

The GFC - Happy 10th anniversary?

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The 16th of September 2008 and the havoc wreaked on the international financial markets on that day, only seems like yesterday. Most of the impacts have, however, worked their way through formal and informal insolvency processes - one might say that we're back to a BAU marketplace.

The New Zealand banking sector has witnessed strong credit growth since 2008. But 10 years on when credit becomes impaired, we are seeing a noticeably different approach from banks, particularly when contrasted with responses seen through previous credit downturns. In 2017, the big Aussie banks stood alongside others at the front of the "Yes" vote. Social responsibility is just a much greater part of the banking conversation.

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The Royal Commission of enquiry into the Australian financial services sector has just wrapped up, with hard-hitting commentary both from the Commission and the media only likely to cause financial institutions to moderate behaviours even more. In the insolvency world, the traditional weapon of receivership appears to have lost its lustre in an inverse proportion to the assumption of social responsibility by the Australian banks in particular - and whilst we have an independent banking market with an independent regulator here in New Zealand, the effects of these new behaviours have already been felt this side of the Tasman.

While insolvency professionals are busy, much of their activity is now being conducted behind the scenes. With these changes comes the need for different skills and insolvency professionals are being urged to partner with their clients and to share in a common approach to the management of distressed debt. Every day that a bank's distressed debt book does not appear in the news media, is a good day. Simply put, no bank wants to be known as the bank most likely to move to a direct enforcement when credit conditions tighten.

As much of this behind the scenes work is effectively being undertaken in an unregulated environment, it is all the more important for banks and financiers generally to choose the right people with the right skillset and qualifications to assist with these assignments. The Restructuring Insolvency & Turnaround Association of New Zealand has long been aware of the need to maintain a high level of advisor capability and has created a self-regulatory model in order to help achieve that. The Government's answer to all of this is languishing in the form of the Insolvency Practitioners Bill and the challenge will be to see whether this Government is prepared to be bolder than the previous and see the Bill through to legislation.

The coalition agreement entered into by this Government included not only a review of the RBNZ Act but a review into agri-debt mediation and receivers' fees. Even if referenced in a somewhat ham-fisted way, practitioners will watch this initiative with interest. As an immediate response to the Australian Royal Commission, our regulators are already seeking behavioural assurances from certain New Zealand banks and while enforcement is not currently the focus of these enquiries, there is little doubt that enforcement behaviours will also come under increased scrutiny.

This article was written by David Perry for the NBR (May 2018).

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