

# COMPANY AND SECURITIES LAW JOURNAL

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## ARTICLES

### **Dealing with conflicts: The equitable and statutory obligations of financial services licensees – Vince Battaglia**

In the world of commerce, financial service providers are constantly in a position where they are susceptible to a range of influences. Under the equitable law of fiduciaries, such providers may be considered to be in a fiduciary relationship with their clients such that they are obliged to avoid a conflict of personal interest and fiduciary duty. This equitable duty finds a new (but not exact) statutory correspondence in the *Corporations Act 2001* (Cth) (the Act), namely the general obligation to manage conflicts of interest under s 912A(1)(aa). This article compares and contrasts the nature and content of the fiduciary and statutory obligations in relation to dealing with conflicts of interest, including the recent decision in *Australian Securities and Investments Commission v Citigroup Global Markets Australia Pty Ltd (No 4)* (2007) 160 FCR 35; [2007] FCA 963, along with the interpretation of the statutory obligation taken by the corporate regulator. Seeking to relate the statutory obligation of conflict management with its origin in the law of equity, it argues that dealing with conflicts requires different responses in equity and under statute such that the two sources of law can be considered to be on a path of divergence and serve different regulatory aims. .... 483

### **Closed and private company briefings: Justifiable or unfair? – Gill North**

Most listed Australian companies hold briefings for investors following major announcements. The information provided at these briefings can be easily and cheaply disseminated to all stakeholders using webcasting and teleconference calls. However, most Australian listed companies continue to provide briefing information to investors on an invitation-only basis. This article argues for regulation requiring open access for investors to major company briefings in Australia similar to Regulation Fair Disclosure in the United States. Empirical studies on company briefings generally suggest or infer that an open access policy enhances economic efficiency and market fairness through information asymmetry reductions. .... 501

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