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ASIC Enforcement Outcomes: Trends and Analysis – *Ian Ramsay and Miranda Webster*

The Australian Securities and Investments Commission (ASIC) views enforcement as an important part of its regulatory role and dedicates a significant amount of resources to surveillance and enforcement activity. This article considers what kinds of enforcement outcomes ASIC achieves and what these outcomes tell us about the way ASIC uses its enforcement resources. The authors analyse ASIC’s “enforcement outcomes” for the five-year period from 1 July 2011 to 30 June 2016, using the statistics provided in the ASIC Enforcement Outcomes reports and media releases published by ASIC. This analysis shows that many of ASIC’s enforcement outcomes are criminal outcomes (nearly 70%), but this is due to the high number of criminal outcomes obtained by ASIC’s small business compliance and deterrence team – the other regulatory areas (market integrity, corporate governance and financial services) have a greater focus on administrative outcomes. There are clear differences between each of ASIC’s four main regulatory areas in the use of enforcement methods (criminal, civil, administrative remedies, enforceable undertakings/negotiated outcomes and public warning notices). There are also notable differences in the number of enforcement outcomes obtained by these four enforcement teams. These differences are influenced by particular enforcement approaches that ASIC takes towards certain kinds of misconduct. 289

Voluntary Administration Outcomes: Evidence from Listed Companies During the Financial Crisis – *Dr James Routledge*

This article presents an exploratory empirical analysis of voluntary administration (VA) during the period of the global financial crisis. It examines the frequency of deed of company arrangement outcomes and provides data about the type of deed outcomes. It also considers the relation between company characteristics at the time of entry into VA and the outcome. Characteristics examined include financial condition, insider shareholding, strength of corporate governance, director turnover, monitoring by substantial or institutional shareholders and characteristics of the appointed administrator firm. Most of the deed outcomes result in company liquidation, and the combined percentage of companies that liquidate or conclude a liquidating deed is high. Analysis of company characteristics and outcomes suggests that VA may not effectively meet the needs of large, complex company reorganisations. Based on the findings, the article discusses possible avenues for enhancing the effectiveness of the legislation. 322

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