

# COMPANY AND SECURITIES LAW JOURNAL

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## ARTICLES

**Companies take heed: The misleading or deceptive conduct provisions are gaining prominence** – *Gill North*

Provisions that prohibit misleading or deceptive conduct are included in several Australian statutes. The article considers these provisions, with a particular focus on company disclosure matters. It reviews the regulation, empirical research, case law, class actions, and the links and connections across the provisions and with the continuous disclosure obligations. It argues that listed company directors and managers ought to carefully review their public disclosure processes and cultures. The focus and balance of the company disclosure regulatory framework appears to be shifting and the misleading or deceptive conduct provisions are becoming more prominent. Recent high-profile litigation by the Australian Securities and Investments Commission against listed companies alleging misleading or deceptive conduct and contravention of the continuous disclosure provisions has succeeded. Moreover, a growing number of class actions founded on misleading or deceptive conduct and a failure to disclose are being launched and settled. .... 342

**Shareholder and creditor protection in Australia: A leximetric analysis** – *Helen Anderson, Michelle Welsh, Ian Ramsay and Peter Gahan*

This article utilises leximetric analysis, which involves the numerical coding of the strength of legal protections, to show changes in levels of shareholder and creditor protection in Australia for the period 1970 to 2010. This form of analysis, originally developed by La Porta et al, and subsequently used by many scholars in different legal fields, allows for the production of graphs which illustrate changes to the law, reducing complexities and allowing for comparisons of shareholder and creditor protection. The data show levels of shareholder protection have increased, most notably against actions of the board of directors rather than against other shareholders. In contrast, levels of creditor protection have been relatively stable. The article explores how and why these developments in shareholder and creditor protection have occurred. The research also identifies that for most of the 40-year period of study, there was a positive correlation between shareholder and creditor protection. However, this is no longer the case for recent years and possible explanations for this finding are identified. .... 366

SECURITIES INDUSTRY AND MANAGED INVESTMENTS – *Ann O’Connell*

**Statutory novation of contracts and the (smooth?) transition to a new responsible entity** – *Eve Brown* ..... 391

