

# COVID-19: CONTINUOUS DISCLOSURE OBLIGATIONS

## HOW ASX200 ENTITIES HAVE RESPONDED

25 MARCH 2020

COVID-19 is rapidly evolving and significantly impacting Australia's economy. Federal and state governments recently announced further restrictions on business including the shutdown of non-essential business and closure of state / territory borders. Similar restrictions are also in place in a number of other countries. In this environment, listed entities are facing considerable uncertainty and, for many, material impacts to their operations.

In our article [COVID-19 and your continuous disclosure obligations](#), we discussed the potential impact of COVID-19 on the continuous disclosure obligations of listed entities. In particular, we identified that the issue is especially acute for entities that have published earnings guidance.

In order to better understand the impact of COVID-19 on continuous disclosure obligations, we have reviewed ASX announcements by ASX200 entities in response to COVID-19 from Monday, 2 March 2020 to close of trade on Monday, 23 March 2020.

Our review has identified a number of interesting themes, particularly in relation to earnings guidance. We hope you find these insights useful.

# KEY INSIGHTS

Announcements have largely related to trading halts, earnings guidance, operational impacts, proposed transactions and AGMs

There have been 115 announcements related to COVID-19 by ASX200 entities. These announcements have principally related to the following:



**TRADING HALTS**



**EARNINGS GUIDANCE**



**OPERATIONAL IMPACTS**



**PROPOSED TRANSACTIONS**



**ANNUAL GENERAL MEETINGS**

## TRADING HALTS

Trading halts have been sought by some ASX200 entities

ASX has granted 5 trading halts to enable the relevant entity to assess the impact of COVID-19 on its business. These trading halts have involved entities across the media / advertising, mining / resources, casinos, gaming and entertainment and tourism industries.

**MEDIA / ADVERTISING**  
Southern Cross Media Group

**TOURISM**  
Flight Centre Travel Group

**MINING / RESOURCES**  
Orocobre

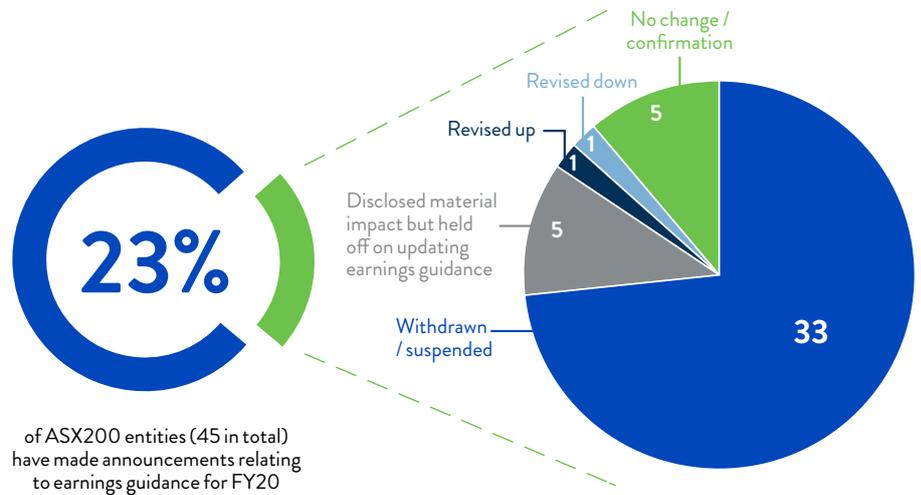
**CASINOS, GAMING & ENTERTAINMENT**  
The Star Entertainment Group, Crown Resorts



# EARNINGS GUIDANCE

Earnings guidance withdrawals / suspensions are the most common earning guidance announcement

45 entities (23% of ASX200 entities) have made announcements relating to published earnings guidance, 33 of which are withdrawals / suspensions.



## Key sectors that have withdrawn / suspended earnings guidance

 <p><b>TOURISM</b> Flight Centre Travel Group, Corporate Travel Management, Webjet</p>	 <p><b>INDUSTRIALS</b> McMillan Shakespeare, Downer EDI, Atlas Arteria Group</p>
 <p><b>PROPERTY</b> GPT Group, Mirvac Group</p>	 <p><b>RETAIL</b> Vicinity Centres, Scentre</p>
 <p><b>HEALTHCARE</b> Estia Health, Ramsay Health Care</p>	 <p><b>FOOD &amp; BEVERAGE</b> Coca-Cola Amatil</p>
 <p><b>RESOURCES / INFRASTRUCTURE</b> Boral, Monadelphous Group</p>	 <p><b>MEDIA / ADVERTISING</b> Nine Entertainment Co Holdings, oOh!Media, REA Group</p>

The tourism industry was the first industry to withdraw / suspend their earnings guidance.

In the aviation industry, Qantas Airways has not formally withdrawn or suspended its earnings guidance, although it has made a number of other announcements regarding the impact of COVID-19 including in relation to cancelling an off-market buyback, deferring payment of a shareholder dividend, temporary staff stand downs, international flight suspensions and domestic flight cuts.

## EARNINGS GUIDANCE (CONT)

### Categories of earnings guidance announcements

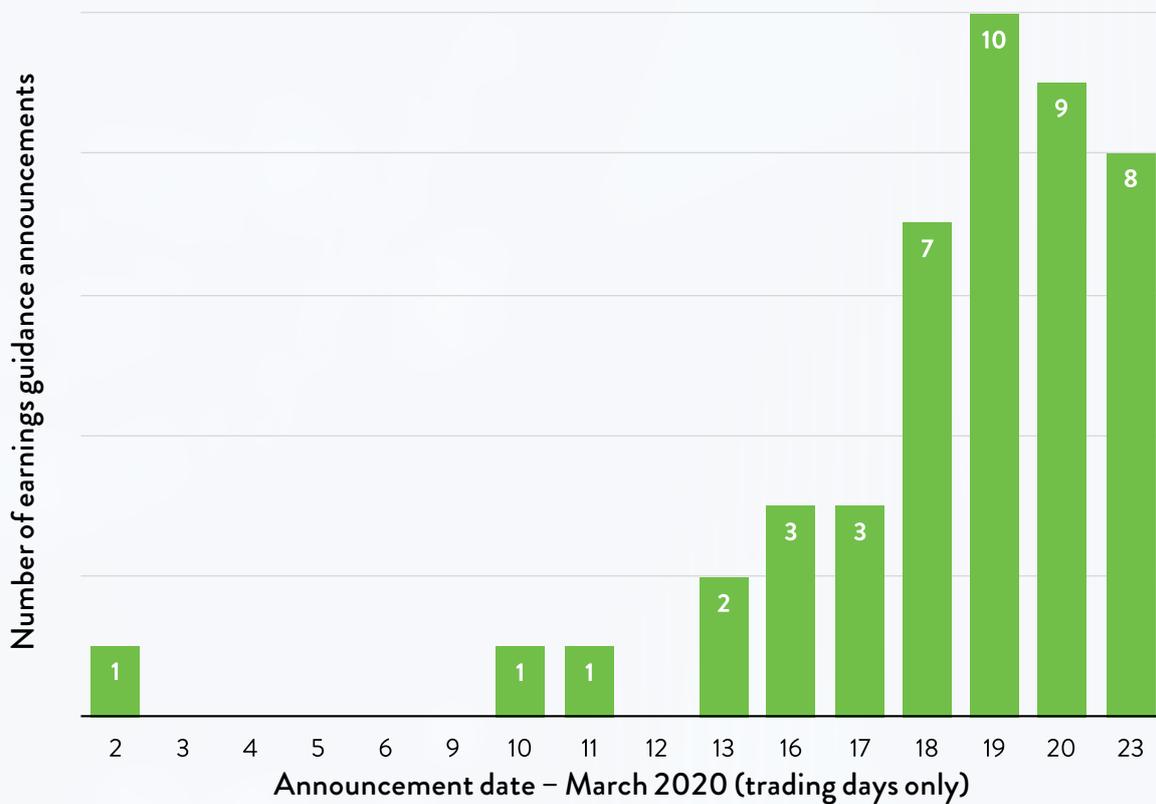
Generally, there are 5 categories of earnings guidance announcements, as summarised below.

RESPONSE	RATIONALE	ASX ANNOUNCEMENT	ASX200 EXAMPLES
Withdraw / suspend earnings guidance	COVID-19 is likely to materially impact earnings and the entity is not able / willing to provide updated earnings guidance	Earnings guidance withdrawn due to the significant uncertainty surrounding the duration and impact of COVID-19 on the entity's earnings	<ul style="list-style-type: none"> <li>+ Coca-Cola Amatil</li> <li>+ Estia Health</li> <li>+ Cochlear</li> <li>+ Flight Centre Travel Group</li> <li>+ Corporate Travel Management</li> <li>+ Webjet</li> <li>+ oOh!Media</li> <li>+ Nine Entertainment Co Holdings</li> <li>+ SKYCITY Entertainment Group</li> <li>+ Boral</li> <li>+ JB Hi-Fi</li> </ul>
Disclose material impact but hold off on updating earnings guidance	COVID-19 is likely to materially impact earnings and the entity is not currently able to prepare updated earnings guidance	COVID-19 is likely to materially impact earnings and the entity will make a further announcement when it has had the opportunity to prepare updated earnings guidance in light of COVID-19	<ul style="list-style-type: none"> <li>+ Qantas Airways</li> <li>+ Caltex Australia</li> <li>+ Domino's Pizza Enterprises</li> <li>+ Sandfire Resources</li> </ul>
Revise down earnings guidance	COVID-19 is likely to negatively impact earnings and the entity is able / willing to provide updated earnings guidance	COVID-19 is likely to negatively impact earnings (and the reasons why) and the entity has revised its earnings guidance accordingly	<ul style="list-style-type: none"> <li>+ SKYCITY Entertainment Group (before withdrawing / suspending)</li> </ul>
Revise up earnings guidance	COVID-19 is likely to materially positively impact earnings and the entity is able / willing to provide updated earnings guidance	COVID-19 is likely to materially positively impact earnings (and the reasons why) and the entity has revised its earnings guidance accordingly	<ul style="list-style-type: none"> <li>+ Fisher &amp; Paykel Healthcare Corp</li> </ul>
No revision to earnings guidance	COVID-19 is not likely to materially impact earnings relative to earnings guidance	No announcement is required under ASX Listing Rule 3.1, however in current market circumstances the entity confirms current earnings guidance	<ul style="list-style-type: none"> <li>+ Bega Cheese</li> <li>+ Challenger</li> <li>+ Telstra Corporation</li> <li>+ NextDC</li> </ul>

### Common language used in earnings guidance withdrawal / suspension

Most earnings guidance withdrawal / suspension announcements have used language such as ‘volatile’, ‘dynamic’, ‘uncertain’ or ‘unpredictable’. Additionally, various withdrawal or suspension announcements have been accompanied by statements asserting the strength of the entity’s balance sheet, the adequacy of debt facilities, and / or the entity’s liquidity position. This is reflective of the uncertain market conditions.

### Most earnings guidance announcements occurred in the past week

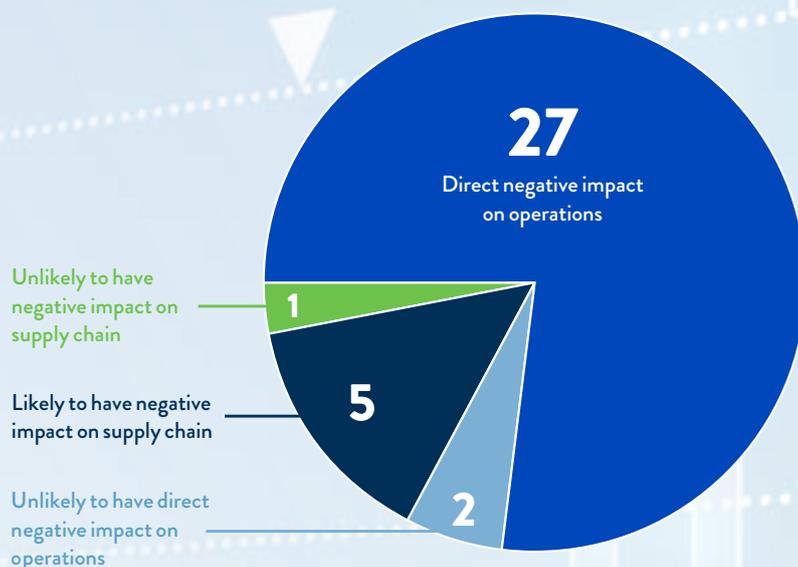


# OPERATIONAL IMPACTS

## Operational impact announcements largely concern direct negative impact

23 entities (12% of ASX200 entities) have made announcements regarding the impact of COVID-19 on their operations. Most of these related to direct negative impacts (e.g. store closures and capacity reductions).\*

\*Note: The pie chart shows the announced impacts on operations. One or more of the categories in the pie chart may apply to a single announcement.



Common operational impacts and affected industries are set out below.

COVID-19 IMPACT	AFFECTED INDUSTRIES	ASX200 EXAMPLES
Reduced capacity and closures	<ul style="list-style-type: none"> <li>+ Aviation</li> <li>+ Tourism</li> <li>+ Retail</li> <li>+ Hospitality / fast food</li> </ul>	<ul style="list-style-type: none"> <li>+ Qantas Airways</li> <li>+ Flight Centre Travel Group</li> <li>+ Harvey Norman Holdings</li> <li>+ Unibail-Rodamco-Westfield</li> <li>+ Domino's Pizza Enterprises</li> <li>+ Collins Foods</li> </ul>
Changes in consumption and demand for products and services	<ul style="list-style-type: none"> <li>+ Aviation</li> <li>+ Tourism</li> <li>+ Casinos, gaming and entertainment</li> </ul>	<ul style="list-style-type: none"> <li>+ Sydney Airport Holdings</li> <li>+ SKYCITY Entertainment Group</li> </ul>
Reduction in workforce	<ul style="list-style-type: none"> <li>+ Aviation</li> <li>+ Tourism</li> </ul>	<ul style="list-style-type: none"> <li>+ Qantas Airways</li> <li>+ Flight Centre Travel Group</li> </ul>
Government intervention (e.g. restrictions on large gatherings, closing down non-essential businesses)	<ul style="list-style-type: none"> <li>+ Casinos, gaming and entertainment</li> </ul>	<ul style="list-style-type: none"> <li>+ Crown Resorts</li> <li>+ Star Entertainment Group</li> <li>+ SKYCITY Entertainment Group</li> </ul>

# PROPOSED TRANSACTIONS

## Proposed transactions have been cancelled

A number of entities have announced the cancellation or withdrawal of proposed transactions including capital raisings, IPOs, private M&A and public market transactions. The reasons provided have included 'significantly changed market conditions' and 'ongoing market volatility' (e.g. Macquarie Bank and NAB) and / or COVID-19 (e.g. Public Storage / National Storage REIT).

### IPO: PRIMEWEST GROUP

Deferred the potential IPO and ASX listing of a new real estate investment trust Primewest Commercial REIT (\$288m estimated market capitalisation).

### PUBLIC M&A: HEALIUS

Rejected a non-binding indicative proposal received from an entity associated with the Partners Group to acquire all the shares in the company by way of scheme of arrangement.

### PUBLIC M&A: PUBLIC STORAGE

Withdrawn its non-binding indicative offer to acquire 100% of the issued stapled securities of National Storage REIT.

### PRIVATE M&A: OIL SEARCH

Suspended the formal process to sell a 15% interest in its Alaskan assets (however, discussions continuing with several parties).

### CAPITAL RAISINGS: MACQUARIE BANK AND NAB

Withdrawn their respective Capital Notes offers.



## AGMs

### Alternative arrangements for AGMs

It is becoming likely that entities will need to make alternative arrangements for holding their AGMs. Some entities with upcoming AGMs are monitoring the COVID-19 situation (e.g. Rio Tinto and Oz Minerals) while others have announced alternative AGM arrangements (e.g. Santos).

On 20 March 2020, ASIC released its position on AGMs and financial reporting (see [20-068MR Guidelines for meeting upcoming AGM and financial reporting requirements](#)).

In summary:

- + ASIC will not take action against public companies with 31 December balance dates (i.e. requiring them to hold an AGM by 31 May 2020) that postpone their AGMs until the end of July 2020.
- + Entities may wish to proceed with holding their AGM by 31 May 2020 or during the extension period using technology in order to comply with COVID-19 restrictions. This may include a 'hybrid' AGM (i.e. physical location and online facilities) or a 'virtual' AGM (i.e. conducted solely online). However, such arrangements are subject to the company's constitution and the technology that is utilised must enable members as a whole a reasonable opportunity to participate (e.g. ability to ask questions of the auditor and about management).
- + ASIC considers:
  - hybrid AGMs to be valid under the Corporations Act 2001 (Cth) (Corporations Act) (subject to company constitution restrictions);
  - there is some doubt as to whether the Corporations Act permits virtual AGMs; and
  - there may be doubt as to the validity of resolutions passed at a virtual AGM.
- + ASIC confirmed a formal 'no action' position in relation to virtual AGMs and sending supplementary notices electronically. This, however, does not prevent third party legal action in relation to AGM conduct, or a court from ruling, that the conduct infringes or breaches relevant legislation.
- + There is no adjustment as to financial reporting obligations for entities with 31 March or 30 June balance dates. ASIC will monitor how market conditions and COVID-19 are affecting financial reporting and AGM obligations for these entities and may update its guidance if needed.

For further discussion, refer to our article [ASIC facilitates 'social distancing' in AGMs](#). In addition, the Law Council of Australia, in partnership with the Governance Institute of Australia and the Australasian Investor Relations Association, has published [Guidance – Covid 19 and the impacts on AGMs](#), which provides practical suggestions for AGMs in light of COVID-19 and ASIC's modified AGM requirements.

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