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EDITORIAL

ASIC'S 20th anniversary: Some reflections on the operation of the Corporations Act, the role of the Australian Securities and Investments Commission, and related issues	247
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ARTICLES

The development and enforcement of Australia's continuous disclosure regime – Merav Bloch, James Weatherhead and Jon Webster

Continuous disclosure by listed entities is critical to investor confidence and the fair and efficient operation of capital markets. Australia has long been regarded as a market leader in this sphere, although there remain some areas for improvement. This article traces the development of Australia's continuous disclosure regime over the 20-year life of ASIC and concludes with an analysis of certain "thorny issues" awaiting clarification by the ASX and the courts.	253
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ASIC and managed investments – Pamela F Hanrahan

The regulation of managed investment schemes (MIS) has been a core function of ASIC since its inception 20 years ago. This article explores the manner in which ASIC, through the exercise of its regulatory functions and powers, has contributed to the development of MIS jurisprudence during four distinct phases: under the prescribed interest regime; during the managed investments and financial services reforms; under the new regime; and during the GFC. It concludes that ASIC's contribution has been predominantly through the exercise of its regulatory discretions in relation to licensing, scheme registration and the grant of exemptions and through policy guidance, rather than through enforcement action. The article invites further research and reflection on the use and prospects of responsive regulation in the way ASIC approaches the regulation of MIS.	287
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Insider trading and market misconduct – Ashley Black

This article reviews regulatory activity and case law in the areas of insider trading and market misconduct in the 20 years since the Australian Securities and Investments Commission assumed responsibility for the administration of companies and securities legislation from 1 January 2001. The author notes media and academic criticisms of the level of ASIC's enforcement activity in this area and judicial comment as to the complexity of the provisions but points out that there is a solid record of the imposition of criminal and civil penalties in this area. The author also notes recent legislative amendments introducing more severe penalties and additional investigative methods in this area.	313
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ASIC regulation for the investor as consumer – Dimity Kingsford Smith

In the last 20 years the retail investor market in Australia has been radically extended. As the market discharges ever more functions connected with personal and domestic financial	
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welfare, nearly everyone is at some point, more or less directly, required to own financial products. Over the last 20 years (especially since compulsory superannuation in 1992) ASIC consumer policy and enforcement regulation has been charting the new territory of Australian “financial citizenship”. Influenced by the policy co-ordinates of the Wallis Report of 1997, ASIC has concentrated on disclosure and investor education, along with surveillance and enforcement of conduct of business rules. This article considers ASIC’s work in navigating the limits of disclosure and investor education in a retail market. It looks at ASIC’s use of “campaign” surveillance and detection and its resourcefulness in seeking compensation and accountability for retail investors in a “mass market”. It considers retail investing regulation after the 2009 Parliamentary Inquiry into financial services regulation and financial advice. Finally, it suggests, ASIC surveillance work requires greater resources. This is justified by the social costs of retail investor losses, in a market where virtually everyone must invest and become a “financial citizen” at some point in their lives. 327

ASIC and the Takeovers Panel – Tim Bednall and Victoria Ngomba

This article provides a comprehensive record of the Australian Securities and Investments Commission’s (ASIC’s) participation in matters before the Corporations and Securities Panel and subsequently the Takeovers Panel (Panel) in the past 20 years. It aims to analyse and comment on ASIC’s involvement in Panel matters and the impact this has had on takeovers regulation and practice. It finds that ASIC has played a relatively minor role in the resolution of takeover disputes and the enforcement of Ch 6, particularly over the past 10 years 355

Corrigendum

Please note the following correction to Volume 29 No 4 (June 2011) of the *Company and Securities Law Journal*:

On page 193, Editorial, the last sentence of the second paragraph should be replaced by the following: “Another commercial lawyer, turned merchant banker, David Knott, succeeded Alan Cameron as Chairman. He was succeeded by Geoffrey Lucy, a prominent accountant, and he in turn was succeeded by Tony D’Aloisio in 2007.”