May 2024

PwC Regulatory Update

www.pwc.com.au

Contents

01

Legislative/ Government developments

Delivering Better Financial Outcomes Tranche 1 – Draft Regulations

The Australian Government is consulting on the Treasury Laws Amendment (Delivering Better Financial Outcomes) Regulations 2024, which are amendments to support the implementation of the Treasury Laws Amendment (Delivering Better Financial Outcomes and Other Measures) Bill 2024 and the government's response to the Quality of Advice Review.

Key points of the draft regulations include:

- Allowing electronic fulfillment of written information or documentation requirements under the Superannuation Industry (Supervision) Act 1993.
- Removing requirements related to Fee Disclosure Statements, updating record-keeping obligations for new consent requirements, and removing references to civil penalties eliminated by the Amending Bill.
- Aligning requirements for Financial Services Guides and Website Disclosure Information, and making other consequential amendments.
- Streamlining regulations for conflicted remuneration in line with the Amending Bill.
- Ensuring informed consent requirements apply to benefits given for a general insurance product when personal advice is provided.

Submissions were due by 8 July 2024.

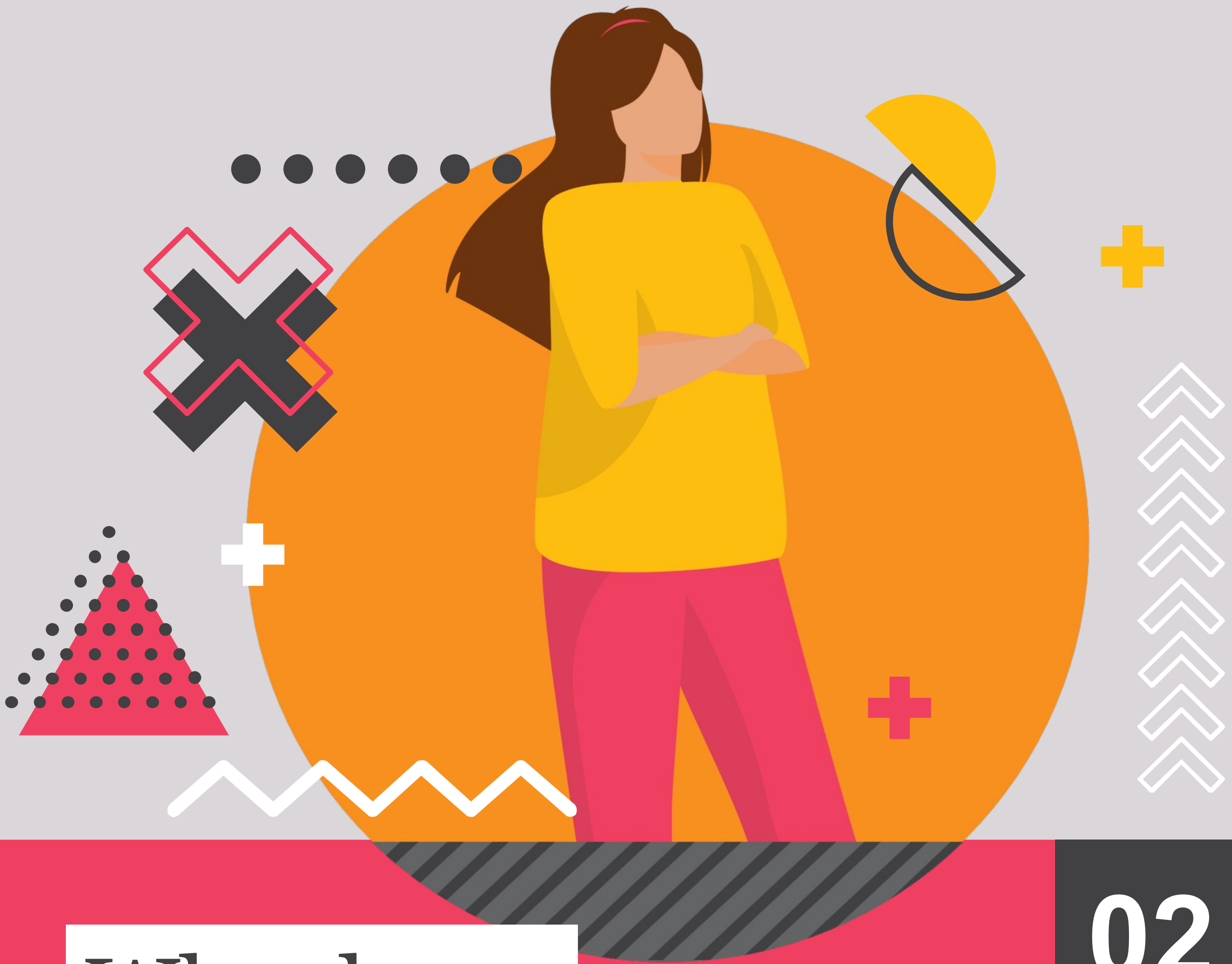
Source: **Treasury**

Proposed Financial Institutions Supervisory Levies for 2024–25

This paper, prepared in conjunction with the Australian Prudential Regulation Authority (APRA), seeks submissions on the proposed financial institutions supervisory levies for the 2024–25 financial year. The financial industry levies are set to recover the operational costs of APRA and other specific costs incurred by certain Commonwealth agencies, including Treasury and the Australian Taxation Office.

Submissions were due by 11 June 2024.

Source: **Treasury**



02

What have the regulators been up to

ASIC
Australian Securities and Investments Commission

5 million+ Australians have struggled to make loan and debt repayments, yet many not asking for help

Australians are urged to seek financial hardship assistance from their banks, as ASIC's Moneysmart reveals 47% of adults with debt struggled with repayments last year due to cost of living, reduced income, and unexpected expenses. Despite this, 30% would not seek help, preferring to sell belongings or get a second job. The main reasons for not seeking help include a lack of awareness, not knowing where to go for assistance, and not trusting available sources. ASIC is urging Australians to directly ask their banks or lenders for help and is launching a new awareness campaign titled Just Ask! Hardship Help is available. The campaign aims to encourage financially struggling individuals to reach out to their lenders for assistance.

Source: ASIC

ASIC to launch new Professional Registers Search

ASIC is launching a new streamlined Professional Registers Search (PRS) in late June 2024, allowing users to search all professional registers databases with one search. The PRS is designed for an intuitive, user-first experience to ensure ease of access to licensing information. User feedback will be collected for ongoing improvements. The first release will include various registers, such as AFS licensees and registered auditors, with a second update in late 2024. This project is part of ASIC's digital transformation, aiming to be a data-informed regulator by 2030, providing a single, convenient digital point of contact for stakeholders.

Source: ASIC

ASIC's priorities in a changing regulatory environment

At the 2024 Risk Summit, ASIC highlighted key regulatory focus areas including cost-of-living pressures, climate change, and technological transformation. They emphasized the need to improve financial hardship support from lenders, who were found lacking in a recent report. ASIC is also targeting high-cost credit, predatory lending, and debt management misconduct, with a focus on responsible lending. They are preparing for mandatory climate-related disclosures and tackling greenwashing. Technological changes, especially AI and cybersecurity, pose new risks, and ASIC is ensuring compliance with existing laws. The emphasis is on adapting to evolving risks and regulatory expectations.

Source: ASIC

What have the regulators been up to?

02

ASIC

Australian Securities and Investments Commission

ASIC announces 30 June 2024 focus areas and expanded program to support financial reporting and audit quality

ASIC has expanded its financial reporting and auditing program to include listed companies, large proprietary companies, and superannuation funds. The focus areas for 2024 include asset values, provisions, subsequent events, and disclosures. Additionally, ASIC will review auditors' compliance with ethical standards, highlighting variability in the ASQM1 framework implementation. Companies are encouraged to prepare for mandatory climate reporting by January 2025, and a new disclosure requirement for consolidated entities is now in effect. ASIC aims to enhance transparency and quality in financial reporting and auditing practices.

Source: ASIC

ASIC report: Australians need better hardship support from their lenders

A new ASIC report reveals that over one-third of Australians have dropped out of home loan financial assistance applications due to difficulties imposed by lenders. The report found that 40% of customers who received hardship assistance fell into arrears immediately after the assistance period ended. ASIC criticized lenders for ignoring hardship notices and using standard, inflexible approaches, failing to meet community expectations and support vulnerable customers. ASIC Chair Joe Longo emphasized the need for significant improvements and warned of potential enforcement actions. Despite some lenders implementing improvement programs, ASIC expects all lenders to prioritize better support for customers in financial hardship.

Source: ASIC

ASIC releases guidance on the experienced provider pathway for financial advisers

ASIC has released Information Sheet 281 to guide financial advisers and AFS licensees on the experienced provider pathway, as amended by the Treasury Laws Amendment Act 2023. This pathway allows advisers with at least 10 years of experience and a clean disciplinary record as of December 31, 2021, to meet qualification standards without further education. Eligible advisers must have passed the financial adviser exam by January 2022 (or October 2022 with an extension) and must declare their status to their AFS licensee by January 1, 2026. From July 2024, AFS licensees must notify ASIC of received declarations via ASIC Connect.

Source: ASIC

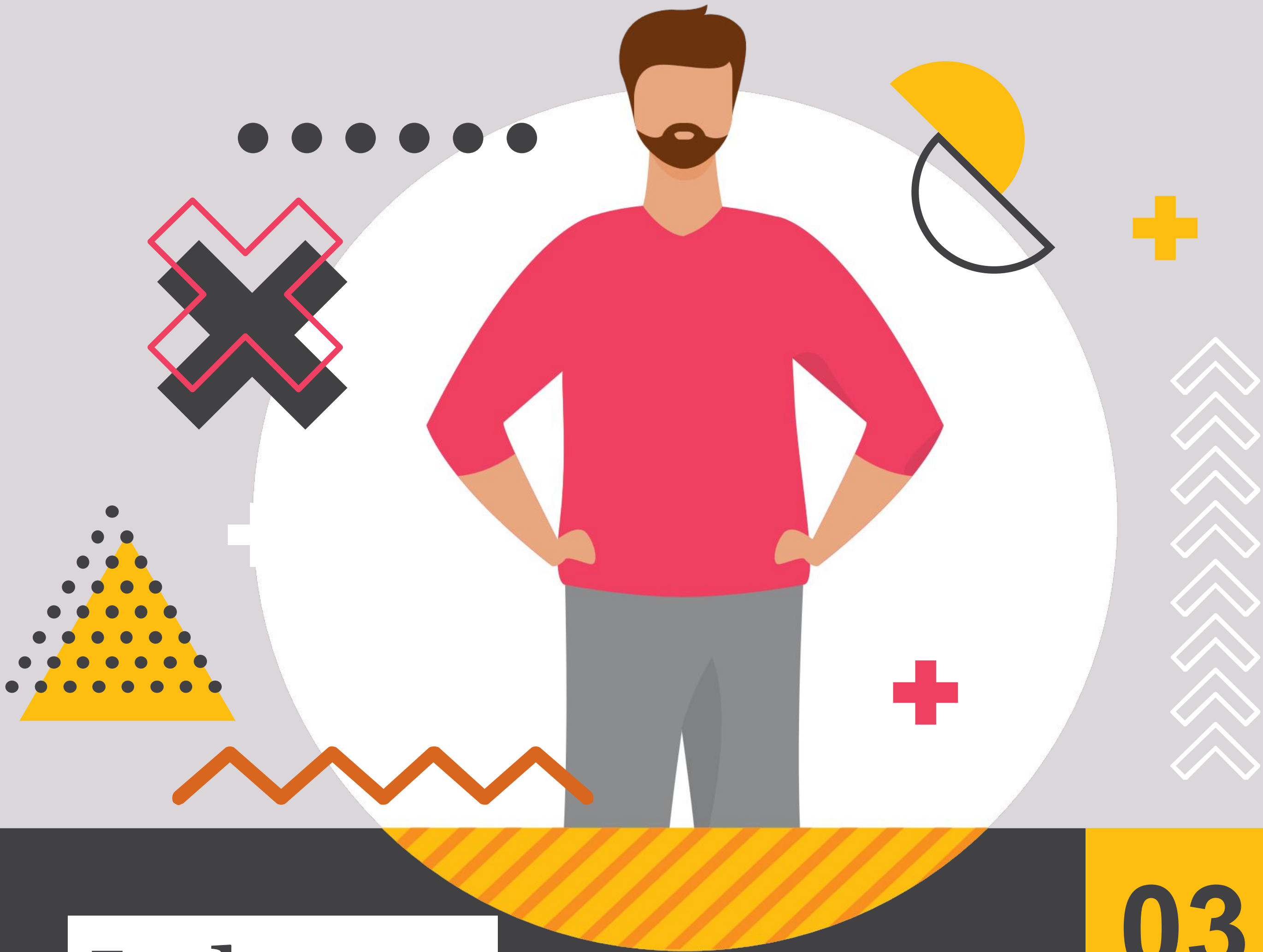
APRA

The Australian Prudential Regulation Authority

APRA clarifies expectations on cyber security and adequacy of backups

The Australian Prudential Regulation Authority (APRA) has written to all APRA-regulated entities emphasising the critical role of data backups in cyber resilience. This communication is part of APRA's ongoing commitment to supervising cyber resilience across industry, as outlined in its Interim Policy and Supervision Priorities update. The letter details the common issues observed in backup practices that could hinder system restoration during an incident. APRA expects regulated entities to review their backup arrangements and address any identified gaps promptly. The letter is available on the APRA website.

Source: APRA



03

Industry bodies

FAAA
Financial Advice Association Australia

ASFA
Association of Superannuation Funds of Australia

FAAA: This year's Budget is more about what isn't included, not what is

FAAA CEO Sarah Abood said she was disappointed that while financial advisers continue to struggle with significant cost increases, like many small business operators, calls to the government have been disregarded. Although the Minister acknowledged the importance of financial advice there is little to remedy the costs adviser are continuing to pay.

However, the FAAA noted there was good news in the Budget for consumers of financial advice including updates to social security deeming rates and aged care funding arrangements, along with previously announced tax cuts and new energy rebates. Additionally, large packages for AML/CTF adherence ($168 million) and the rollout of Digital ID ($288 million) should have a positive impact on the work that financial advisers do.

Source: FAAA

Retirees continue to face record cost pressures, but the rate of increase eases, says super peak body

The ASFA has published a media release which notes that the cost of funding a comfortable retirement increased by 3.3 per cent over the last 12 months, due to a raft of higher costs, including medical expenses and insurance premiums.

Spending categories showing the largest quarterly and annual price changes:

- Medical and hospital services rose 2.3 per cent in the quarter, higher than the 1.2 per cent in the December quarter.
- Insurance prices rose 3.7 per cent from the December quarter and 16.4 percent annually, which is the strongest annual rise since 2001.
- Annual food costs rose by 3.8 per cent, down from the 4.5 per cent in the December quarter.
- Automotive fuel prices on average fell by 1.0 per cent in the March quarter, with an average unleaded petrol price for the quarter of $1.94 a litre.
- Electricity prices rose moderately at 2.0 per cent over the year. Excluding the Energy Bill Relief Fund rebates, prices increased by 17.0 per cent over this period.
- Domestic travel and accommodation rose 1.3 per cent over the quarter.

Source: ASFA

04

Overseas developments

FSB examines vulnerabilities in short-term funding markets

The Financial Stability Board (FSB) published a report analysing the functioning of, and considering potential ways to address vulnerabilities in commercial paper (CP) and negotiable certificate of deposit (CD) markets.The report identifies the vulnerabilities in CP and CD markets, including limited secondary market activity due to the buy-and-hold nature of these instruments, investor and dealer concentration, and opacity. The report examines potential industry and public authority market reforms to improve the function and resilience of CP and CD markets. The recommendations include:

- changes in the market microstructure
- increased transparency
- increasing liquidity through private repo markets.

However, these reforms alone may not significantly boost market resilience and should complement broader policies, including addressing vulnerabilities in money market funds (MMFs). Authorities are advised to tailor these reforms to their specific markets.

Source:FSB

CPMI releases its work programme and strategic priorities

The Committee on Payments and Market Infrastructures (CPMI) has published a work programme for 2024-2025, highlighting its strategic priorities for policy, standard-setting, implementation and analytical activities. Key themes are:

- risk management of financial market infrastructures;
- enhancement of cross-border payments; and
- digital innovation in payments, clearing and settlement.

The CPMI continues to promote the safety and efficiency of payments and financial market infrastructures as technology and industry – and the attendant public policy needs - evolve.

Source: BIS

Financial stability vulnerabilities have eased but the outlook remains fragile, ECB finds

According to the May 2024 Financial Stability Review which was published by the European Central Bank, financial stability in the euro area has benefited from an improving economic outlook, with inflation steadily declining and investor confidence recovering. The outlook remains fragile, however, as the scope for economic and financial shocks is high in an environment of elevated geopolitical and global policy uncertainty.

Tight financial conditions are testing the resilience of vulnerable euro area households, firms and governments, while downturn in property market presses real estate firms. Euro area banks have been a source of resilience, but low market valuations suggest challenges remain, notably related to asset quality, funding and revenues.

Overall, the European Central Bank's Financial Stability Review shows an improving economic outlook, but geopolitical risks continue to cloud the outlook.

Source: ECB

The EBA consults on the new framework for the operational risk loss as part of the implementation of the EU Banking Package

The EBA has launched a consultation on three sets of draft Regulatory Technical Standards (RTS) aiming to standardise the collection and the record of operational risk losses and to provide clarity on the exemptions for the calculation of the annual operational risk loss and on the adjustments to the loss data set that banks must perform in case of merged or acquired entities or activities.

The draft RTS' focus on:

- Establishing a risk taxonomy on operational risk provide a list of operational risk;
- The conditions under which it would be unduly burdensome for an institution to calculate the annual operational risk loss; and
- The adjustments to an institution's loss data set.

Comments to this consultation remain open until 6 September 2024.

Source: EBA

PRA publishes policy statement on the review of Solvency II: Reform of the Matching Adjustment

The Prudential Regulation Authority's (PRA) has published a policy statement which provides feedback to responses received to the consultation paper (CP) Review of Solvency II: Reform of the Matching Adjustment. This Consultation Paper was the second major PRA consultation to deliver significant reforms to Solvency II and implement the conclusions of the Government's Review of Solvency II: Consultation - Response. The CP sets out the PRA's proposed reforms that will enable broader and quicker investment by insurers in their matching adjustment (MA) portfolios, while improving responsiveness to risk and enhancing firms' responsibility for risk management.

This policy statement is relevant to all UK Solvency II firms, the Society of Lloyd's and its members and managing agents, and insurance and reinsurance undertakings that have a UK branch (third country branch undertakings) where they are applying or have applied to use the MA.

Source: **BOE**

PRA publishes policy statement on the approach to the authorisation and supervision of insurance branches

The PRA has provided feedback to the response to consultation papers about authorising and supervising insurance branches. Further, the PRA has published the final version of the new SoP – the PRA's approach to insurance branch authorisation and supervision, the updates to SS44/15 presented in two versions to account for the changes introduced in PS3/24, and the updates to SS20/16 alongside this PS. The implementation date is 23 May 2024, other than that of the future version of SS44/15. The implementation date of the latter is 31 December 2024.

Source: **BOE**

CFTC Announces Whistleblower Award Over $4.5 Million

The Commodity Futures Trading Commission (CFTC) announced a $4.5 million award to a whistleblower who provided vital information for an enforcement action. The whistleblower, whose expertise was pivotal to the Division of Enforcement (DOE), assisted through multiple contacts. Director of Enforcement Ian McGinley highlighted the significance of whistleblowers in CFTC actions and their role in providing crucial support. Brian Young, Director of the Whistleblower Office, emphasized that anyone with actionable information can qualify for awards under the program, not just insiders.

Established under the Dodd-Frank Act, the CFTC's Whistleblower Program has granted approximately $370 million in awards tied to sanctions exceeding $3.2 billion. It ensures confidentiality and funds awards from the Customer Protection Fund, financed solely by sanctions paid to the CFTC. Whistleblowers may receive between 10% and 30% of collected sanctions.

Source: CFTC

SEC implements rule amendments to Regulation S-P to enhance the protection of customer information

The SEC has implemented rule amendments to Regulation S-P to enhance the protection of customer information. The SEC has updated its rules for broker-dealers, investment companies, registered investment advisers, and transfer agents to address the increased use of technology and associated risks since the Commission's 2000 adoption of Regulation S-P. The amendments require covered institutions to develop and maintain written policies for an incident response program designed to detect, respond to, and recover from unauthorised access to customer information. They also require institutions to provide notice to individuals whose sensitive customer information was accessed or used without authorisation of becoming aware of the incident.

Source: SEC

MAS updates its guidelines on fair dealing to cover all financial institutions and their products and services

The Monetary Authority of Singapore (MAS) has updated its Guidelines on Fair Dealing, expanding its scope to cover all financial institutions and their products and services. The updated Guidelines aim to improve customer experience with Financial Institutions by incorporating fair dealing principles at various stages of a product's life cycle. Customers can expect tailored products, accurate advice, clear explanations, and responsive feedback handling.

Source: MAS

FSC proposes rule changes to strengthen disclosure requirements for CBs and upgrade the rules for re-fixing convertible prices

The Federal Securities Commission (FSC) has proposed rule changes to strengthen disclosure requirements for convertible bonds (CBs) and upgrade the rules for refixing convertible prices. The revised regulation will require companies to provide detailed information about the entity exercising the call option, addressing the issue of misleading disclosures. It will also require companies to file material information disclosures when acquiring CBs close to their maturities, addressing concerns about unfair trading activities in capital markets.

The rule change will also allow companies to refix convertible prices below 70% of the initial price, addressing cases of excessive downward adjustment following capital increases or stock dividends. For privately offered CBs, the reference date for calculating convertible prices will be based on the date when payments are made to ensure they reflect market prices before issuance. The FSC expects these changes to boost investor confidence in the convertible bond market and allow companies to raise funds more prudently.

Source: FSC

SFC announces the conclusion of the non-contravention period for virtual asset trading platforms

The Securities and Futures Commission (SFC) has announced that the non-contravention period for virtual asset trading platforms (VATPs) in Hong Kong under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap 615) will end on 1 June 2024. All VATPs must be licensed by the SFC or "deemed-to-be-licensed" applicants under the AMLO. It is a criminal offense to operate a VATP in Hong Kong in breach of the AMLO. In the coming months, whilst the deemed-to-be-licensed VATP applicants pursue their applications, the SFC will conduct on-site inspections to ascertain their compliance with the SFC's regulatory requirements, with a particular focus on their safeguarding of client assets and know-your-client processes.

Source: SFC

05

PwC publications

PwC Publications

PwC Australia: Navigating CPS 230: Considerations for implementing the CPS 230 Standard

PwC Australia has released a CPS 230 report that dives deep into enhancing the management of operational risks, ensuring critical operations continue through severe disruptions, and effectively managing risks from service providers, as well as providing practical guidance on how to implement the Standard.

Drawing on PwC's extensive experience with banking, insurance, and superannuation organisations, we address key themes such as board engagement, operational risk management, critical operations, tolerance setting, service provider management, service provider assurance, people and technology.

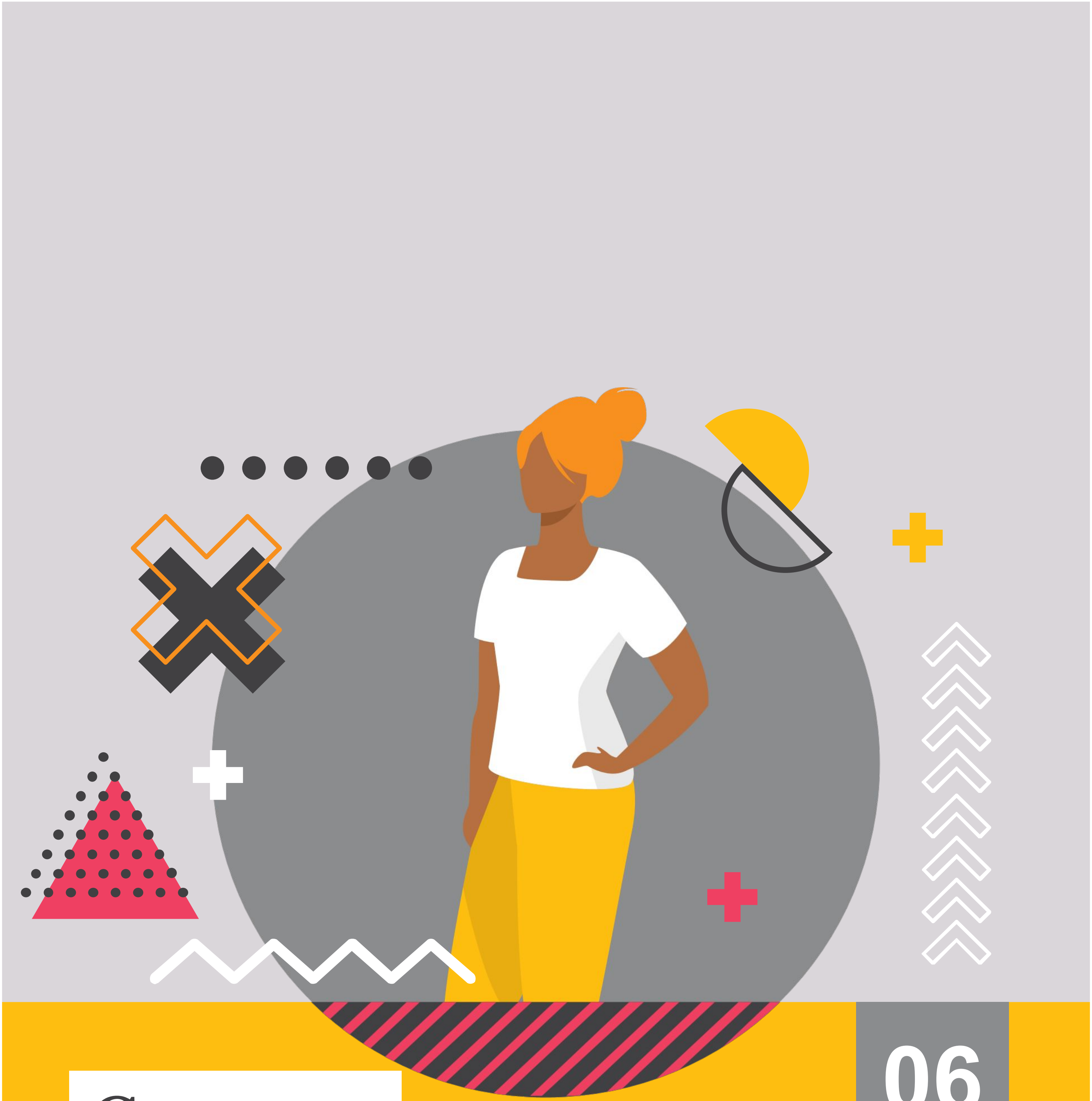
See publication

PwC US: How private equity operating partner roles are changing

PwC US has released articles on private equity operating teams and partners who are undergoing transformation to meet the demands of the current market. Private equity firms are moving the operating partner role to more prominence, focusing on supporting portfolio companies through the value creation plan from pre-diligence to exit. This role now spans the deal life cycle, from diligence to exit, and provides support across growth, cost, and risk.

Financial engineering's contribution to value creation has fallen. Factors contributing to this trend include record high valuations, fewer deals, and increased demand for sophisticated operating teams by limited partners.

See publication

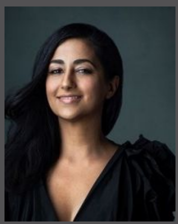


06

Contacts

Contacts

06



Amrita Jebamoney

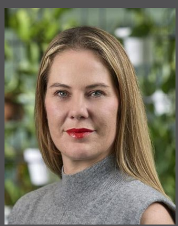
Partner

amrita.jebamoney@pwc.com
+61 412 782 897

Craig Stafford

Partner

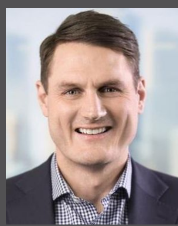
craig.stafford@pwc.com
+61 438 842 700



Marna Slabbert

Partner

marna.slabbert@au.pwc.com
+61 437 287 583



Simon Taylor

Partner

simon.c.taylor@au.pwc.com
+61 409 252 465

Penny Dunn

Partner

penny.dunn@au.pwc.com
+61 407 367 561

Thank you

WL 127083469