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ARTICLES

The CAMAC Report on managed investment schemes: Another opportunity missed? *– Nuncio D'Angelo*

The 2012 Corporations and Markets Advisory Committee's Report on Managed Investment Schemes was much anticipated, following the release of its Discussion Paper in 2011. It is the latest in a series of similar reports and contains a range of recommendations addressing selected issues emerging from the many recent scheme collapses. However, its centrepiece proposal – a separate legal entity to replace registered schemes – while appealing and theoretically workable, is too radical to have any realistic chance of implementation in the short to medium term. Alternative proposals are stated as a series of aspirational principles (some reiterating recommendations in previous reports), leave complexities unresolved and are not exhaustive. For these reasons the Report may not provide the necessary stimulus for expeditious reform and, indeed, may represent yet another missed opportunity at a time when the market, and legislators, need clear guidance for swift remediation. 253

The doctrine of merger and post-judgment contractual interest – *Sam Hiebendaal*

Default interest clauses give creditors a right to compensation for loss of the use of money when the debtor fails to repay on time. However, due to an arcane rule of common law called the doctrine of merger, that right only applies to the period pre-judgment (unless the contract specifically provides otherwise). In other words, the judgment extinguishes the creditor's right to interest at the contractual rate. This article explains why, and argues that the doctrine of merger should be modified because it: achieves the very opposite of its intended purpose; fails to reflect modern contracting parties' intentions; is inconsistent with other areas of the law relating to interest; and creates perverse incentives for debtors and creditors. The article also explains why and how the courts have the power to award post-judgment contractual interest at common law. 269

If it waddles and quacks, it's probably a duck: The New Zealand Supreme Court's decision in Hickman v Turner and Waverley Ltd – *Mace Gorringe* and *Finn Howie*

Hard cases make bad law. Bearing this in mind, the Supreme Court of New Zealand's decision on the failed group of finance companies known as "Blue Chip" has met with a certain amount of negative sentiment. While the popular press celebrated a victory for the investors, some critics suspected the court sympathised with the victims and stretched the ambit of the Securities Act 1978 (NZ) to help them. The authors disagree with this view and generally agree with the Supreme Court's decision and reasoning. Perhaps the main controversy is that it took New Zealand's highest court to rule on the matter for the correct decision to be reached. 283

BANKING LAW AND BANKING PRACTICE

Verification clauses 291

High Court restates Penalty Doctrine in class action against ANZ? 293

SECURITIES AND MORTGAGES

Warning to financiers – register PPS security interests correctly or lose priority to collateral: Carson, in the matter of Hastie Group Ltd (No 3) [2012] FCA 719 298

COMMERCIAL AND FINANCE LAW

Charitable trusts: Some important reminders 302

Credit facilities and Ch 7 of the Corporations Act 303

INSOLVENCY LAW AND MANAGEMENT

Disclaimer: Washing away the rights of a tenant? 305

RECENT PUBLICATIONS 308

UNITED KINGDOM AND EUROPE

ISDA Master Agreement – Interpretation developments 312

CANADA

Final report of the task force for the payments system review proposes major overhaul of the Canadian payments system 315

BOOK REVIEW
The Payment Order of Antiquity and the Middle Ages by B Geva 318

VOLUME 23 – 2012

Table of Authors 323
Table of Cases 325
Index 341