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Flexible Yet Firm: The Practice of the AAT and the Courts in Reviewing ASIC's s 206F Management Disqualification Orders – *Robin Bowley*

Section 206F of the *Corporations Act 2001* (Cth) provides ASIC with a cheap and flexible enforcement power to disqualify for up to five years persons who have been involved in managing two or more failed companies within a seven-year period. Individuals who have been disqualified under s 206F may challenge such disqualifications through the merits review process at the Administrative Appeals Tribunal (AAT), and in further limited circumstances through the courts. This article examines the 36 AAT decisions that have determined challenges to the corporate regulator's disqualification orders. It shows that while the AAT has set aside or varied around half of these disqualification orders (based in several cases on the consideration of fresh evidence) the AAT has nevertheless demonstrated a firm approach to upholding standards of responsible corporate management in those disqualification orders it has affirmed. The article concludes by outlining potential reforms to s 206F to further enhance the effectiveness of this provision in deterring insolvent trading and ensuring responsible corporate management practices. 170

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