

SE **Business**

HD **Ratings agencies' image intact despite the history lessons**

BY John Durie

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ON the same day the full Federal Court issued a damning judgment against Standard & Poor's, **China** and Russia signed an agreement to create a joint credit rating agency.

The latter move said it all because Russia is upset S&P has downgraded its country debt just above junk rating and wants to promote a more "credible" service.

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The reality is rating agencies have yet to overcome their conflict of interest in that the **company** seeking the rating is the client — the inclination is to back the issuer.

In the Australian case, the issue was worse because the product was outside the rating agency's comfort zone, being a complicated derivative product and the client the British office of ABN Amro, so the issuer was an investment bank at the height of the bull market.

The investment banks were spitting out junk by the bucket load — which is different to a big corporate like BHP, which is going to be around tomorrow so has its own reputation to protect.

As the GFC underlined, most investment banks didn't worry too much about more than tomorrow's bonus and rating agencies clipped the ticket.

The IMF-backed claim in favour of a **group** of local councils has demonstrated the bank and the agencies should be responsible for the \$25 **million** in council losses.

Continued on Page 33 Continued from Page 25 The full court has directed that neither could claim to share the blame and the accompanying losses and must bear full responsibility — and in doing so has come to the right conclusion.

This is one of many post-GFC claims against the rating agencies, but remarkably their reputations have somehow been maintained against the wall of evidence against them.

Corporate ratings attract fees of about \$80,000 a year and the **company** is held to account by the agency, but when new products are being issued the fees on, say, \$500 **million** product work out at about 2 to 3 per cent — or about \$100,000 against the bank's \$2m fee.

The more products, the more fees and the bank obviously wants the rating agency to give a big tick of approval.

The Beijing-based Dagong rating agency had actually stepped up efforts to break in the ratings agency game globally in the wake of the GFC — thinking S&P, Moody's and Fitch would be tarnished — but so far it is yet to get the 5 to 10 per cent market share it was gunning for by 2017.

The link with Russia is a step in that direction, but the question is what impact this will have on the credibility of the rating agency given the obvious motives.

S&P had argued that investors who took the instruments had to bear some responsibility for the decisions and it had a point, but this line was dismissed by the court because of the way the products were **sold** and that the products were wrongly rated.

The fact was the ratings agencies and banks pre-GFC were working together and the rating agencies allowed their name to be used to sell products that shouldn't have been **sold** as such.

Arguably the lessons are now learned, but the reality is the further we move from the GFC — now six years ago — the more the lessons will be forgotten.

The inherent conflict remains and remarkably the ratings agencies reputations have survived. As financial gatekeepers, history may not speak well of them but investors have at least been warned.

PC comes up short WHEN the federal government asked the Productivity Commission earlier this year to take a look at the relative costs of doing **business** in retail and **dairy**, it may have been looking for some smoking guns.

If so, the PC has failed to find them based on yesterday's interim reports, which for both sectors concluded that the companies, not government, had the tools for the most effective productive gains.

As a policy exercise, that is not such a bad one for politicians — to realise when government intervention creates as many problems as it attempts to solve.

The PC did produce some useful numbers and ideas — like reform of the competition laws to get rid of the nonsense that import replacement or exports was somehow a public benefit as stated in the law today.

Yes, retail minimum wage rates in Australia are higher than offshore and planning laws restrict competition in retail but these were known.

Department stores also pay Westfield more for shopping centre rents than they do offshore, at 15.5 per cent of sales in Australia against 13.2 per cent in New Zealand, 12.7 per cent in the US and 8.8 per cent in Britain.

Australian supermarkets by contrast compare more than favourably with their US and British colleagues on the cost curve, a point made recently by outgoing Coles boss Ian McLeod.

The lowest rents were paid by British furniture stores, which tells you online sales in this sector are much larger than in Australia, and underlines the issue that, yes, there are a tonne of less glamorous things for governments to fix — like harmonising trading hours and rules — but the real gains are at the corporate level.

ACCC's Obeid bind MOSES and Paul Obeid are ironic test cases for big **business** concerns about excessive section 155 discovery notices from the ACCC after challenging their issue in the Mount Penny coal bid-rigging cartel investigation.

The fact the Obeids have challenged the discovery notices confirms the ACCC is still investigating a matter that has been centre stage at the NSW ICAC corruption hearings.

It also tells you the ACCC must be nearing the end of the matter because the notices in question demanded the Obeids front an ACCC internal hearing, which normally happens only just before a decision is being made on a court action.

The timing is crucial because the award of the Mount Penny tenements centred on 2009, which was when the ACCC's powers to take criminal cases for cartel breaches first became law.

This suggests if the matter proceeds, it may well be the first criminal cartel case from the ACCC.

It is early days and some in big **business** will, without knowing the facts, privately be cheering on the Obeids, because section 155 notices are to some scourges, and their alleged indiscriminate use wastes time according to others.

King Wood Mallesons's Stephen Ridgeway said in an interview "few would dispute the need for the notices; it is just a question on their use which is challenged. The courts have long supported the ACCC's powers and the Obeids face a tough time challenging the ACCC".

Last financial year, the ACCC issued 358 section 155 notices — more than double the 175 issued the prior year — which either demand documents and other information or in the case of these notices demand appearances before ACCC investigators.

The ACCC is damned if it takes action and damned if it doesn't; and on this matter, some argue the issue is well looked after through ICAC so why is the ACCC getting involved. The same people would damn the ACCC for letting go potential criminal cartel proceedings.

On this issue, without any knowledge of the facts, the ACCC has no choice but to protect its act and to use whatever powers it has to ensure the right evidence is known before a decision is made to take the matter to court.

Social bankworking THE National Australia Bank has a 10-man team monitoring social media from its Melbourne command centre, covering Google, Facebook, LinkedIn, YouTube and Twitter, where NAB has about 210,000 followers and 7000 mentions a month. Different firms handle social media in their own way, with NAB operating what some see as the best command centre model. ANZ uses outside providers that feed into their marketing and media team, the idea being that those folk are best to follow through on feeds.

Mobile banking at NAB accounted for 3 per cent of internet logins in 2010 and now 50 per cent login on a mobile device.

There are 1500 servicing interactions each month in which someone will hit Twitter or Facebook seeking home loan details. NAB aims to hit 50 per cent of these with a bankable transaction.

Image making and maintaining is one part of the dialogue; another is to grab customers in the ether.s&P faces storm P27

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