THE AUSTRALIAN

THE WALL STREET JOURNAL.

BUSINESS REVIEW

S&P/ASX200 7180.8	▼	-32.4
GOLD $US1787	▼	-$US11.80
DOLLAR US67.75C	▼	-US0.16c

MARKETS { P20 }

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Big banks' rates con short-changes savers

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BANK HIGHLIGHTS 'INTENSE COMPETITION' IN ACCC SUBMISSION

ANZ pitches for Suncorp approval

JOYCE MOULLAKIS

ANZ wants the competition regulator to consider its $4.9bn acquisition of Suncorp's bank in light of a national market that is "intensely competitive", but has admitted it may bring forward cost-cutting initiatives.

The Australian Competition & Consumer Commission on Monday said it had received ANZ's merger authorisation application and would seek submissions by January 18, ahead of making a determination on June 12.

ANZ agreed to buy Brisbane-headquartered Suncorp Bank in a transaction announced in July. The deal requires the ACCC's green light to ensure it won't substantially reduce competition across various markets, as well as approval from the federal and Queensland governments.

The ACCC said its chair Gina Cass-Gottlieb had disclosed a potential conflict of interest with the ANZ deal's authorisation, as a "result of work performed prior" to being appointed to her current role. Ms Cass-Gottlieb had provided legal advice to Suncorp at Gilbert + Tobin.

ANZ, based in Melbourne, argued in its application that the sector has "numerous competitors and new entrants" and that the combination of ANZ and Suncorp's bank won't "materially alter" the former's market share or significantly increase concentration in any market.

ANZ committed to no net job losses at Suncorp Bank in Queensland and not closing the target's branches in the state for three years.

In its ACCC application, the bank reiterated that after a three-to-four year separation period it expected to achieve $260m in annual cost savings, but said it may bring some initiatives forward. "ANZ does not expect to achieve material synergies during the separation period. In developing its integration plans, ANZ is exploring opportunities to realise some cost saving synergies earlier than the previously estimated four-six years post-completion," the bank said. "ANZ has not made any decisions about the numbers or roles of employees, or the numbers or locations of branches or contact centres that it will need to serve customers and run the bank following the separation period."

The application highlights a shift away from branch banking and also says ANZ eventually expects cost savings by consolidating technology and products and "labour rationalisation". The bank also flagged potential branch and contact centre cuts as duplicate branches are axed and digital channels become more popular.

ANZ said it was the smallest of the major banks and the acquisition would allow it to grow in Queensland where it has lighter representation. The heavily redacted application to the ACCC said the combination of ANZ and Suncorp Bank's market share in home loans would be 15.41 per

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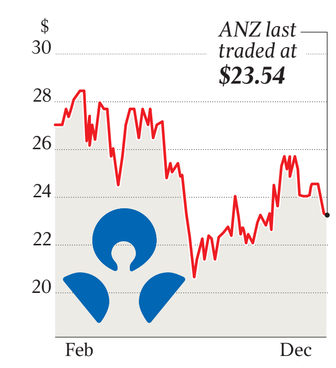


Source: Bloomberg

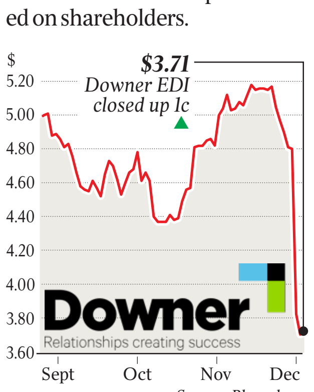
Downer defends delayed disclosure

MATT BELL

Downer EDI says its knowledge of historical accounting irregularities was "insufficiently definite" to immediately disclose to the market, as it defended a three-day delay for investors and the ASX.

The group lost $660m in market value as shares fell 20 per cent on Thursday, after it outlined ongoing misreporting of revenue and work in progress on a $170m contract, which resulted in an earnings overstatement of up to $40m.

Downer also cut its annual profit guidance by up to $60m for the financial year as wet weather added to the pain inflicted on shareholders.



Source: Bloomberg

Downer's outgoing chief executive Grant Fenn and senior management had became aware of ongoing misreporting of revenue and work in progress on the contract with a power company on December 5, three days earlier. The contract was struck in 2019.

"At that time the information was confidential, comprised supposition, and was insufficiently definite," Downer said in a response to a letter from the ASX.

Downer said that the amount of overstated work in progress was difficult to assess given that orders were not completed and were still being worked on in the field, and an investigation was required to determine the extent and the reasons.

Shares had been 7 per cent lower in the five days before the disclosure on December 8, after Mr Fenn announced on December 1 he would hand control of the company to chief operating officer Peter Tompkins.

Two per cent of the loss came

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Energy shares hit as government moves to cap prices

GIUSEPPE TAURIELLO

Energy shares slumped on Monday amid concerns the federal government's controversial move to temporarily cap gas and coal prices would kill off investment and could be extended if the global energy crisis persists.

Major producers scrambled to reassure investors following the announcement on Friday, while at the same time spelling out the risk to future gas supplies posed by the emergency measures.

In the short term, the earnings of major producers are not expected to take a major hit because most sell their gas and coal under long-term contracts, and are therefore sheltered from the temporary 12-month caps which will be in effect in 2023. However, the threat of an extension, and the risk of cuts to exploration and growth programs, made investors nervous on Monday.

Gas producers Origin Energy and Cooper Energy fell more than 7 per cent, Beach Energy closed 2.4 per cent lower, and coal miners Whitehaven and New Hope Corporation fell 2 per cent and 1.4 per cent respectively.

RBC Capital Markets analyst Gordon Ramsay believes Origin could be the worst affected of the Queensland producers, given the short-term nature of its Australia Pacific LNG supply contracts.

Otway Basin producer Cooper Energy is also at risk, Mr Ramsay wrote in a note to clients, as it negotiates a gas sales agreement with AGL Energy for its Otway Phase 3 Development project in the Victorian gas fields.

"In our view, this proposed legislation is negative for the entire east coast gas production industry, and has potential to restrict future exploration and development activity," he said.

"Cooper Energy, as a pure east coast gas play, is possibly most affected in terms of the producers, and Origin is most affected in terms of the Queensland LNG projects ... If the gas price cap is extended, we think Cooper may be forced to review its drilling program and go ahead of (Otway).

"In addition, AGL could also possibly request a review of the gas contract pricing."

Labor plans to cap domestic wholesale gas prices at $12 per gigajoule during 2023, while the price of thermal coal would also be capped in the east coast market at $125 a tonne.

There are fears the government's intervention could scupper a $18.4bn takeover bid for Origin from Brookfield and US investment giant EIG Partners.

"We think this new legislation has potential to possibly trigger a

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JANE DEMPSTER

World Coal Association chief executive Michelle Manook says replacing coal with renewables won't be easy

Coal campaigner calls for 'rigour' in carbon debate

We need more logic and less green virtue-signalling

TICKY FULLERTON

Cancelling fossil fuels and replacing them with renewables in a simplistic "cut and paste" operation will not solve the energy problem.

So says Michelle Manook, head of the World Coal Association – who landed in Sydney this week, her first trip to Australia in three years.

She argues that emissions from coal can be up to 99 per cent abated and the fuel will remain fundamental to the energy mix, create new industries beyond combustion and become part of a new integrated value chain.

What timing.

Last week's response from the government to soaring energy bills is a shirtfronting for fossil fuels: coal and gas is to be excluded altogether from the "capacity mechanism" that pays firm energy providers for power, price caps are locked in for a year and ongoing intervention flagged.

Earlier this month, Glencore pulled the plug on its $1.5bn Valeria coal mining project due to increased uncertainty as the government announced the project would be one of a number reassessed on environmental grounds.

Yet Manook's membership

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Working from home sets a new precedent

JILL ROWBOTHAM

Flat growth totals for partners and fee-earning lawyers at sub-partner level have disguised variations between firms that show who is faring well in the war for talent and who has more work to do, The Australian's Legal Partnership survey has found.

While partner headcount rose by double digits at Dentons, Gilbert + Tobin and Wotton + Kearney in the six months to January 1, it fell at Norton Rose Fulbright, Moray & Agnew and MinterEllison, although the latter two recorded slight increases in annual numbers. Likewise, double-digit growth in the fee-earner headcounts over the six months at Mills Oakley, Dentons and Gilchrist Connell contrasted with falls in some of the top tier firms, such as MinterEllison, Ashurst and Gilbert + Tobin.

In terms of fee-earners, Eaton Strategy + Search managing partner Shaaron Dalton said: "There was a feeding frenzy as top-tier and in-house legal teams at corporations poached from the larger domestic firms and everyone poached from ... smaller ones."

"The top tier usually wins on money – though in the survey period, it suffered losses to the brain drain and overseas firms with even deeper pockets – but tends to struggle on career progression and culture," said Ms Dalton, whose firm conducted the survey.

This analysis explains why Ashurst chief executive Paul Jenkins says quality of life ranks equally with remuneration and the chance to deal with important clients as key to recruitment and retention.

A seller's market, with good salaries and interesting work as part of any deal, now includes conditions such as flexibility in office hours, better parental leave, clearer career paths and the advancement of women.

Living and working in the shadow of recession and geopolitical uncertainty has not changed a simple fact of legal life:

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THE AUSTRALIAN

Legal Partnership Survey

See the full tables online at theaustralian.com.au

Banned director in link to lithium battle

EXCLUSIVE

NICK EVANS

Banned company director Avi Kimelman is alleged to be at the centre of a fresh controversy amid a fight for Canadian explorer Snow Lake Lithium.

The company's directors face a showdown with dissident investors on December 15, with the group – which says it controls about 42 per cent of Snow Lake shares – looking to remove most of its existing directors and replace them with newcomers with family and business ties to Mr Kimelman.

At stake is the promising Canadian lithium project owned by Snow Lake at a time of a rush of interest in North American critical minerals projects as the Biden administration looks to secure the country's supply chain.

Companies with lithium and nickel projects in North America and other jurisdictions – such as Australia – have surged over the past year as major carmakers

Continued on Page 16

MARGIN CALL

CHRISTINE LACY

Tooth is out there in dental fight

It's nothing but frowns at Pacific Smiles, the dental group caught in a civil war between its founder, **Alex Abrahams**, and its directors and management.

Abrahams, who owns 8 per cent of Pacific Smiles, wants to install himself (who else) as its chairman and has nominated a string of candidates, including former A2 Milk executive **Susan Massasso**, for the board.

An extraordinary meeting is scheduled for Monday, and both sides are furiously lobbying all involved for their support.

Pacific Smiles chief executive **Phil McKenzie** told The Australian a change in leadership would be "detrimental to shareholder value" and make it more difficult for the group to recover from its recent stumbles.

Shares, for the record, are 46 per cent lower than they were on December 31, although the past few months have seen a small recovery as the pandemic ebbs.

INSIDE MARGIN CALL

Two proxy houses are against the Pacific Smiles board spill

On Monday, the board sent another bolshie missive to investors, communicating a "strong" disagreement with perspectives being communicated directly to the company's shareholders.

Abrahams, the letter continues, could potentially be misleading shareholders, with the board accusing him of "cherry-picking partial information and alleging a lack of prudence in the board's execution of our investment and growth strategy".

What other perspectives may have been communicated to the company's shareholders – which include HBF, MA Financial, Celeste Funds Management and TDM Growth Partners – the board does not divulge.

One correspondence widely

Continued on Page 14

Gold miners agree $1bn merger deal

Raleigh Finlayson's Genesis Minerals has finally got the deal done for St Barbara, with the companies agreeing to a $1bn "no premium" deal to consolidate their respective ground in the Leonora gold district.

While St Barbara will be the vehicle that conducts the consolidation, the deal is effectively a reverse takeover, with Mr Finlayson and his team emerging with management responsibility for the merged company, Hoover House – named after former US president Herbert Hoover, who ran the Gwalia gold mine in the late 1890s as a mining engineer.

St Barbara will shed its non-Australian assets into a new vehicle, while its shareholders will emerge with 38 per cent of the combined group.

FULL REPORT P16

Working from home sets a new precedent for law firms

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there are never enough of what Clayton Utz chief executive partner Bruce Cooper calls the "perennially rare" experienced fee-earners to go around. Almost all firms surveyed increased salaries this year and intend to do so again next year.

HopgoodGanim was the only respondent that admitted to doubt. "Salaries increased in mid-2022 and we anticipate that may continue into 2023. However, that will also need to be supported by buoyant economic conditions, which are perhaps in doubt at the moment," people, culture and development director Kelly-Ann Sciffer said.

HopgoodGanim, like other firms, offers a hybrid working model with days at home as well as in the office. Although some firms are at pains to point out they offered such flexibility before the pandemic lockdowns, there is no doubt that this new paradigm is an enduring legacy of the Covid-19 pandemic.

Addison's managing partner Kieren Parker noted a sartorial side effect – "the tie has become conspicuously more and more absent" – as well as virtual meetings, reflecting increased use of technology tailored to streamline services and improve efficiency.

"We are now smarter about how we work and how we use technology to connect with clients," Norton Rose Fulbright chief executive partner Alison Deitz confirmed. "We are all now more considerate of each other's personal time, and save the in-person meetings and events for occasions that truly warrant them."

Travel, a casualty of lockdowns, may not fully recover. "Effective online collaboration and advice has reduced the need for routine travel," Ms Deitz said.

DLA Piper managing partner, Australia, Amber Matthews, said while international and domestic travel for client work and training experienced "an intense burst after Covid", it was not back to the pre-pandemic norm.

"Now that we have improved video conferencing technology and people are comfortable with this format, we don't expect it to go back to those levels," he said.

This also plays into firms' environmental, social and governance responsibilities. "EY is fully committed to being net zero by 2025, so we are very considerate now in terms of how, when and where we travel," the firm's law leader for Oceania, Sarah Ralph said.

Among those accentuating the positives on workforce recruitment was Lander & Rogers, whose chief executive partner Genevieve Collins argued hybrid working had facilitated its lawyers in being able to operate from anywhere in Australia, "paving the way for a truly national model and expanding our talent markets". "Our experience shows that hybrid and remote working is extremely effective, provided the right leadership, policies and processes are in place," Ms Collins said.

Many firms have adopted the 60:40 model in which staff are in the office for three days if possible. This adjustment has also given rise to the "glue" day, the weekly chance to meet en masse or in teams to network, collaborate and socialise.

Among them is Barry. Nilsson, whose chief executive Graeme Walsh spoke for many when he said: "Covid-19 is still a global health issue that impacts our workforce and one that we are now managing internally without government restriction guidance.

"The main issue ... revolves around how we maintain our positive culture, including a sense of community, when so many of our staff are working remotely. Team members all attend the office together one day per week. However, we expect it will continue to be something that we need to work on for some time."

Clayton Utz's Mr Cooper notes the need to be "be smarter" in working out which groups or teams are more suited to more work-from-home arrangements.

Clients are less interested in attending face-to-face meetings. "We are still finding that it's challenging to host clients where the format easily lends itself to a virtual environment," Dentons chief operating officer Maureen Migliazzo said. "To engage with clients, events need to be innovative and provide a strong reason for in-person engagement."

Mr Walsh predicted in-person business development activities were unlikely to return to pre-pandemic days but construed that as an opportunity. "Smarter use of technology and innovative ways to keep in contact with clients and staff will likely provide a competitive edge," he said.

There was concern that remote working could disadvantage some. Swaab noted the productivity and skills of its younger lawyers had "developed intensely since returning to the office".

COMMENTARY P21

THE AUSTRALIAN'S LEGAL PARTNERSHIP SURVEY: FEE-EARNERS AND GRADUATES

	Fee-earners	6 Month change %	12 Month change %	Graduates (Jan 1, 2023)
MinterEllison	1033	-3.28	-2.55	105
Herbert Smith Freehills	942	-2.18	3.97	101
Allens	870	-0.57	11.97	120
King & Wood Mallesons	865	-1.82	NA	20
HWL Ebsworth	813	-1.57	10.31	128
Clayton Utz	779	-4.65	2.5	78
Ashurst	647	-2.71	-3.58	78
Corrs Chambers Westgarth	625	0.16	11.21	67
Gilbert + Tobin	427	-6.36	-9.53	55
Norton Rose Fulbright	401	-2.43	3.08	48
Mills Oakley	398	18.1	23.6	44
Hall & Wilcox	389	-0.51	10.83	47
Sparke Helmore	359	0.28	3.16	34
Maddocks	320	1.59	12.68	30
Thomson Geer	287	-1.03	1.41	48
Lander & Rogers	271	-3.56	2.65	24
Wotton + Kearney	254	2.83	32.98	9
Moray & Agnew	230	-4.17	-20.42	9
Gadens	224	5.66	28.74	19
Clyde & Co	222	22.65	NA	15
DLA Piper	216	6.93	11.34	19
Holding Redlich	211	-7.05	12.83	29
Baker McKenzie	208	-4.15	5.05	26
K&L Gates	194	NA	NA	28
Piper Alderman	190	27.52	47.29	9
Colin Biggers & Paisley	181	-3.21	17.53	23
Johnson Winter & Slattery	175	0	-3.31	20
Barry Nilsson	167	NA	NA	0

For the six months to Jan 1, 2023 *NA denotes no corresponding data*

	Fee-earners	6 Month change %	12 Month change %	Graduates (Jan 1, 2023)
Dentons	163	16.43	9.4	22
PwC Legal	141	11.9	6.02	0
Arnold Bloch Leibler	140	6.06	22.81	31
McCullough Robertson	133	0	2.31	3
Jackson McDonald	117	NA	NA	8
KPMG Law	112	-18.25	14.52	112
HopgoodGanim	112	-8.94	6.67	15
White & Case	98	3.16	12.64	11
Gilchrist Connell	98	16.67	36.11	7
Macpherson Kelley	93	9.41	13.41	10
Russell Kennedy	89	-13.59	8.54	10
Hamilton Locke	86	3.61	-21.82	10
EY Legal (N)	79	12.86	NA	0
HFW	74	48	42.31	0
Cooper Grace Ward	72	12.5	14.29	5
Pinsent Masons	72	18.03	NA	6
Kennedys	70	1.45	-4.11	4
Jones Day	65	-7.14	-9.72	1
Addisons	59	3.51	20.41	5
Squire Patton Boggs	55	NA	-6.78	8
Holman Webb	46	9.52	9.52	2
Seyfarth Shaw Australia	29	31.82	7.41	1
Swaab	24	-42.86	-11.11	0
Banki Haddock Fiora	20	5.26	NA	4
Results Legal (N)	16	6.67	NA	5
Keypoint Law	11	-31.25	-8.33	0
TOTAL	**13,972**	**0.01**	**0.15**	**1513**

KEY: International · Top tier · Top tier/international

Source: Eaton Strategy + Search

NOTICES