

## IN BRIEF &gt;&gt;&gt;

**'EXCEPTIONAL' BANK ACTION**

ONE OF AUSTRALIA'S MOST FASCINATING class actions, aimed at recouping 'exception' fees charged by 12 Australian banks, is underway and could change the banking operating environment forever.

Litigation funder IMF Australia's class action lawsuit initially prompted a drop in banks' share prices. If successful, according to Datamonitor senior analyst Petter Ingemarsson, it could lead to over-regulation in the otherwise well-functioning Australian banking system.

"Bank fees are expected to come under closer scrutiny following the publicity regarding the class action lawsuit," Mr Ingemarsson said. The claim being run by law firm Maurice Blackburn, is currently for \$400million of fees, but could theoretically extend to \$5billion if all charges over the last six years are included. Similar lawsuits in the UK and US have paved the way for this action, as have suggested changes to Australian legislation regarding unfair contracts. Customer advocates argue that exception fees, such as overdraft charges and late payment fees on credit cards are in many cases unreasonable when compared with the actual associated costs for the banks.

For example, a temporary A\$1 overdraft could attract a fee of up to A\$60, with only negligible costs for the bank. According to Reserve Bank of Australia (RBA) statistics, Australian banks collected \$1billion of exception fees in 2008. Voluntary reductions in exception fees in 2009, carried out in an attempt to pre-empt challenges such as this, were already expected to cost banks \$550million.

There were several triggers for this development. Bank fees in general have raised the ire of consumers, causing half of all customer complaints.

Banks are also seen to have benefited from several kinds of government subsidies introduced in the wake of the financial crisis.

Having accepted help from the government, Datamonitor's Mr Ingemarsson believes it will be harder for banks to defend raising mortgage rates in excess of RBA rate rises, charging exception fees deemed unfair by consumers, or paying salaries that are not consistent with community standards. ■

**Migration changes to disturb employment ?**

**T**he Federal Government's crack-down on skilled migration came into effect on July 1 with the number of eligible occupations slashed from more than 400 to 181.

Federal Immigration Minister Chris Evans predicts 20,000 overseas skilled migration applications will be cancelled and refunded at a cost of \$14million to tax payers.

But Australian Migration Lawyers director, Peter Kuek-Kong Lee warned Australia's large number of international students will especially feel the brunt of these tough new immigration laws.

The new list is focused on targeting specialised occupations that require a long lead time of formal education and training.

He said those studying engineering, medical, education and high end professional, associate-professional and trade occupations will benefit from the new Skilled Occupations List (SOL), while generalist arts and science students including marketing, public relations, biologists and physicists will be left in limbo.

These students can apply for a temporary graduate visa that will keep them in the country for at least 18 months, but without an employer or State or Territory Government that is willing to sponsor them, the extra timeframe will offer little in achieving permanent residency.

**KEY SELLING POINT LOST**

Mr Lee, said Australia's workforce may benefit from the 'sharper' skills intake, but many students 'were sold' on studying an eligible degree in Australia so that they can apply for skilled migration upon completion.

"The real selling point for Australia was our education system, and we've brought all these people across only for them now to be locked out of the system," Mr Lee said.

"Many students have chosen Australia ahead of other countries like the UK, Canada and USA to complete their qualifications here because they wanted to settle in Australia. This opportunity will now not be available to them under Australia's skilled migration program."

Mr Lee, who spent nearly 25 years as an immigration officer in the



*Peter Kuek-Kong Lee.*

Department of Immigration and Citizenship, said whether the new laws are positive for Australia "depends on who you talk to".

"The migration industry is concerned that the number of skilled migrants will significantly drop," he said, "and the education sector is also adversely affected.

"For instance, Mackintosh College in the Gold Coast has had to shut down, and this is likely to be the trend right across the education sector.

"(But) the government is arguing that the targeted list of skilled occupations, developed in conjunction with Skills Australia, is necessary to meet with the needs of an emerging Australian economy, as it aims for a labour market demand-driven skilled migration program.

"What they are trying to do is really sharpen the skills coming into the country and ensuring that they are relevant to the economy. The government believes that this is the right move for Australia."

In addition to his migration experience, Mr Lee has also been lecturing in migration law at the Australian National University and Griffith University.

[www.migrationlawyers.com.au](http://www.migrationlawyers.com.au) ■