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ARTICLES

Best practice in the regulation of non-cash payment services – *Rhys Bollen*

Payment services carry risks for the provider and the customer, from credit and insolvency risk, through to fraud and "mere" errors. There are a number of similarities in how these services are regulated internationally, and the careful observer can identify patterns and themes. This article proposes a best practice regime – including both the elements or building blocks, and how and when they should be applied. The elements, based on analysis of key national regimes, are fair play rules, systemic stability, an active supervisor, broad scope, licensing, disclosure, obligations of the parties, liability, dispute resolution and privacy. The article also explains how these elements can be combined to construct a coherent overall regime. The result is a recommended best practice model involving licensing, disclosure, conduct and redress standards in a three-tiered structure (thus providing a lighter-touch regime for low value products and a more intensive regime for more substantial banking-style products). 147

Dodd Frank and ABS: From Reaction to Reform – The Investor Protection and Securities Reform Act, 2010 – *Philip Jamieson*

The Dodd-Frank Wall Street Reform and Consumer Protection Act comprises a matrix of legislative amendments, additions and regulatory prescriptions that seek to remediate abuses and information asymmetries in the ABS market that contributed to the global financial crisis of 2007. It: seeks to align the interests of investors, issuers and credit rating agencies; reduces information asymmetry through a regime of disclosures; and imposes greater government oversight of participants in the industry. This article provides an overview of the regulatory structure created by the Act. It suggests that the strength of the Act lies in its proposed disclosure regime and changes in the NRSRO system, rather than in its attempts at interest alignment. It concludes by noting that, no matter the strength of a regulatory regime, as evidenced before the Senate Committee addressing Securitisation of Assets, risk remains in the human tendency to "euphoria at the height of a market". 173

Can too many regulators be too much of a good thing? – *Prudence Weaver*

Regulation of the Australian banking system is based on the "twin peaks" model and operates under three key regulators – the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission and the Reserve Bank of Australia – following the recommendations of the Wallis Committee. Each regulator has a different purpose and requires a different focus for compliance by the banks they regulate, which means the banks must assess the significance and priority to be given to the demands of each regulator. The global financial crisis tested the regulatory framework of banks here and overseas in countries such as the United Kingdom, the United States and New Zealand, and showed that there is no ideal model for banking regulation. Differences in regulatory focus should be prioritised by the regulators, and not by the banks that they regulate, otherwise too many regulators can be too much of a good thing. 201

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