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EDITORIAL 169

ARTICLES

Corporate governance for Australian energy and resources companies – John Chandler and Jared Clements

In the first half of 2015 the Centre for Mining Energy and Natural Resources Law at the University of Western Australia and KPMG conducted a second survey of corporate governance of energy and resources companies listed on the Australian Securities Exchange. In this article, the authors describe the 2015 survey, reflect on its results and those of an earlier survey carried out in 2013, and consider the implications for the corporate governance of energy and resources companies in Australia. 175

Assessing the effectiveness of ASIC's accountability framework – Diana Nestorovska

Despite the growth in the responsibilities and powers of the Australian Securities and Investments Commission (ASIC) in recent years, many still question whether ASIC's powers are effective in light of the complexity of modern day financial markets and the sophistication of ASIC's regulated community. This article discusses whether ASIC's accountability mechanisms are effective in light of ASIC's growth. It identifies ASIC's existing accountability mechanisms within a conceptual framework that broadly considers who in ASIC is accountable to whom and for what. In undertaking this exercise, this article gives a wholistic overview of ASIC's accountability mechanisms, identifies gaps within the accountability framework, and considers suggestions for reform where those gaps seriously undermine ASIC's legitimacy as an independent regulator. 193

Termination payments under the Corporations Act 2001 (Cth) – Some issues – John Sartori

The termination payments provisions of the Corporations Act 2001 (Cth) (Pt 2D.2 Div 2) regulate the payment of termination benefits to company officers. In 2009, these provisions were substantially amended by the Corporations Amendment (Improving Accountability on Termination Payments) Act 2009 (Cth) (the Amending Act). The Amending Act substantially broadened the ambit of the provisions and reduced the threshold level of termination benefits at which shareholder approval is required for the giving of certain kinds of benefits; these amendments were a reaction to community concern about the levels of termination benefits to company management. This article highlights some difficulties and ambiguities which arise in applying the amended termination payments provisions in practice and suggests certain changes with a view to improving clarity and certainty for companies and their officers and employees. 221

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