

**TABLE OF COVID – 19 FEDERAL TAX, CASH FLOW, REGULATORY
AND STIMULUS MEASURES**

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SUPPORT FOR BUSINESS	
Measure	Mills Oakley Comment
<p>1. Enhancing the instant asset write-off</p> <p>The instant asset write-off (IAWO) threshold is increased from \$30,000 to \$150,000 with expanded access to include businesses with aggregated annual turnover of less than \$500 million (up from \$50 million).</p> <p>Timing This applies from 12 March 2020 until 30 June 2020, for new or second-hand assets first used, or installed ready for use in this timeframe.</p>	<p>This measure can apply to financed assets, such as using an existing loan facility or a new chattel mortgage where the <i>business itself</i> owns the asset and claims the write-off. It will not apply where the finance company owns the asset under a rental, finance lease or operating lease agreement.</p>
<p>2. Backing business incentive</p> <p>This is a 15-month investment incentive to support business investment and economic growth over the short-term, by accelerating depreciation deductions.</p> <p>A deduction of 50% of the cost of an eligible asset on installation will apply, with existing depreciation rules applying to the balance of the asset’s cost.</p> <p>Eligibility Eligible businesses are businesses with aggregated turnover below \$500 million.</p> <p>Eligible assets are new assets that can be depreciated under Division 40 of the Income Tax Assessment Act 1997 (that is, plant, equipment and specified intangible assets, such as patents). This does not apply to second-hand Division 40 assets, or buildings and other capital works write-offs under Division 43.</p> <p>Timing This applies to assets acquired from 12 March 2020 and first used or installed by 30 June 2021.</p>	<p>This measure applies to <i>new</i> assets. This would include new depreciable assets that are <i>integral with buildings</i>, even though the building works component does not qualify.</p> <p>The measure accelerates depreciation deductions of the business itself, so as mentioned above, it could apply to financed assets where the <i>business itself</i> owns the asset.</p> <p>To qualify the asset must not be one to which an entity:</p> <ul style="list-style-type: none"> • has applied the instant asset write-off rules; or • relate to certain Division 40 assets subject to low value and software development pools or certain primary production assets. <p>So, effectively, together with the instant asset write-off rules (Measure 1), the accelerated depreciation deduction generally applies to assets with a cost of:</p> <ul style="list-style-type: none"> • \$150,000 or more in the 2019–20 income year; and • \$1,000 or more in the 2020–21 income year

<p>3. ATO Administrative relief</p> <p>The ATO will provide administrative relief for some tax obligations for people affected by the coronavirus outbreak, on a case-by-case basis.</p> <p>Businesses impacted by the coronavirus are encouraged to get in touch with the ATO to discuss relief options. Options available to assist impacted businesses include:</p> <ul style="list-style-type: none"> • deferring by up to four months the payment date of amounts due through the business activity statement (BAS, including PAYG instalments), income tax assessments, FBT assessments and excise • allowing businesses on a quarterly reporting cycle to opt into monthly GST reporting in order to get quicker access to GST refunds they may be entitled to • allowing businesses to vary Pay As You Go (PAYG) instalment amounts to zero for the March 2020 quarter; businesses that vary their PAYG instalment to zero can also claim a refund for any instalments made for the September 2019 and December 2019 quarters • remitting any interest and penalties, incurred on or after 23 January 2020, that have been applied to tax liabilities, and • working with affected businesses to help them pay their existing and ongoing tax liabilities by allowing them to enter into low-interest payment plans. <p>Employers will still need to meet their ongoing super guarantee obligations for their employees.</p> <p>To make it easier for people to apply for relief, the ATO will be increasing its presence in the areas of highest impact. A temporary shopfront with staff specialising in assisting small business will be established in Cairns within the next few weeks. It will also consider ways to enhance its presence in other significantly affected regions. Additional temporary shopfronts and face-to-face options are currently under consideration.</p> <p>The ATO will also continue to work with the tax profession, other government agencies and local organisations to make sure other impacted communities are also supported.</p> <p>Outside of business, the ATO will also work with individuals experiencing financial hardship, and their tax agents, and will apply appropriate tax relief measures for</p>	<p>Be aware that if BAS lodgements are not made on time, there may be personal liability for superannuation guarantee charge, PAYG withholdings on employees' wages and more recently GST under the Director Penalty Notice (DPN) regime.</p> <p>Even if payment cannot be made on time, it is critical to ensure timely lodgement. Businesses would need to be able to pay at the deferred payment date or face potential liquidation and/or personal liability.</p> <p>The Tax Office has since clarified its position on its discretion to defer the PAYG withholding, GST and excise obligations of large withholders (more than \$1m pa):</p> <p>“The ATO has taken a position not to exercise the discretion to defer the PAYGW, GST and excise obligations of large withholders, except in circumstances where an insolvency event is imminent, and the large withholder can demonstrate that they don't have access to other sources of funding (e.g. loan facilities, equity contributions from new or existing shareholders, realisation of liquid assets), and the granting of a deferral would result in the large withholder remaining a going concern,” the ATO said.</p> <p>The ATO said it would now hold a strict line on granting deferrals, with each case to be considered by a panel of senior executive officers.</p> <p>The ATO has also noted that a business's ability to pay the tax at the deferred payment date would also factor in significantly in its approval process, with directors cautioned on their obligations.</p>
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<p>serious and exceptional circumstances, such as where people cannot pay for food or accommodation.</p> <p>Unlike the ATO bushfire relief measures, which applied automatically to particular geographic areas, assistance measures for those impacted by COVID-19 will not be automatically implemented. Anyone impacted by COVID-19 should contact the ATO to request assistance on its Emergency Support Infoline 1800 806 218.</p>	
<p>4. Boosting cash flow for employers</p> <p>This measure provides up to \$100,000 to eligible small and medium sized businesses and not-for-profits (including charities) that employ people, with a minimum payment of \$20,000. These payments will help business and not-for-profit cash flow so they can keep operating, pay their bills and retain staff.</p> <p>For the period from 12 March to 30 June 2020 employers will receive a Boosting Cash Flow payment equal to 100% of their PAYG withheld (per BASs lodged for the quarters ended 31 March or 30 June 2020 or per BASs lodged for the months of March, April, May and June 2020), with a:</p> <ul style="list-style-type: none"> • minimum payment of \$10,000; and • maximum payment of \$50,000. <p>An Additional Payment applies for the July – October 2020 period. Eligible entities will receive an additional payment equal to the total of all the initial Boosting Cash Flow for Employers payments they have received for the period to 30 June 2020. This means that eligible entities will receive at least \$20,000, up to a total of \$100,000 under both payments.</p> <p>The cash flow boost provides a <i>tax-free</i> payment to employers. The Government will automatically calculate it.</p> <p>Eligibility for Boosting Cash Flow for Employers payments</p> <p>Small and medium sized business entities and NFPs with aggregated annual turnover under \$50 million and that employ workers will be eligible. Eligibility will generally be based on prior year turnover.</p> <p>The Government will deliver the payment as an automatic credit in the activity statement system from 28 April 2020 upon employers lodging eligible upcoming activity statements.</p>	<p>The cash boost payments are to be calculated automatically based on Business Activity Statement (BAS) lodgements and will be tax-free.</p> <p>A key aspect is therefore lodging correctly prepared BAS on time to ensure payments flow in a timely fashion.</p> <p>If lodgements are incorrect there may be a clawback of entitlements. If the error is due to lack of reasonable care or worse (recklessness or fraud) there may be penalties and interest charges as well.</p> <p>Refer to Measure 17 which refers to ATO and TPB action on fraudulent schemes to exploit the COVID-19 relief, particularly measures such as this.</p>

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Eligible employers that withhold tax to the ATO on their employees' salary and wages will receive a payment equal to 100% of the amount withheld, up to a maximum payment of \$50,000.

Eligible employers that pay salary and wages will receive a minimum payment of \$10,000, even if they are not required to withhold tax.

The payments will only be available to active eligible employers established before 12 March 2020. However, charities that are registered with the Australian Charities and Not-for-profits Commission will be eligible regardless of when they were registered, subject to meeting other eligibility requirements. This recognises that new charities may be established in response to COVID-19.

Eligibility for additional payment

To qualify for the additional payment, the entity must continue to be active.

Monthly activity statement lodgers

For monthly activity statement lodgers, the additional payments will be delivered as an automatic credit in the activity statement system. This will be equal to a *quarter* of their total initial Boosting Cash Flow for Employers payment following the lodgement of their June 2020, July 2020, August 2020 and September 2020 activity statements (up to a total of \$50,000).

Quarterly activity statement lodgers

For quarterly activity statement lodgers, the additional payments will be delivered as an automatic credit in the activity statement system. This will be equal to *half* of their total initial Boosting Cash Flow for Employers payment following the lodgement of their June 2020 and September 2020 activity statements (up to a total of \$50,000).

Timing of Boosting Cash Flow for Employers payments

The Boosting Cash Flow for Employers payment will be applied to a limited number of activity statement lodgements. The Government will deliver the payment as a credit to the entity upon lodgement of their activity statements. If this places the entity in a refund position, the refund will be delivered within 14 days.

Quarterly lodgers

Eligible period	Lodgement due date
Quarter 3 (January, February and March 2020)	28 April 2020
Quarter 4 (April, May and June 2020)	28 July 2020

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Monthly lodgers

Eligible period	Lodgement due date
March 2020	21 April 2020
April 2020	21 May 2020
May 2020	22 June 2020
June 2020	21 July 2020

Quarterly lodgers will be eligible to receive the first payments for the quarters ending March 2020 and June 2020.

Monthly lodgers will be eligible to receive the first payments for the March 2020, April 2020, May 2020 and June 2020 lodgements. To provide a similar treatment to quarterly lodgers, the payment for monthly lodgers will be calculated at three times the rate (300%) in the March 2020 activity statement.

The minimum payment will be applied to the entities' first lodgement.

Timing of additional payment

The additional payment will be applied to a limited number of activity statement lodgements. The payment will be delivered as a credit to the entity upon lodgement of their activity statements. If this places the entity in a refund position, the refund will be delivered within 14 days.

Quarterly lodgers

Eligible period	Lodgement due date
Quarter 4 (April, May and June 2020)	28 July 2020
Quarter 1 July, August and September 2020)	28 October 2020

Monthly lodgers

Eligible period	Lodgement due date
June 2020	21 July 2020
July 2020	21 August 2020
August 2020	21 September 2020
September 2020	21 October 2020

Quarterly lodgers will be eligible to receive the additional payment for the quarters ending June 2020 and September 2020. Each additional payment will be equal to half of their total initial Boosting Cash Flow for Employers payment (up to a total of \$50,000).

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<p>Monthly lodgers will be eligible to receive the additional payment for the June 2020, July 2020, August 2020 and September 2020 lodgements. Each additional payment will be equal to a quarter of their total initial Boosting Cash Flow for Employers payment (up to a total of \$50,000).</p>	
<p>5. Assistance for apprentices and trainees and the aviation sector</p> <p>Schedule 1AB to the <i>Financial Framework (Supplementary Powers) Regulations 1997</i> has been amended to establish legislative authority for government spending on new measures to:</p> <ul style="list-style-type: none"> • assist employers to retain apprentices and trainees. • provide financial assistance to participants in the Australian aviation sector to assist with the impact on the sector of the Coronavirus. <p>Apprentices and trainees</p> <p>Funding under the assistance for apprentices and trainees’ package will be provided:</p> <ul style="list-style-type: none"> • for wage subsidies as part of the Australian Apprenticeships Incentives Program to: <ul style="list-style-type: none"> ○ support small businesses (including those using a Group Training Organisation) to retain their existing apprentices and trainees, and ○ support businesses of any size and Group Training Organisations to re-engage apprentices and trainees displaced from small businesses; • to Australian Apprentice Support Network providers, under their existing contractual arrangements with the Department of Education, Skills and Employment, to support implementation of the initiative; and • to the National Apprentice Employment Network to co-ordinate reemployment of displaced apprentices throughout their network of host employers across Australia. <p>To be eligible for a wage subsidy to retain an apprentice/trainee, a business will need to have employed the apprentice/trainee at the designated date of 1 March 2020 and provide evidence of wages paid.</p> <p>To be eligible for a re-employment subsidy, a displaced apprentice/trainee must have been employed by a small business at the designated date of 1 March 2020 and have been released from their apprenticeship/traineeship by their employer.</p>	<p>See below Measure 6 and reference to Decisions included in the Appropriation Act No. 1 regarding apprentices and trainees:</p> <ul style="list-style-type: none"> • to provide support for small businesses to retain their apprentices and trainees by providing a wage subsidy of 50 per cent of the apprentices’ or trainees’ wage, capped at \$7,000 per quarter per eligible apprentice; • for up to nine months from 1 January 2020 to 30 September 2020. <p>This measure will support up to 70,000 businesses, employing around 117,000 apprentices and trainees</p>

Details about how to claim wage and re-employment subsidies and eligibility criteria will be set out in the Australian Apprenticeships Incentives Program Guidelines, which will be amended to give effect to the measure.

Aviation sector

Initially this measure will provide financial assistance for airlines and airports who are bearing the brunt of the impact of the dramatic reductions in international and domestic air travel due to the Coronavirus. The assistance will include:

- reimbursing airlines to give effect to a waiver of aviation fuel excise;
- providing a rebate to airline operators for domestic aviation screening costs; and
- providing additional funding for infrastructure implementation costs and operational costs associated with enhanced security requirements at regional airports.

Waiver of aviation fuel excise

Airlines currently pay excise of 3.556 cent per litre on all aviation fuel consumed for domestic aviation operations.

Under this measure, the Government will provide a rebate to airlines for aviation fuel excise, paid on acceptance of a valid fuel invoice from the airlines.

Rebate to airline operators for domestic security screening

Security screening services for air travel are generally provided by airports to airlines. While the Australian Government sets screening standards, charges for these services are determined by commercial negotiations between airlines and airports.

Under this measure, airlines will receive a rebate from the Government for domestic aviation security costs, paid on acceptance of a valid invoice from the airlines. The invoice would need to contain sufficient information on security costs, which would need to be provided by the airports.

Funding for costs associated with enhanced security requirements at regional airports

Enhanced security screening requirements at regional airports are being introduced, which require a range of infrastructure modifications to accommodate expanded or larger equipment and processing areas. Under this measure, the Government will provide additional funding to airport operators to complete regional airport security infrastructure works if required for enhanced security screening requirements. The Government will also temporarily fund, under this measure, ongoing operational

<p>costs (largely staffing) associated with enhanced regional aviation security screening.</p>	
<p>6. Appropriation (Coronavirus Economic Response Package) Act (No. 1)</p> <p>Decisions included in the Appropriation Act No. 1</p> <p>The Appropriation Act No. 1 proposes appropriations totalling \$1.651 billion. The majority of appropriations proposed in the Bill are for the Department of Education, Skills and Employment, the Department of Health and the Department of Infrastructure, Transport, Regional Development and Communications. Specific items for these entities are detailed below:</p> <ul style="list-style-type: none"> • the Department of Education, Skills and Employment (\$273.6 million) including: <ul style="list-style-type: none"> ○ \$188.6 million, to provide support for small businesses to retain their apprentices and trainees by providing a wage subsidy of 50 per cent of the apprentices’ or trainees’ wage, capped at \$7,000 per quarter per eligible apprentice, for up to nine months from 1 January 2020 to 30 September 2020. This measure will support up to 70,000 businesses, employing around 117,000 apprentices and trainees; and ○ \$85.0 million to provide the Employment Services program with sufficient funding to meet potential demands. • the Department of Health (\$571.6 million) including: <ul style="list-style-type: none"> ○ \$234.9 million to ensure continuity of the aged care workforce for residential and home care; ○ \$113.5 million to establish and operate dedicated respiratory clinics to assist with diagnosing and managing respiratory cases, including the Coronavirus, influenza, and pneumonia; ○ \$69.1 million to support a key public health national information campaign; ○ \$48.0 million will be provided to support aged care providers experiencing the Coronavirus outbreak; ○ \$29.1 million to support remote communities to minimise exposure through planning and preparedness activities, early retrieval and evacuation of at-risk patients, and emergency support in the event of acute the Coronavirus outbreak; ○ \$18.0 million establish a Central Patient Coronavirus Triage Hotline to advise people whether to attend a hospital, clinic, to self-isolate at home, to consult a General Practitioner or to take no further action; 	

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<ul style="list-style-type: none"> ○ \$13.4 million to contract expert training providers to train staff in medical clinics and the broader primary care sector; ○ \$12.5 million for pharmacy businesses to fill prescriptions and deliver them to homes of eligible Coronavirus patients and other at-risk populations in self isolation; ○ \$9.1 million additional resourcing for the National Incident Room to respond to the Coronavirus; ○ \$5.1 million to provide pathology testing for the Coronavirus in aged care facilities; ○ \$5.0 million to accelerate implementation of electronic prescribing (ePrescribing) used by clinicians to prescribe medicines and share prescriptions electronically with a patient’s pharmacy; ○ \$5.0 million to temporarily boost the health workforce in Australia during the Coronavirus outbreak; ○ \$2.8 million for the expansion of existing surveillance, modelling and data activities to include the Coronavirus; and ○ \$6.1 million to support the continuity of the aged care work force and additional funding for the My Aged Care contact centre.2.8 ● The Department of Infrastructure, Transport, Regional Development and Communications (\$437.0 million) for airline relief including: <ul style="list-style-type: none"> ○ \$250.0 million in relation to the waiver of Airservices Australia charges for domestic airlines; ○ \$108.0 million for domestic aviation security rebates to airlines; ○ \$33.0 million for enhanced regional aviation security requirements at regional airports; ○ \$31.0 million for relief from aviation fuel tax for airlines; and ○ the Civil Aviation Safety Authority (\$15.0 million) to continue to deliver aviation safety activities. 	
<p>7. Appropriation (Coronavirus Economic Response Package) Act (No. 2)</p> <p>Decisions included in the Appropriation Act No. 2 The Appropriation Act No. 2 proposes appropriations totalling \$744.2 million for the following entities:</p> <ul style="list-style-type: none"> ● the Department of Health (\$740.0 million) with \$700.0 million for purchasing personal protective equipment for the National Medical Stockpile, including surgical and P2 masks, surgical gowns, gloves, and goggles. A further \$40.0 	

<p>million will be provided to purchase antibiotics and antivirals for the National Medical Stockpile;</p> <ul style="list-style-type: none"> the Department of Education, Skills and Employment (\$3.8 million) to facilitate support for small businesses to retain their apprentices and trainees by providing a wage subsidy of 50 per cent of the apprentices’ or trainees’ wage, capped at \$7,000 per quarter per eligible apprentice, for up to nine months from 1 January to 30 September 2020. This measure will support up to 70,000 businesses, employing around 117,000 apprentices and trainees; and the Department of Veterans’ Affairs (\$0.4 million) to facilitate stimulus payments to eligible Department of Veterans’ Affairs clients. 	
<p>8. JobKeeper Payment – Wage subsidy plan</p> <p>Wage subsidy plan in response to COVID-19, 31 March 2020</p> <p>The federal government has announced that it will provide eligible employers who have taken a significant financial hit as a result of the COVID-19 outbreak with the funds to pay their full-time, part-time and long-term casual employees \$1,500 per fortnight.</p> <p>The JobKeeper Payment will be paid to employers, for up to six months, for each eligible employee who was on their books on 1 March 2020 and is retained or continues to be engaged by that employer (including those who have been stood down).</p> <p>When will payments be made?</p> <p>The program will commence on 30 March 2020, with the first payments to be received in the first week of May from the Australian Taxation Office.</p> <p>Eligible employers</p> <p>Eligible employers will be those with:</p> <ul style="list-style-type: none"> an annual turnover of less than \$1b who self-assess as having a reduction in revenue of 30% or more since 1 March 2020, and an annual turnover of \$1b or more who demonstrate a reduction in revenue of 50% or more. <p>Eligible employers include businesses structured through companies, partnerships, trusts and sole traders. Not-for-profit entities, including charities, will also be eligible.</p> <p>Businesses subject to the Major Bank Levy will not be eligible.</p>	<p>Reference should be made to Mills Oakley’s Workplace Relations, Employment and Safety Group for advice on this proposed measure:</p> <p>https://www.millsoakley.com.au/expertise/workplace-relations-employment-safety/</p> <p>Parliament introduced and passed proposed legislation for this measure on 8 April 2020.</p> <p>In addition, reference should be made to the Mills Oakley flyer COVID-19 Employer Guide on what you can and cannot do; and newsletter New rights and flexibilities for employers to manage employees in the Covid-19 environment</p> <p>The Fair Work Act is to be amended to temporarily enables employers to issue JobKeeper enabling directions. These can provide (subject to various safeguards) for increased flexibility around employees’ hours of work via a new JobKeeper enabling stand down direction, performance of duties and location of work. It also enables employers and employees to make agreements for increased flexibility around annual leave arrangements and days and times of work. The Fair Work Commission will be able to resolve disputes by arbitration.</p> <p>JobKeeper also requires qualifying employers to meet minimum payment obligations to employees who are subject to these arrangements by ensuring that at least the value of JobKeeper payments they receive through the Commissioner is passed on to</p>

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On 2 April 2020 the Treasurer announced that for businesses to qualify for the JobKeeper Payment, they must be able to demonstrate either the 30% or 50% fall in turnover as compared to the year before. This is based on turnover in a one-month or three-month period, depending on the usual activity statement reporting period of the business.

The Tax Commissioner will have the discretion to determine that a business qualifies for the payment, even if for some reason the business is unable to satisfy the criteria. The ATO can consider additional factors put forward to demonstrate a business has been impacted, e.g. where the business was not operating a year before, or if the previous year's turnover was not representative of its usual turnover.

Alternative tests to satisfy the criteria in certain circumstances may also be provided by the Tax Commissioner, e.g. if a business has ceased or its operations significantly reduced. As the applications will require employers to make an estimate about expected fall in turnover, there will be some tolerance if the actual fall is slightly smaller than estimated by the employer.

Eligible employees

Full-time and part-time employees, including stood down employees, would be eligible to receive the JobKeeper Payment. Where a casual employee has been with their employer for at least the previous 12 months, they will also be eligible for the payment. An employee will only be eligible to receive this payment from one employer.

Eligible employees include Australian residents, New Zealand citizens in Australia who hold a subclass 444 special category visa and migrants who are eligible for JobSeeker Payment or Youth Allowance (Other).

Self-employed individuals are also eligible to receive the JobKeeper Payment.

Applying for the payment

Eligible businesses can apply for the payment online and are able to register their interest via www.ato.gov.au/general/gen/JobKeeper-payment/

Participating employers will be required to ensure eligible employees will receive, at a minimum, \$1,500 per fortnight, before tax. Employers can choose if they want to pay superannuation on any additional wage paid because of the JobKeeper Payment.

such employees each fortnight, or the amount they would receive for the work they have performed if that would be greater. It also includes rules about the accrual of service and calculation of benefits in certain circumstances.

The Commissioner of Taxation will have general administration of the JobKeeper payments. Details of eligibility for particular payments as well as the amount of payments and the time when they are to be paid are to be set out in rules made by the Treasurer. This allows for flexibility of the arrangements to introduce and modify payments to appropriately respond to the impacts of COVID-19.

Regarding the turnover test, Treasury has now clarified that:

- Turnover will be defined according to the current calculation for GST purposes as reported on business activity statements. It will include all taxable supplies and all GST-free supplies but not input-taxed supplies. Only Australian-based sales will be included.
- Only one partner in a partnership can be nominated to receive the JobKeeper payments.
- Where beneficiaries of a trust only receive distributions, rather than being paid salary and wages for work done, one individual beneficiary can be nominated to receive the JobKeeper payment.
- Eligible businesses will also only be allowed to nominate one director to receive the payment and that individual may not receive the payment as an employee.
- An eligible business that pays shareholders that provide labour in the form of dividends will only be able to nominate one shareholder to receive the JobKeeper payment.

Contrived schemes and consequences

Under the bills introduced, if one or more entities (these entities are referred to as participants) enter into or carry out a scheme for the sole or dominant purpose of obtaining a Coronavirus economic response payment or an increased amount of a Coronavirus economic response payment for an entity (whether or not a participant), then the Commissioner may make a determination

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	<p>regarding the scheme. The Commissioner may determine that the entity was never entitled to a payment or the amount to which the entity was entitled was always the amount specified by the Commissioner in the determination. In addition to the new scheme provisions, there is an extensive existing framework of penalties that can apply.</p>
<p>9. Assistance for Severely Affected Regions</p> <p>The Assistance for Severely Affected Regions Act gives effect to the Government’s commitment to set aside \$1 billion to support regions, communities and industry sectors most severely affected by the Coronavirus. The funds will be available to assist during the next few months and over the year ahead to ensure these communities are well placed to recover from the economic effects of the Coronavirus.</p> <p>The support provided by the Assistance for Severely Affected Regions Act initially include:</p> <ul style="list-style-type: none"> • funds to reimburse the Great Barrier Reef Marine Park Authority and the Director of National Parks for a reduction in their revenue from the waiver of government fees and charges for tourism businesses that operate in the Great Barrier Reef Marine Park and three Commonwealth National Parks; • additional assistance to help businesses identify alternative export markets or supply chains; and • targeted measures to promote the Australian tourism industry. <p>Further plans and measures to support recovery will be designed for affected industries and communities.</p>	<p>Businesses that may benefit from this initiative should monitor progress towards the roll-out of this measure.</p>
<p>10. Changes in Foreign Investment Review Board rules</p> <p>Changes to foreign investment framework</p> <p>Following the Treasurer’s announcement of Sunday, 29 March 2020, the threshold amounts which apply in determining whether particular foreign investments made on or after 10:30 pm (AEDT) Sunday, 29 March 2020 are subject to Australia’s foreign investment framework are now \$0.</p> <p>To ensure sufficient time for screening applications, you will be contacted by FIRB and asked to request that the decision period for your foreign investment</p>	<p>The measure to lower the threshold for particular foreign investments to \$0 is to protect certain businesses that may have become vulnerable targets at this difficult time and protect the national interest. This means that more applications will have to be submitted and be screened and decisions made by FIRB and accordingly extensions of time are appropriate.</p>

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<p>application involving significant actions and/or exemption certificates be extended by up to 6 months from the date that your application fee is paid. Extending your statutory deadline to 6 months does not mean that your application will take the full six months to process.</p> <p>The Government will prioritise urgent applications for investments that directly protect and support Australian businesses and Australian jobs, taking account of any commercial deadlines related to those proposed investments.</p> <p>Requests for discretionary refunds of fees on withdrawals of foreign investment applications</p> <p>FIRB recognises that measures being implemented globally, and in Australia by governments, businesses and individuals, in relation to the COVID-19 pandemic are affecting the ability of some investors to progress investment decisions.</p> <p>Where those measures are resulting in delays to, or deferrals of, investment decisions that are currently the subject of a foreign investment application, and the applicant wishes to withdraw that application, the FIRB will consider refunding the fee paid.</p>	
<p>11. Providing flexibility in the Corporations Act</p> <p>The Corporations Act has been amended to establish a temporary mechanism to provide short-term regulatory relief to classes of persons that, due to the Coronavirus, are unable to meet their obligations under the Corporations Act or the Corporations Regulations.</p> <p>This mechanism is temporary and will be operative for six months only. Any relief from specific obligation only has effect for a maximum period of six months.</p>	
<p>12. Temporary relief for financially distressed individuals and businesses</p> <p>The economic impacts of the Coronavirus could see numerous individuals at risk of bankruptcy and Australian businesses at risk of insolvency. To avoid unnecessary bankruptcies and insolvencies, the relief provides:</p> <ul style="list-style-type: none"> • a safety net to help businesses to continue to operate during a temporary period of illiquidity, rather than enter voluntary administration or liquidation; and 	<p>This relief is temporary so careful decisions need to be made about reliance on these measures and what will be the position in six months when the measures cease.</p>

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<ul style="list-style-type: none"> • a safety net to individuals to assist them with managing debt and avoiding bankruptcy. <p>Summary of new law</p> <p>The amendments temporarily increase the minimum amount of debt required to be owed before a creditor can initiate involuntary bankruptcy proceedings against a debtor from \$5,000 to \$20,000.</p> <p>The amendments also:</p> <ul style="list-style-type: none"> • temporarily provide debtors more time to respond to a bankruptcy notice – the period is extended from 21 days to six months; and • temporarily extends the timeframe in which a debtor is protected from enforcement action by a creditor following presentation of a declaration of intention to present a debtor’s petition – the period is extended from 21 days to six months. <p>The amendments increase the statutory minimum for a creditor to issue a statutory demand to a debtor from \$2,000 to \$20,000. This raises the thresholds for creditor demands that can push businesses into insolvency.</p> <p>The amendments also temporarily provide debtors more time to respond to a statutory demand – the period is extended from 21 days to six months.</p> <p>Finally, the amendments provide temporary relief for directors from their personal duty to prevent insolvent trading.</p>	
<p>13. Child care</p> <p>The Family Assistance Act and Family Assistance Administration Act have been amended to provide limited flexibility to manage the impact of the Coronavirus, as well as future disasters, on families and on business continuity for child care services.</p> <p>The amendments allocate extra allowable absence days, in addition to the current 42 days, for an event or circumstance specified in the Minister’s rules. The allocation of extra allowable absence days is intended to help offset absence days taken as a result of the impact of the Coronavirus. This will help ensure continued subsidised fee relief for families with children enrolled in approved child care.</p>	<p>Pursuant to this measure there should be changes to the <i>Child care Subsidy Minister’s Rules 2017</i> (Minister’s Rules). Attention to these rules and careful record-keeping and adjustment in practice and procedures will be required.</p>

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<p>The amendments also allow the Minister’s rules to prescribe where a service does not need to receive a certificate issued by a medical practitioner for an additional absence caused by an illness either to:</p> <ul style="list-style-type: none"> • the child; • the individual; • the partner of the individual; or • an individual with whom the child lives. <p>Finally, the amendments waive the current obligation of services duty to enforce payment of gap fees for a particular event or circumstance and the period specified in the Minister’s rules. This will enable services to provide fee relief to families, for example, in the circumstance where a service is forced to close on and for the period of public health advice. In this situation, services cannot charge more than the hourly session fee that was charged immediately before the period specified in the Minister’s rules.</p>	
<p>14. Early Childhood Education and Care Relief Package</p> <p>On 2 April 2020, the Australian Government announced the new Early Childhood Education and Care Relief Package. From Monday 6 April 2020 weekly payments will be made directly to early childhood education and care services in lieu of the Child Care Subsidy and the Additional Child Care Subsidy, to help them keep their doors open and employees in their jobs.</p> <p>Payments will be made until the end of the 2019-20 financial year and families will not be charged fees during this time. These payments will complement the JobKeeper Payment announced by the Prime Minister on 30 March 2020 (refer above).</p> <p>Early childhood education and child care services do not need to apply for the payments, they will be paid automatically.</p> <p>In addition, up to and including 5 April 2020, services can now waive gap fees for families due to the impact of COVID-19. This can go back as far as 23 March 2020 and is in addition to changes already announced.</p>	

15. Principles related to Commercial and Residential Tenancies

On 27 March 2020 the Prime Minister announced that amendments to legislation and policy are potentially being considered to provide for councils to waive rates and provide relief from land tax to those impacted by COVID-19. This would assist landlords and tenants deal with the crisis.

Series of principles

On 29 March 2020 the Prime Minister announced a series of principles relating to commercial and residential tenancies. Significantly, states and territories will be moving to put a moratorium on evictions of persons resulting from financial distress experienced as a result of the recent COVID-19 outbreak and legislation has already been prepared to put these measures into effect in New South Wales.

This moratorium will last for six months, with the Prime Minister calling for landlords and tenants to 'sit down and, talk to each other and work this out', also requesting banks assist parties in this venture.

In separate releases, much of the banking industry have announced loan relief measures allowing small businesses to defer their loans for a period of six months, with some banks going further to allow a pause on home loan repayments.

Other principles include:

- commercial property owners should ensure that any benefits received from their properties should also benefit their tenants in proportion to the economic impact caused by the COVID-19 (for example by not terminating distressed tenants when landlords themselves are deferring business loan repayments);
- landlords and tenants not significantly affected by COVID-19 are expected to honour their lease and rental agreements;
- cost-sharing or deferral of losses between landlords and tenants, with Commonwealth, state and territory governments, local government and financial institutions to consider mechanisms to provide assistance.

Mandatory code for the provision of rent relief by commercial landlords

On 7 April 2020 the Prime Minister has revealed that he has reached an agreement on a mandatory code for the provision of rent relief by commercial landlords to tenants.

The mandatory code agreed to with the national cabinet will be legislated and regulated as appropriate in each state and territory jurisdiction.

In addition to the moratorium on terminations, the Prime Minister has announced a mandatory code for the provision of rent relief by commercial landlords and for a binding mediation process. Parties should monitor legislative changes supporting this position, with New South Wales and Tasmania having already passed some initial legislation.

Whether a landlord or tenant you should have specific consideration to the terms of your lease and issues such as:

- infectious disease/harm to health on the premises;
- access to premises if there is a choice to close or forced closure and abatement of rent or force majeure issues.

Once legislated there will also be a mandatory code and a binding mediation process related to commercial tenancies which may apply in certain instances.

While it is good to know the legal position, it may be a matter of negotiating what is fair and reasonable from a commercial viewpoint, given the impact on the tenant's business, and the best interests of all concerned.

Where affected, the parties to a lease should engage with each other now to see if practical measures such as rent relief, rent reductions or rent holidays can be agreed rather than abandoning leased premises or trying to negotiate a termination of the lease.

Reference should be made to Mills Oakley's Property Group for specialist advice on Commercial & Residential Tenancies:

<https://www.millssoakley.com.au/expertise/property-2/>

<p>The code will apply to tenancies where the tenant or landlord is eligible for the JobKeeper program (see Measure 8) and where they have a turnover of \$50 million or less.</p> <p>The Prime Minister Scott Morrison stated “The code is designed to support those small and medium-sized enterprises, be they a tenant or indeed a landlord. The code brings together a set of good faith leasing principles. Landlords must not terminate the lease or draw on a tenant’s security. Likewise, tenants must honour the lease.”</p> <p>Mr Morrison said landlords will be required to reduce rent proportionate to the trading reduction in the tenant’s business through a combination of waivers of rent and deferrals of rents over the course of the pandemic.</p> <p>Waivers of rent must account for at least 50 per cent of the reduction in the rental provided to the tenant during that period, while deferrals must be covered over the balance of the lease term and in a period no less than 24 months.</p> <p>If the lease term goes for another three years, you can amortise the cost of the lease of the rental deferral over that three-year period, after the end of the pandemic period. But if the lease only has another six months to run, then the tenant would have a minimum of 24 months after the pandemic period in order to catch up on the deferrals of the rental payments.</p> <p>A binding mediation process</p> <p>Mr Morrison also said the rental relief arrangements negotiated by the tenant and landlord will be overseen through a binding mediation process that will be run by the states and the territories.</p> <p>“This is seen as a proactive, constructive and co-operative mechanism for landlords and tenants to see this through together.”</p>	
<p>16. University Funding Package to support domestic students</p> <p>Federal Education Minister Dan Tehan announced on 12 April 2020 a higher education relief package that is focused on domestic students.</p> <p>Key points of the announcement:</p> <ul style="list-style-type: none"> • There will be 20,000 new places available in short-term nursing, teaching, health, IT and science courses. Prices would be slashed for six months, and remotely delivered diplomas and graduate certificates in nursing, teaching, 	

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<p>health, IT and science would be provided by universities and private tertiary educators. "This plan will help Australians who have lost their job or are looking to retrain to use their time studying nursing, teaching, counselling, allied health or other areas considered national priorities," Mr Tehan said.</p> <ul style="list-style-type: none"> • Universities will retain the \$18 billion budgeted this year regardless of any fall in enrolments • \$100 million in regulatory relief for education providers. 	
<p>17. Fraudulent schemes to exploit COVID-19 measures</p> <p>The ATO and Tax Practitioners Board have warned tax agents and their clients that any attempt to change a business structure or change the characterisation of payments to access the government’s stimulus measures will be met with scrutiny and disciplinary action.</p> <p>In a joint statement by ATO second commissioner Jeremy Hirschhorn and TPB chair Ian Klug they said:</p> <p>“We ask that tax agents and businesses be mindful that it is not acceptable to backdate or artificially change a business structure or employment arrangements, including changing the characterisation of payments, in order to obtain a benefit or payment that would not otherwise have been paid...The ATO and TPB will take firm and swift action should this be the case.”</p> <p>The TPB and the ATO each have a hotline and tip-off process to allow practitioners to blow the whistle on misconduct, with all reports strictly confidential.</p>	
SUPPORT FOR INDIVIDUALS AND HOUSEHOLDS	
Measures	Mills Oakley Comment
<p>18. Stimulus payments for households to support growth</p> <p>This provides for the payment of economic support payments of \$750 to around 6.6 million Social Security and Veterans’ income support and compensation recipients, Farm Household Allowance recipients, Family Tax Benefit recipients and holders of a Pensioner Concession Card, Commonwealth Seniors Health Card or Commonwealth Gold Card.</p>	<p>These are one-off payments. They will be determined automatically.</p> <p>The second economic support payment will not apply to those entitled to the Coronavirus Supplement.</p>

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<p>Eligibility & Timing To be eligible for the first economic support payment, a person must be residing in Australia and be receiving one of the qualifying payments or hold one of the qualifying concession cards on a day during the period starting on 12 March 2020 and ending on 13 April 2020 (inclusive).</p> <p>The second economic support payment is to be available to Social Security and Veterans’ income support recipients, Family Tax Benefit recipients and holders of a of a Pensioner Concession Card, Commonwealth Seniors Health Card or Commonwealth Gold Card who, on 10 July 2020, receive their payment or hold their concession card unless they are eligible to receive the Coronavirus Supplement (see below Measure 19).</p>	
<p>19. Reducing social security deeming rates</p> <p>On 12 March, the Government announced a 0.5 percentage point reduction in both the upper and lower social security deeming rates. The Government has since reduced these rates by another 0.25 percentage points.</p> <p>As of 1 May 2020, the upper deeming rate will be 2.25 per cent and the lower deeming rate will be 0.25 per cent. The reductions reflect the low interest rate environment and its impact on the income from savings. The change will benefit around 900,000 income support recipients, including around 565,000 Age Pensioners who will, on average receive around \$324 more of the Age Pension in the first full year the reduced rates apply.</p>	
<p>20. Additional support for income support recipients</p> <p>Coronavirus Supplement Australians can claim jobseeker payment or Youth Allowance (other) if they are an Australian resident (or exempt from the residence requirements) and satisfy the requirements outlined in a legislative instrument. If qualified, a person will receive the current rate of jobseeker payment or Youth Allowance (other) along with a fortnightly supplement of \$550 or such other amount determined by legislative instrument.</p> <p>The supplement is also available to existing recipients of jobseeker payment, Youth Allowance (other), Parenting Payment, Special Benefit, and the Farm Household Allowance. The Minister for Families and Social Services may extend the supplement to other social security payments by legislative instrument.</p>	<p>The Coronavirus Supplement is a fortnightly payment available for an initial six-month period, commencing on 27 April 2020. The Crisis Payment is one-off.</p> <p>There is expanded eligibility for the jobseeker payment or Youth Allowance (other) that will facilitate access to the Coronavirus Supplement and Crisis Payment.</p>

<p>The supplement is available for an initial six-month period, commencing on 27 April 2020. The Minister for Families and Social Services may extend the six-month period and extend the supplement to other social security payments.</p> <p>Expanded eligibility for eligibility for Jobseeker Payment and Youth Allowance (other) Recipients of jobseeker payment or Youth Allowance (other) (which includes new and existing recipients) and Parenting Payment are also exempt from the assets test, liquid assets waiting period, ordinary waiting period, newly arrived resident’s waiting period and seasonal worker preclusion periods. The exemption from the newly arrived resident’s waiting period also applies to special benefit.</p> <p>The Farm Household Support Act 2014 has also been amended to apply the supplement and exemptions to recipients of the Farm Household Allowance.</p> <p>Crisis payment The changes also create a new category of Crisis Payment that enables people claiming an income support payment, such as JobSeeker Payment, to be paid a Crisis Payment where they are required to remain at home during a period of isolation due to the Coronavirus. The Crisis Payment is a one-off payment equivalent to one week of the person’s maximum basic rate of income support (excluding supplementary payments such as Commonwealth Rent Assistance).</p>	
<p>21. Simplifying deductions for working from home</p> <p>The ATO has announced special arrangements this year due to COVID-19 to make it easier for people to claim deductions for working from home.</p> <p>The new arrangement will allow people to claim a rate of 80 cents per hour for all their running expenses, rather than calculating costs for specific running expenses.</p> <p>Multiple people living in the same house can claim this new rate. The requirement to have a dedicated work from home area has also been removed.</p> <p>The shortcut method will only require you to keep a record of the number of hours worked from home.</p> <p>Working from home claims for 1 March to 30 June – three possible methods:</p> <ul style="list-style-type: none"> • claim a rate of 80 cents per work hour for all additional running expenses; • claim a rate of 52 cents per work hour for heating, cooling, lighting, cleaning and the decline in value of office furniture, plus calculate the work-related portion of 	

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<p>your phone and internet expenses, computer consumables, stationery and the decline in value of a computer, laptop or similar device; and</p> <ul style="list-style-type: none"> claim the actual work-related portion of all running expenses, which need to be calculated on a reasonable basis. 	
SUPPORT FOR THE FLOW OF CREDIT	
Measures	Mills Oakley Comment
<p>22. Banking industry response to support business and households</p> <p>On or around 20 March 2020 most banks announced an unprecedented support package for small business and home loan customers with the potential to inject billions into the Australian economy and assist in the recovery from the current COVID-19 crisis.</p> <p>The packages offered include for example:</p> <ul style="list-style-type: none"> a reduction of some fixed-rates on new loans for small business and home loan customers; a reduction of variable small business and variable home loan rates; small and medium business customers as well as home loan customers impacted by the crisis can request a deferral on loan repayments for up to six-months, with interest capitalised; and making available temporary increases in overdraft facilities for 12 months. 	<p>For some businesses or households there may be options such as accessing existing redraw balances or using funds in their offset or deposit accounts. Whether the interest is deductible may depend on the purpose of the original loan for use of offset moneys but may depend on the purpose to which the moneys are put for redraw balances. You should seek advice on the most tax effective source of funds where there is a choice available.</p> <p>Certain households that pay more than the minimum home loan repayment amount can reduce their monthly payments to the minimum repayment amount.</p> <p>Certain loans may be able to be re-negotiated to be interest-only repayment loans, rather than principal and interest.</p>
<p>23. Guarantee of Lending to Small and Medium Enterprises</p> <p>The SME Lending Guarantee Act:</p> <ul style="list-style-type: none"> gives effect to the Government’s commitment to enter into risk sharing agreements with financial institutions to ensure that credit continues to flow to SMEs so that SMEs can continue to meet their immediate financing needs during the uncertain economic conditions caused by the Coronavirus; and provides that the Minister may, on behalf of the Commonwealth, grant a guarantee to a financial institution in connection with loans made, or to be made, by the financial institution if granting the guarantee is likely to assist in dealing with the economic impacts of the Coronavirus. 	<p>The framework is in place and the Minister must make rules to give effect to the provisions as appropriate.</p>

<p>Detailed explanation of new law</p> <p>The SME Lending Guarantee Act provides that the Minister has the power, on behalf of the Commonwealth, to grant a guarantee to a financial institution in connection with loans made, or to be made, to SME entities.</p> <p>The power to grant a guarantee is limited by the criteria that:</p> <ul style="list-style-type: none"> • the Minister must be satisfied that it is likely to assist in dealing with the economic impacts of the Coronavirus – for example, the guarantee could assist in boosting confidence in lending by financial institutions to SME entities affected by the economic downturn as a result of the pandemic; and • the guarantee must be in connection with loans made, or to be made, by a financial institution that is a corporation within the meaning of paragraph 51(xx) of the Constitution. <p>The grant of a guarantee must also be in accordance with the legislative rules. The Minister has the power to make rules as required or permitted, or that are necessary or convenient to give effect to provisions in the SME Lending Guarantee Act.</p> <p>In addition to defining SME entity, these rules may include, but are not limited to, one or more of the matters outlined below:</p> <ul style="list-style-type: none"> • the eligibility criteria for a financial institution to receive a guarantee; • the proportion of risk to be held by the Commonwealth and a financial institution subject to a guarantee; • the types and terms of loans subject to a guarantee; and/or • the maximum size of an individual loan subject to a guarantee. <p>The meaning of SME entity is prescribed by the legislative rules made by the Minister.</p> <p>Financial institution is defined as a body corporate that is an ADI (short for authorised deposit-taking institution) for the purposes of the Banking Act 1959, or a non-ADI lender within the meaning of the Banking Act 1959.</p> <p>It is intended that guarantees will only be available for <i>new</i> loans made after the Government’s announcement. In that context, loans made prior to the commencement, but after the announcement can be covered by a guarantee made under the new rules.</p> <p>\$20 billion is appropriated for the purpose of meeting any liabilities the Australian Government may incur as a result of a guarantee to a financial institution.</p>	
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<p>24. Quick and efficient access to credit for small businesses</p> <p>The Government is providing an exemption from responsible lending obligations for lenders providing credit to existing small business customers. This exemption is for six months, and applies to any credit for business purposes, including new credit, credit limit increases and credit variations and restructures.</p> <p>Responsible lending obligations do not currently apply to lending which is predominantly for a business purpose, but it can take time and effort for lenders to be satisfied that the money borrowed meets this test. By providing a temporary exemption from responsible lending obligations, this reform will help small businesses get access to credit quickly and efficiently.</p>	
<p>25. The Australian Business Growth Fund availability of patient capital</p> <p>The Business Growth Fund Act gives effect to the Government’s commitment to increase the availability of patient capital for SMEs by authorising the contribution of \$100 million to invest in an Australian Business Growth Fund.</p> <p>The Business Growth Fund Act enables increases in the availability of patient capital for SMEs during the economic impact of the Coronavirus, when other sources of finance may become more difficult to access.</p> <p>The Government will help SMEs grow by co-investing with other financial institutions to establish an Australian Business Growth Fund that will provide equity finance to SMEs across a range of industries and locations.</p>	<p>Once constituted the Fund is meant to be ongoing.</p> <p>There will be a lag before the Fund is established and commences to consider candidates for investment.</p>
<p>26. Structured Finance Support</p> <p>The Structured Finance Support Act establishes the Structured Finance Support (Coronavirus Economic Response) Fund, initially consisting of \$15 billion. The Fund will enable the Government to ensure continued access to funding markets impacted by the economic effects of the Coronavirus, and to mitigate impacts on competition in consumer and business lending markets resulting from the Coronavirus.</p> <p>In particular, this will ensure smaller lenders, including non-Authorised Deposit-Taking Institutions (Non-ADI) and smaller Authorised Deposit-Taking Institutions (ADI), can maintain access to funding, by the Government making targeted investments in structured finance markets.</p>	<p>Smaller lender businesses, including non-Authorised Deposit-Taking Institutions (Non-ADI) and smaller Authorised Deposit-Taking Institutions (ADI), that may benefit from this initiative should monitor progress towards the roll-out of this measure.</p>

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<p>The focus of the Fund’s activities will be investing in securitised loans, including residential mortgages, written by smaller lenders, through either warehouses or the term market. This will support the ability of smaller lenders to:</p> <ul style="list-style-type: none"> • continue to issue new loans in the current economic conditions resulting from the impact of the Coronavirus; and • obtain funding from markets at a competitive price. 	
<p>27. Supporting the flow and reducing the cost of credit – RBA</p> <p>The Reserve Bank of Australia (RBA) announced a package on 19 March 2020 that will put downward pressure on borrowing costs for households and businesses.</p> <p>This will help mitigate the adverse 2 consequences of the Coronavirus on businesses and support their day-to-day trading operations.</p> <p>The RBA is supporting small businesses as a particular priority. The RBA has announced a term funding facility for the banking system. Banks will have access to at least \$90 billion in funding at a fixed interest rate of 0.25 per cent. This will reinforce the benefits of a low cash rate by reducing funding costs for banks, which in turn will help reduce interest rates for borrowers.</p> <p>To encourage lending to businesses, the facility offers additional low-cost funding to banks if they expand their business lending, with particular incentives applying to new loans to SMEs. In addition, the RBA announced a further easing in monetary policy by reducing the cash rate to 0.25 per cent. It is also extending and complementing the interest rate cut by taking active steps to target a 0.25 per cent yield on 3-year Australian Government Securities.</p>	
<p>28. Ensuring banks are well placed to lend – APRA</p> <p>The Australian Prudential Regulation Authority (APRA) has announced temporary changes to its expectations regarding bank capital ratios. The changes will support banks’ lending to customers, particularly if they wish to take advantage of the new facility being offered by the RBA.</p>	

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