

Gadens Connect

2020 - Edition One

Happy 2020 - a new year, a new decade and a new Gadens way ...

Welcome to the first edition of Gadens Connect, Gadens newsletter for clients in the financial services industry. Our aim is to share insights, trends and opportunities, as well as key developments and success stories to help you maximise the efficiency and effectiveness of your portfolios.

This year will continue to see us on our journey of optimisation, automation and integration and working with you to deliver on those commitments.

To stay in the know, keep an eye out for our quarterly updates, and make sure you share them with your team and business partners. For other great content you can also visit : www.gadens.com/latest-insights, and if there is anything in particular you'd like to see in future editions of Gadens Connect, please let us know [here](#).

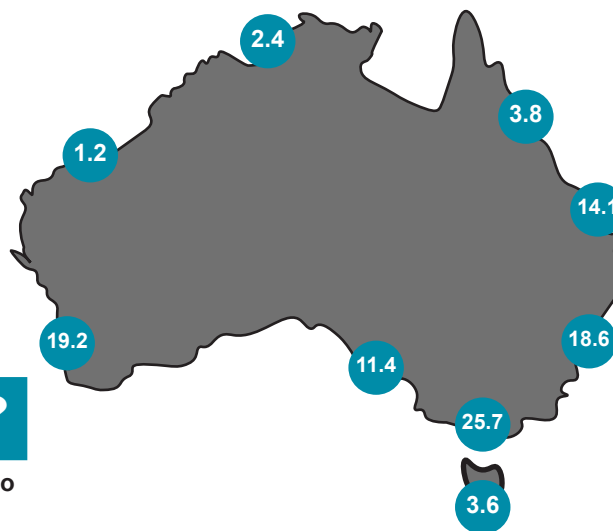
Happy reading!

Key performance indicators

Being a leader in the financial services recoveries sector our GPSR platform allows us to capture a great deal of industry data and we want to share that insight with you.

Instructions Received

This map shows the percentage breakdown of new instructions received in October to December 2019.



Hot spots

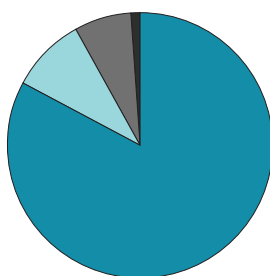
The last quarter has seen instructions taper off slightly, consistent with Christmas black out periods. As we would expect to see most instructions are in major metro areas, with Melbourne, Perth and Sydney experiencing the higher volumes.

Did you know?

GPSR stands for Gadens Portfolio Solutions - Recoveries

Cycle Times

The average cycle time from instructions received to instructions finalised is 173 days, and of this 83% of finalised matters are returned to order – this is consistent with traditional recovery action being replaced with more customer centric processes allowing greater opportunity for customers to rehabilitate delinquent accounts.



Exits - last quarter (shown as a %)

- Returned to order no exit - 83
- Refinance - 0
- Property sales in possession - 9
- Property sales customer initiated - 7
- Other - 1

173 days

The median cycle time of a recoveries file



If you'd like to know more about your own portfolio's key performance metrics [click here](#).

The year that was ...

2019 saw us deliver many key enhancements to GPS Recoveries from improved user experience to process updates, but our standout has to be our bulk upload functionality and B2B integration.

We are proud to be leading the way with efficient and secure transfer of client sensitive data.

GADENS SFTP SOLUTION – Communicate. Share. Respond.

Gadens recently launched a recoveries integration solution with one of the major banks.

How does this work?

A secure file transfer protocol ('SFTP') solution allows your core collection system and Gadens' workflow application (GPSR) to talk to each other by electronic and secure transfer of customer data allowing a more efficient and streamlined national operations process.

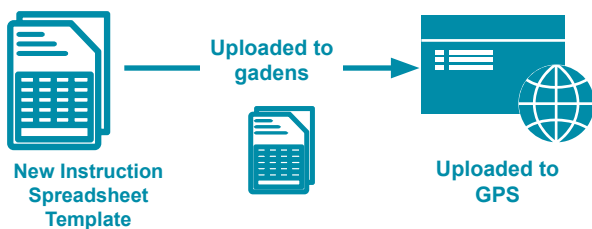
What does this mean?

An automated transfer of daily extracts will provide specific information to and from each other's systems to progress operational processes.

Solution – the new way, automated transfer of data

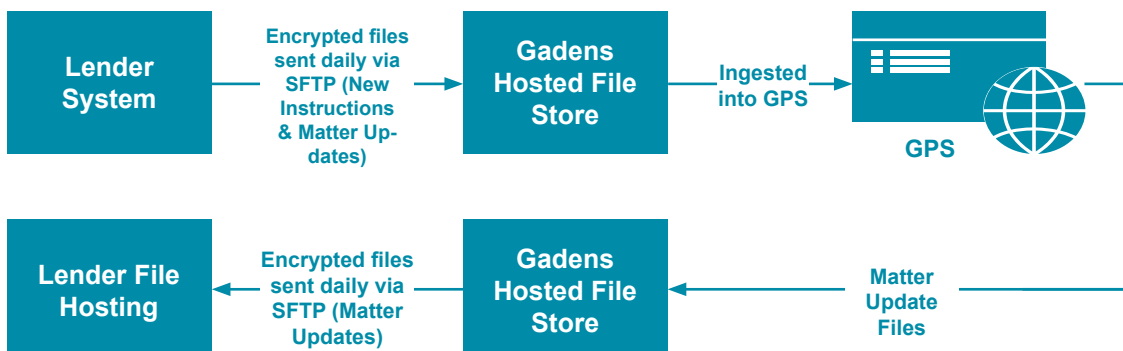
Stage 1 – Bulk upload of new instructions

Enter details of new instructions into a spreadsheet template. The spreadsheet is uploaded to GPS to create the new instructions.



Stage 2 – Automated upload of new instructions with case updates

On a daily basis data relating to new instructions and updates for existing matters is extracted from lender's system and written to a series of pipe delimited text files. The files are encrypted and transmitted to Gadens using SFTP. These text files are used to create and update matters in GPSR.



Tip

Did you know that you can combine your 6Q demand with your S.88 / power of sale notice, thus running them concurrently and reducing your cycle time by 30 days!

Benefits

- Automated creation of multiple new instructions within seconds reducing manual handling and saving operational costs.
- Automated transfer of encrypted data between lender system and GPSR improving control and security of data and allowing those without access to GPSR visibility into each matter.
- Data matching and cleansing to improve integrity of client data and reduce operational risk.
- Proven method of automation for GPSR with scalability across volume and product types.

Our expert IT team can discuss how we can make this process work best for you.

Success Story: MIP sale obligations

A recent ruling handed down in a VIC County Court proceeding found that a sale for undervalue claim by a mortgagor can only be made if there are defects in the sale process undertaken by a bank selling as mortgagee in possession.

Facts: The bank as mortgagee in possession passed in a property at public auction as the highest bid was under market value. A conditional offer made thereafter was also rejected as it was less than the reserve price set. In the months following, serious issues with the property came to light and it was essentially restricted to recreational use only. The bank subsequently advertised the property by private treaty and sold it a year later for an amount less than the amount of the conditional offer, but in line with market value at that time.

The mortgagor filed a statement of claim against the bank, alleging that the bank, in refusing to accept the subsequent offer to purchase the property, failed to sell the property at its proper market value and breached its duty to act in good faith.

Application: Gadens, on behalf of the bank, made an application that the statement of claim filed by the mortgagor be struck out or alternatively that it be summarily dismissed.

The Court found that the bank's failure to accept the conditional offer was reasonable in the circumstances based on the information available to the bank at the time. The bank had obtained a valuation from a reputable valuer and fixed the reserve according to the market value of the property. Further, the Court found that the bank had conducted a proper marketing and advertising campaign and in the absence of any defect in the sale process, the claim that the bank breached its duty to act in good faith could not succeed. The judge was satisfied that the mortgagor's case was either bound to fail or did not disclose a cause of action and in those circumstances it should be struck out.

This matter is a reminder that a mortgagor must point to some form of unconscionable conduct on the part of the bank. Gadens can assist you with providing advice in relation to sale at undervalue cases.

Hot topic: Bushfires - a national disaster

A topic close to all of us over the Christmas period was the outbreak of bushfires across the country which continue to be a watch point.

Just prior to Christmas we updated our hold reasons on GPSR to capture 'natural disasters' and have been placing matters on hold (where directed) using this functionality. This will ensure that we cease action on such matters, and work with you to support your customers during these trying times.

If you would like specific reporting for these matters, please do not hesitate to get in touch with us.

The screenshot shows a web form titled "Hold - matter". It has several fields: "Hold Reason" (a dropdown menu), "From", "To", "Note", and "Document Upload". The "Hold Reason" dropdown is open, showing a list of options. The option "Natural Disaster" is circled in red. Other options include "BWR Arrangement Approved", "BWR Refinance Approved", "BWR Sale Approved", "Customer Refinancing", "Customer Selling Properties", "Customer Under Arrangement", "DPP -WA- Noting Interest", "DPP -WA- On Hold", "Early Possession Effectuated", "File Sensitive", "Hardship Application Pending", "Ombudsman Complaint", and "Pre-Judgment LTR Issued".

Dates to remember

Updated Banking Code of Practice (BCOP) commences March 2020

What do you need to know?

- The updated BCOP now prescribes minimum requirements for 'basic accounts' (including no account keeping fees, no minimum deposits, amongst others).
- The notice requirements for taking enforcement action based on non-monetary defaults on small business loans have been clarified.
- Certain protections previously only afforded to guarantors of consumer loans will now be extended to guarantors of small business loans. One such protection includes only enforcing a security given by a guarantor after first enforcing security given by the borrower.
- Prohibition on charging default interest on farm mortgages during any period that the land used in that operation is in drought or subject to natural disaster.
- For deceased estates, where probate or letters of administration have not yet been granted, banks will now provide to the next of kin: (a) access to information about the deceased's account(s); and (b) the ability to make payments towards a debt owed to it by the deceased.

Let's celebrate...

- **Our staff** – Anna Koumides of our Melbourne office has recently been promoted to Special Counsel.
- **Our national footprint** – Gadens has extended its reach across Australia with a new office in Adelaide, led by Fidelis McGarrigan, as well as with Lavan Perth joining the Gadens association.
- **Our feature articles** – Liam Hennessy in our Brisbane office, has produced articles published in the Australian Financial Review: [The extension of the banking executive regime](#) and [Culture-related Regulatory Enforcement: Where might the Australian 'Bear' go hunting?](#)

Key contacts

If you would like to discuss the contents of this newsletter or any other recovery-related matter, please contact one of our regional legal experts...

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