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ASIC Enforcement Priorities: The Rhetoric and the Reality – *Dr Joseph Crowley*

Theoretical regulatory frameworks were developed in the 1980s and early 1990s. At their most basic these posit that a regulator should pursue criminal sanctions as a last resort, preferring civil penalties or lesser persuasive options. The framework preferred by the Australian Securities and Investments Commission (ASIC) is known as the “pyramid model”. ASIC commenced in 1993 and has, from its inception, purported to follow its own model of enforcement (pyramid model). This article identifies an apparent divergence from the pyramid model around enforcement of directors’ duties. The inconsistency seems to arise by the pursuit of more high-profile breaches that give maximum regulatory impact in the market, resulting in larger penalties sought for those prosecuted, and maximising public impact. 5

Statutory Payment Trusts in the Australian Construction Industry – Is It Time to Stop “Kicking the Can Down the Road”? – *Bianca Wei Joo Teng, Jeremy Coggins, Rameez Rameezdeen, Vicki Waye and Tony Ma*

Despite several recommendations that a statutory payment trust (SPT) scheme be established in the Australian construction industry to address its insolvency problem, Queensland is the only jurisdiction to have done so. The Queensland SPT model, however, differs from the SPT model recommended as the basis for national implementation by the 2017 Murray Review of Security of Payment Laws in that it adopts a project trust account instead of a cascading statutory trust approach. This article presents the results of research carried out with the aim of discovering the views of informed parties regarding the need for an SPT scheme and the most appropriate shape and form of any eventuating SPT model for the Australian construction industry. The research findings generally support the recommendation of the Murray Review that it is time to “stop kicking the can down the road” and introduce deemed cascading statutory trusts for the construction industry. 23

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