

Riding the Next Set of Financial Waves

Australian Financial Lines Update

We are back with another update from Australia, as we put some gloss on our surfboard and shine a light on the key developments since our last note in January 2026: [Surfing Financial Waves Down Under](#)



KEITH BETHLEHEM
PARTNER
COLIN BIGGERS & PAISLEY



JAMES STERLING
CLAIMS COUNSEL
EUCLID FINANCIAL
& PROFESSIONAL RISKS



TOMMY EVANS
SENIOR ASSOCIATE
COLIN BIGGERS & PAISLEY



Shareholder Actions - watch this space

The Australian securities class action space currently sits on a knife edge. The High Court (equivalent to the UK Supreme Court) appeal in Commonwealth Bank of Australia v Zonia Holdings Pty Ltd was heard in June 2026. The key issue is whether shareholders were required to prove precisely what proportion of the share price decline was attributable to CBA's disclosure failures, or whether loss can be inferred where the bank's wrongdoing made precise quantification difficult.

Since we last wrote, the plaintiff bar has regained momentum following success in proving causation and loss for group members in the [Brambles](#) and Worley class actions. These decisions followed six straight adverse judgments, largely on the basis that group members could not prove loss. The Zonia judgment, likely to be delivered before the end of the year, will provide the High Court's first definitive guidance on the circumstances in which shareholders can establish loss. Note that Zonia directly affects the viability of risk

and governance based shareholder class actions (including a much publicised class action against Westpac dealing with money laundering breaches). The case will also have a broader effect on traditional earnings guidance cases, particularly in the areas of causation and loss. Until judgment is delivered, fundamental questions as to loss and causation remain unresolved, leaving plaintiff firms, funders, insurers and insureds navigating a degree of uncertainty.

“No single case - since the High Court allowed litigation for securities class actions in the early 2000s - will have had such a marked impact on exposure for the Australian D&O market”

In terms of the bigger picture, shareholder class action filings are down, with only 4 filed in the last 12 months. A win for the plaintiffs in Zonia, together with definitive guidance from the High Court as to how plaintiffs can structure their cases to

demonstrate loss and causation, will likely lead to a deluge of new securities class actions; in contrast, victory for the bank and an adherence to strict causation principles, will dampen the plaintiff bar's appetite to file new actions.

Derivative Actions - an alternative

As we considered back in January, a more restrictive approach to shareholder class actions could cause funders and plaintiff law firms to focus on other areas, such as company derivative actions, targeting D&Os (thereby increasing Side A D&O risk). Derivative actions allow eligible persons, including shareholders and directors, to step into the company's shoes and pursue a claim for the company's benefit.

Most recently, in August 2026, the Australian Stock Exchange received [notice](#) of a proposed derivative action against certain former D&Os in connection with the failed replacement of its post-trade system, CHESS. The application for leave remains pending.

Last year, eight former executives and board members of casino group SkyCity

Continued

Entertainment were also in the crosshairs of a shareholder derivative claim, following the group's AUD 67m penalty paid to financial crime regulator AUSTRAC for money laundering failures. The application was ultimately refused, as the Court was not satisfied that the applicant was acting in good faith, including concerns regarding his financial interest in the proceedings.

Had the application succeeded, it may have paved the way for similar claims following other major anti-money laundering enforcement outcomes, including those involving Crown Resorts and Star Entertainment.

Regulatory Action - ASIC hungry for more

Corporations and directors continue to be subject to extensive regulatory scrutiny. Following ongoing political and public pressure, ASIC maintained its voracious enforcement appetite, as it delivered one of its strongest periods on record over the past year. ASIC boasted [record penalties and strong criminal outcomes](#), which saw it launch more than 250 investigations and obtain AUD 830m in civil penalties imposed by courts.

“ASIC’s enforcement momentum shows little signs of slowing”

This is reinforced by ASIC's recent appeals in the unsuccessful actions against [Nuix](#) and Rex Airlines, demonstrating its willingness to pursue precedent setting disclosure and market conduct cases, even following adverse first-instance judgments.

Private Credit - blue sky through the storms?

Lastly, building on our earlier Insights, private credit continues to generate significant discussion. The recent collapse of Bathla, a major property developer in western Sydney, with more

than AUD 3.2bn of debt owed to non-bank lenders, has brought the fast-growing industry back into the spotlight. According to the new ASIC chair Sarah Court, this represents the first "real test for private credit".

A number of Bathla projects have effectively fallen under the control of its secured lenders, with some lenders reportedly funding project completion and paying contractors directly to preserve value. It is becoming increasingly unlikely that Bathla's administrators will be able to trade out of the current position or refinance its substantial debt burden. Lenders and their investors will therefore face significant losses. In turn, we expect increasing investor scrutiny of lenders' due diligence, risk management and investor disclosures at inception of the loans.

However, it would be a mistake to conclude that these developments necessarily signal systemic weakness. Despite the negative headlines and media speculation of contagion, private credit is emerging as a core component of the Australian financial system. Its rapid growth saw regulation lagging behind. However, in recent years the industry has drawn sustained regulatory attention and failures among mid-tier lenders prompted ASIC to escalate oversight, culminating in a formal review published in November 2025.

Concerns that private credit poses a systemic risk have moderated. The prevailing regulatory view is more nuanced: private credit is not inherently problematic, but inconsistent practices, opacity and misalignment with investor expectations warrant regulatory intervention. ASIC's own framing reflects this, noting that private credit plays a valuable economic role "but only if done well."

Against that backdrop, the focus is now on lifting standards across the market, rather than constraining the asset class itself, with ASIC calling (in June 2026) on funds to ensure their asset valuations are "grounded in realistic assumptions". Metrics Credit Partners, one of Australia's largest private lenders, has since written off more than AUD 160m from the value of three of its ASX-listed funds.

There undoubtedly remains significant short term risk for private credit entities exposed, not just to the fallout from Bathla, but to a deteriorating Australian real estate market. For insurers already supporting the Australian private credit market, there will be increased exposure to regulator and third party claims in the near term. Into the future, risk selection will be key.

Euclid's Perspective

For financial lines insurers, common themes running through each of these developments are uncertainty and volatility. Whether awaiting the High Court's guidance in Zonia, monitoring ASIC's continued enforcement activity, assessing the emergence of derivative claims, or evaluating evolving risks within the private credit sector, the Australian market remains highly dynamic.

Whilst these trends create potential for increased claims activity, they also reinforce the importance of disciplined underwriting, robust governance and careful risk selection. At Euclid, we remain primed to assist with risk transfer solutions, ready to navigate the challenges ahead, helping our brokers and insureds ride out the next set of financial waves with confidence.

Catch-up on our previous Insights: [Euclid Insights](#)

- [Mind the Gap! AI Risk for Insurance Brokers](#)
- [Corporate Stress in Paradise: Alleviating Offshore Risk](#)
- [Guest Post on Kevin LaCroix's "The D&O Diary"](#)
- [Underwriting Europe: Taking Stock Over Coffee](#)
- [Arabian Heights: PI at the Peak](#)
- [Surfing Financial Waves Down Under](#)
- [Covering Canada's Build](#)
- [Private Credit: Risky Business?](#)
- [Aggregation: Solicitors United](#)