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The four methods of financial system regulation: An international comparative survey – *Andrew D Schmulow*

This article provides a description of the four methods of financial system regulation currently in use internationally, with case studies illustrating each system. Analysis is provided of the strengths and weaknesses of each. Research indicates that the "Twin Peaks" system is superior to its peers. However, this article also concludes, by reference to failings observed in "Twin Peaks" arrangements to date, that "Twin Peaks" alone is no panacea against financial crises, or market and consumer abuse. It is merely the best form of regulatory architecture. Other factors, such as the capacity and willingness of the regulators to discharge their mandate, even within a sound regulatory architecture, are as important to the success of financial system regulation, as evidenced by the failures in the United Kingdom around the time of the global financial crisis, and as evidenced by the success of the Monetary Authority of Singapore, despite Singapore's sub-optimal regulatory structure. 151

Thoughts for the litigant in person – some common, but unsuccessful, arguments which should not be raised in resisting the bank's claim – *Lee Aitken*

An unfortunate feature of modern litigation is its expense; one consequence of this is an increasingly large number of litigants in banking litigation who appear for themselves. Frequently, a litigant in person will mount an "argument" (derived goodness knows where) involving some bizarre and unsustainable reasoning. Making such an argument detracts from otherwise valid claims in defence of the lender's action, and may submerge them completely. This article examines "arguments" which the litigant in person should not advance 173

Quality and safety for financial services and products – *Rhys Bollen*

In a free market system, governments have not generally seen their mandate as one relating to the quality of financial products and services provided to the public. While prudential regulation and some general-purpose consumer protection conduct regulation is generally accepted as exceptions to this, conduct regimes have traditionally not been considered to be merit or quality regulation. They deal with disclosure, rather than what products and services can be sold to whom or what features they must have. Quality and safety concerns with financial products and services have come to the fore again in recent years. This article discusses why and how a number of countries have introduced or are considering product safety and quality rules for financial products. 182

Takeovers financing – certain funding – *John Mosley* and *Cynthia Li*

The article examines Australian law and practice in the debt funding of public company takeovers. It is seen that because takeovers are conducted in a public market and can impact market credibility, special rules and practices have evolved to regulate their financing. These rules and practices require a high level of disclosure about the financing arrangements and mandate that the funding must be provided on a "certain" basis. The overall aim of this approach is to prevent a transaction failing due to uncertain funding

which could lead to a loss of faith in the public share market. The article compares the Australian position with that in the United Kingdom (UK) where a tighter approach has closed a gap that exists in Australia by imposing more risk on the lenders. The article considers whether the UK position would be suitable for the Australian market. The article suggests a possible "middle way" of closing the gap that might be more suited to the Australian market. 199

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