles](#) must ensure personally identifiable information (PII) is protected and have procedures for notifying affected parties and the Office of the Australian Information Commissioner (OAIC) if there's a data breach. Australian laws do not stop companies from reporting a loss of access but the OAIC's biannual reporting puts the focus squarely on breaches and not loss of access.

Section 117 (1) of the [New Zealand Privacy Bill](#) defines a privacy breach as either "unauthorised or accidental access to, or disclosure, alteration, loss, or destruction of, the personal information; or an action that prevents the agency from accessing the information on either a temporary or permanent basis."

Ransomware and denial of service attacks can make data inaccessible – potentially forever. Even a system outage that limits customers from accessing PII could result in a business being obligated to notify the New Zealand Privacy Commissioner. These are not reportable to OAIC although ASX listed companies need to provide information to the Australian Securities and Investments Commission (ASIC) under [ASX Listing Rule 3.1](#) if there's an event that a reasonable person would expect to have a material impact on the value of a company.

There are thousands of ransomware attacks in Australia each year and [recent data](#) shows that denial of service attacks that block access to systems are increasing in number and magnitude. Accidental errors such as forgetting to review a software license agreement or hardware failure can result in a loss of data access.



The New Zealand legislation reminds us that serious harm can be caused by the loss of access to PII. Only time will tell if OAIC and the courts will consider loss of access to PII in due course.

Even if your company doesn't conduct business in other overseas jurisdictions it's a good idea to ensure your privacy controls and response plans consider the loss of access to PII as well as disclosure to unauthorised persons. Organisations handling PII of Australian residents should consider changes in their incident and reporting processes for loss of access to PII as well as ensuring safeguards to protect against loss of access and quick recovery of lost PII data.

Businesses need processes in place to minimise the risk of loss of data access. This isn't just to meet a regulatory or compliance requirement. It makes good business sense. ■

GOVERNANCE AND SENSE – FOR DIRECTORS



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The recent decision by the government to extend the insolvent trading relief out to at least 2021 has been greeted with a mixed response – on the one hand, it is hoped that this will allow viable businesses to recover and prevent further job losses, therefore helping protect the economy.

Alternatively, the relief may be shielding the “walking dead” businesses which could actually benefit from restructuring initiatives facilitated by the insolvency professionals.

In addition, the relief for directors from personal liability has been extended for companies that may be trading while insolvent. However, could this provide directors with a false sense of security, or a level of complacency? For instance, are directors aware that the recent temporary law changes do not protect them from personal liability that may arise in relation to unpaid GST, superannuation or PAYG amounts?

Now, more than ever, there is a need for strong and effective governance within companies. Directors should have greater visibility over their operations and set enhanced expectations of the information provided to them by the executive management teams. This requires a greater focus on the ‘four Rs’ in the information provided, being:

- The **right** information
- Of the **right** quality
- Of the **right** quantity
- Of the **right** timeliness

This is because, although there has been more certainty in NSW recently and with there being a new “way of life”, we only need look at Victoria to see how the COVID situation can escalate quickly. Therefore, it is critical that companies adopt dynamic modelling, with forecasts that are challenged, flexed and updated on a regular basis, and with various scenarios being applied and considered.

In addition, there has never been a greater need to adopt a “fit for purpose” risk management approach so that potential events that may impact the business are identified, managed and mitigated. This includes appropriate crisis management plans established and ready to operate.

A continued focus on internal controls and compliance is also vital, as the opportunities for internal and external fraud has been heightened in this COVID period, with scaled down resources in many businesses and a focus

on “greater” priorities, such as the survival of operations. It must not be forgotten that a large fraud or compliance breach would also have a significant impact on the reputation and viability of a company.

In summary, directors and management need to work closely together and continue to maintain effective governance, strong culture and high ethical standards in these challenging times. Directors should be confident in receiving information that has clarity and consistency to assist them in making informed decisions without exposing them to personal financial risk. This is represented by the following diagram:



Banks have been very supportive of businesses in recent months, but they are already preparing to deal with impending failures. Of course, directors should be optimistic and supportive of their company’s position, but they should be inquisitive, ask questions and challenge management, and form realistic expectations.

If directors have any concerns, they should seek advice from restructuring experts early, and not before it is too late, otherwise they run the risk of personal exposure. Restructuring initiatives are not always the end game but often deliver a rehabilitated and improved business.

PKF would be pleased to assist directors with any queries that they may have regarding governance and risk management, or alternatively restructuring advice. ■

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About PKF

PKF brings clarity to business problems with simple, effective and seamless solutions that break down barriers for sustainable growth.

PKF Australia firms are members of the PKF International Limited (PKFI) network of legally independent firms in 440 offices, operating in 150 countries across five regions.

In Australia, PKF offers clients the expertise of more than 94 Partners and 750 staff, across audit, taxation and specialist advisory services.

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Our values

- Passion
- Teamwork
- Clarity
- Quality
- Integrity



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