
Index

Administration

voluntary, 195

Australia

change of position defence, and Australian Financial Services & Leasing Pty Limited v Hills Industries Ltd, 118-124

background to appeal, 118-119

detriment, and equitable doctrine of, 120

High Court's decision, 119-121

reasoning, analysis of, 121-122

irreversible detriment, practical criterion of, 119

marshalling, position in, 130-131

money transfer operators (MTOs) and account closures, in Australia, 245-246

Australian law, position under, 251-253

advantage, taking, 252-253

market, defining relevant market power and, 251

unjust enrichment, nature and role under Australian law, 123-124

Autonomy principle

documentary credit, and, 157

illegality as exception to, 161-166

arguments for and against illegality exception, 166-167

beneficiary, and knowledge of, 168

Canada, 165-166

connection, close, between documentary credit and illegality, 172-175

England, 161-163

formation, and contracts illegal at time of, 169

illegal purpose, contracts which achieve, 169-170

scope of illegality exception, 168-175

seriousness, character of offence and, 170-172

UNCITRAL Convention on Independent Guarantees and Stand-by Letters of Credit, and, 166

United States of America, 163-164

letters of credit and, 219-220

Bail-in debt

insolvency of banks, and use of, 71

Bailouts

insolvency of banks, and use of, 71, 82-89

costs, and, 71

creditors, explicit exclusion from insolvency, 89-90

Bank cheques

stop payment, and payment by, 177-178, 181

Banking law

recent publications, 52, 132, 197, 275

Banking practice

recent publications, 54-55, 133, 275

Banks

corporate governance, importance of practices in banking industry, 138-141

literature review, 138-141

Indian *see* **India**

insolvency of, 71-101

bail-in debt, use of, 71

bailouts, use of, 71, 82-89

costs, and, 71

creditors, explicit exclusion from insolvency, 89-90

contingent capital bonds (CoCos), use of, 71, 98-99

equity capital requirements, increasing, 91-93

insolvency law, use of standard, 71, 73-93

contagion, and, 71, 79-81

costs, and, 71, 74-79

credit-rationing, as final cost of, 73, 81-82

lenders of last resort, use of, 90-91

market-based resolution without sale, 98-100

accounting triggers, forbearance and, 99-100

contingent capital bonds (CoCos), use of, 71, 98-99

hybrid triggers, 100

legal basis, 98

- purchase and assumption model, as resolution mechanism, 72
 - recapitalisation model, as resolution mechanism, 72
 - resolution without sale, 96-98
 - legal basis, 96-98
 - sale, resolution by, 93-96
 - cash-in-the-market effect, 95
 - international coordination difficulties, 95-96
 - legal basis, 93-94
 - risks, high level, associated with, 94-95
- People's Bank of China (PBOC)
 - banking industry, regulation prior to 2004, 16
 - regulatory and supervisory power, shift from, 17
- recapitalization, public consultation paper on taxpayer protection and, 281-282
- Saudi Arabia, corporate governance in listed banks, 137-156
 - Corporate Governance Disclosure Index (CGDI), 143-149
 - Corporate Governance Regulations, level of compliance with, 150-156
 - audit committee independence, as factor affecting, 154-155
 - audit committee size, as factor affecting, 154
 - bank size, as factor affecting, 155
 - board independence, as factor affecting, 153-154
 - board size, as factor affecting, 153
 - CEO status, as factor affecting, 154
 - leverage ratio, as factor affecting, 155-156
 - ownership concentration, as factor affecting, 155
 - data, descriptive analysis of, 151-152
 - improvement, recommendations for, 156
 - research methodology, 141-143
 - Saudi Arabian Monetary Agency (SAMA), and better practices, 137
- Bills of Exchange Act**
 - inchoate, enforcement notices sent by OSR and, 260-261
- Bond markets**
 - Chinese, 24
 - US, size of, 3
- Bribe**
 - principal, held on trust for, 189-191
- Burton SC, Gregory**
 - General Editor, Journal of Banking and Finance Law, Q and A with, 213-214
- Canada**
 - electronic presentment, deposit of cheques of, 201-203
 - marshalling, Canadian PPSA and, 107
 - taxpayer protection, public consultation paper on bank recapitalization and, 281-282
- Capital markets**
 - recent publications, 53, 133, 275
- Change of position defence**
 - Australian Financial Services & Leasing Pty Limited v Hills Industries Ltd, 118-124
 - background to appeal, 118-119
 - detriment, and equitable doctrine of, 120
 - High Court's decision, 119-121
 - reasoning, analysis of, 121-122
 - irreversible detriment, practical criterion of, 119
 - estoppel, as, 120
 - unjust enrichment, nature and role under Australian law, 123-124
- Chattel paper**
 - account, and, 232-233
 - enforcing security interests in, 241-242
 - financiers, priority between account financiers and, 240
 - perfection of security interest over, 234-235
 - priority rules relating to, 236-238
 - returned goods, 238-240
 - proceeds, as, 233-234
 - repossession of goods under, 235-236
 - return of goods under, 235-236
 - transferring, 241
 - use of, 230-231
 - what is, 228-230
- Cheques**
 - electronic presentment, deposit of cheques and (Canada), 201-203

stop payment, and payment by, 177, 180

China

bond market, 24

China Banking Regulatory Commission (CBRC)

counterparty risk, issue of revised rules concerning, 19-20

creation, 16

derivatives activities of financial institutions, supervision by, 17

domestic interest rate derivative trading, measure between 2004-2009, 14

regulatory and supervisory power, shift to, 17

China Insurance Regulatory Commission (CIRC)

derivative contracts, and insurance businesses regulated by, 17

commodities exchanges, 24

corporate securities market, 24

economic policy of state, 16

Enterprise Bankruptcy Law of the People's Republic of China 2006

NAFMII documents, EBL documents and, 21-23

futures market, 24

National Association of Financial Market Institutional Investors (NAFMII)

Chinese interbank market players, formation by, 20

over-the-counter (OTC) derivatives, regulation in, 14-25

basic licence, creation of, 17

Chinese central counterparty (CCP), clearing of standardised transactions through, 23-24

finality orders, effect, 23-24

general licence, creation of, 17

hedging balance sheet assets, use of derivatives for, 15

international practice, and, 25

National Association of Financial Market Institutional Investors (NAFMII) documents

contract law, and, 21

Enterprise Bankruptcy Law of the People's Republic of China 2006, EBL documents and, 21-23

inherent counterparty risk under contract law and, 20

policy in initial adoption of prudential regulation, 15

rationale in initial adoption of prudential regulation, 15

People's Bank of China (PBOC)

banking industry, regulation prior to 2004, 16

regulatory and supervisory power, shift from, 17

Provisional Administrative Rules Governing Derivatives Activities of Financial Institutions 2004 (PARGDAFI)

Contract Law of the People's Republic of China (1999) (China), relationship with, 15

derivatives activities, as mechanism for supervising, 15

revisions of, 16

social regulatory techniques, use before promulgation, 15

Code of Banking Practice 2013

application, 47

commencement, 47

Commercial law

recent publications, 53, 132, 198-199, 275

Commodities exchanges

China, in, 24

Company

disclaimer of onerous property of, and grossly disproportionate prejudice, 50-51

Contingent capital bonds (CoCos)

insolvency of banks, use of, 71, 98-99

Corporate governance

banking industry, importance of practices in, 138-141

literature review, 138-141

1997 Asian crisis, and poor practices, 137

Saudi Arabia, in listed banks, 137-156

Corporate Governance Disclosure Index (CGDI), 143-149

Corporate Governance Regulations, level of compliance with, 150-156

- audit committee independence, as factor affecting, 154-155
 - audit committee size, as factor affecting, 154
 - bank size, as factor affecting, 155
 - board independence, as factor affecting, 153-154
 - board size, as factor affecting, 153
 - CEO status, as factor affecting, 154
 - leverage ratio, as factor affecting, 155-156
 - ownership concentration, as factor affecting, 155
- data, descriptive analysis of, 151-152
- improvement, recommendations for, 156
- research methodology, 141-143
- Saudi Arabian Monetary Agency (SAMA), and better practices, 137
- Covenants**
 - marshalling, against, 109-110
- Credit cards**
 - stop payment, chargeback and, 177, 181
 - stop payment rights only for credit, 184
- Crowd sourced equity fundraising**
 - forum on, 115-117
 - Japan, crowdfunding and amendment to Financial Instruments and Exchange Act, 277-278
 - startup ventures, and equity crowdfunding
 - forum on Australian policymakers and, 257-259
 - role of, 104-105
 - wagering contract, re-characterisation as insurance contract or, 17-18
- Debit card payments**
 - stop payment, and, 177-179
- Derivative contracts**
 - definition, 17
 - over-the-counter derivatives *see* **Over-the-counter (OTC) derivatives**
- Disclaimer**
 - leases, of
 - contract, lease of land as, 49
 - High Court, decision in Willmott Growers Group Inc v Willmott Forests Ltd (rec & mgr apptd) (in liq), 48-49
 - proportionality, proprietary rights and, 51
 - onerous property of company, of, and grossly disproportionate prejudice, 50-51
 - property management agreement, of, 49-50
- Documentary credit** *see also* **Letters of credit**
 - autonomy principle and, 157
 - illegality as exception to, 161-166
 - arguments for and against illegality exception, 166-167
 - beneficiary, and knowledge of, 168
 - Canada, 165-166
 - connection, close, between documentary credit and illegality, 172-175
 - England, 161-163
 - formation, and contracts illegal at time of, 169
 - illegal purpose, contracts which achieve, 169-170
 - scope of illegality exception, 168-175
 - seriousness, character of offence and, 170-172
 - UNCITRAL Convention on Independent Guarantees and Stand-by Letters of Credit, and, 166
 - United States of America, 163-164
 - illegality, as ground for withholding payment in documentary credit transactions, 157-176
 - categories of illegality, 159-160
 - connection, close, between documentary credit and illegality, 172-175
 - evidence of illegality, 175
 - non-reliance rule, 174-175
 - international trade, invention to finance, 157
- Enterprise Bankruptcy Law of the People's Republic of China 2006**
 - NAFMII documents, EBL documents and, 21-23
- Eurobond issues**
 - English law governing, 3
- Fees**
 - penalties, as
 - banks, fees charged by, 43-46
 - Andrews v Australia and New Zealand Banking Group Ltd, 43

-
- statute of limitations, 46
 - consumer protection, and, 46
 - dishonour fees as, 43, 45
 - honour fees as, 43, 45
 - late payment fees on credit card accounts as, 43, 45
 - non-payment fees as, 43, 45
 - overlimit fees on credit card accounts as, 43, 45
 - Finance law**
 - recent publications, 53, 132, 198-199, 275
 - Financial planning**
 - recent publications, 53, 133, 275
 - Financiers**
 - chattel paper, priority between account financiers and, 240
 - Foreign exchange markets**
 - recent publications, 53, 133, 275
 - Fundraising**
 - charitable, and non-charitable, 115-117
 - Futures market**
 - China, in, 24
 - Goods**
 - chattel paper and *see* **Chattel paper**
 - Highbury**
 - marshalling, decision in respect of, 108-113
 - Illegality**
 - autonomy principle, documentary credit and illegality as exception to, 161-166
 - arguments for and against illegality exception, 166-167
 - beneficiary, and knowledge of, 168
 - Canada, 165-166
 - connection, close, between documentary credit and illegality, 172-175
 - England, 161-163
 - formation, and contracts illegal at time of, 169
 - illegal purpose, contracts which achieve, 169-170
 - scope of illegality exception, 168-175
 - seriousness, character of offence and, 170-172
 - UNCITRAL Convention on Independent Guarantees and Stand-by Letters of Credit, and, 166
 - United States of America, 163-164
 - contracts, common law illegality and, 158
 - documentary credit transactions, as ground for withholding payment in, 157-176
 - categories of illegality, 159-160
 - connection, close, between documentary credit and illegality, 172-175
 - evidence of illegality, 175
 - non-reliance rule, 174-175
 - what constitutes, 158-159
 - India**
 - access to credit, relationship with development, 26, 28-29
 - banking
 - jurisdiction over, 27
 - nationalisation of banks, 28
 - non-scheduled banks, 27
 - scheduled banks, 27
 - sector, history, organisation and regulation, 26
 - Banking Ombudsman Scheme, proposal to encourage credit allocation by expansion, 40-41
 - central banks
 - credit allocation, role in promoting financial inclusion through, 26
 - developed and developing countries, role in, 26, 29-30
 - developmental goals, special onus to carry out, 30
 - functions, traditional, 29-30
 - Community Reinvestment Act-like legislation, reform to encourage credit allocation by, 37-39
 - credit
 - access to, relationship with development, 26, 28-29
 - constraints, and the poor, 29
 - tool for development, as, 28-29
 - credit allocation
 - central banks, role in promoting financial inclusion through, 26
-

- constitutional mandate of government to address issue, 31-33
 - financial inclusion, motivation and, 37
 - priority sector, RBI and, 34-35
 - response of India to concerns, 31-37
- developed and developing countries, role of central banks in, 26, 29-30
- economic justice and equality, mandate for promoting, 26
- Equal Credit Opportunity Act 1974 (US), proposal of reform to encourage credit allocation by legislation like, 40
- microfinance
 - MFI legislation, reform to encourage credit allocation by, 41-42
 - Microfinance Institutions (Development and Regulation) Bill 2011 (India), 42
 - SKS disaster and, 35
- Rangarajan Committee report
 - financial inclusion, and, 33-34
 - financial reforms highlighted in, 26
- reform models, 27
 - motivation for, 27
 - suggestions for, 27
- Reserve Bank of India, role, 27
- Insolvency**
 - administration, voluntary, 195
 - banks, of, 71-101
 - bail-in debt, use of, 71
 - bailouts, use of, 71, 82-89
 - costs, and, 71
 - creditors, explicit exclusion from insolvency, 89-90
 - contingent capital bonds (CoCos), use of, 71, 98-99
 - equity capital requirements, increasing, 91-93
 - insolvency law, use of standard, 71, 73-93
 - contagion, and, 71, 79-81
 - costs, and, 71, 74-79
 - credit-rationing, as final cost of, 73, 81-82
 - lenders of last resort, use of, 90-91
 - market-based resolution without sale, 98-100
 - accounting triggers, forbearance and, 99-100
 - contingent capital bonds (CoCos), use of, 71, 98-99
 - hybrid triggers, 100
 - legal basis, 98
 - purchase and assumption model, as resolution mechanism, 72
 - recapitalisation model, as resolution mechanism, 72
 - resolution without sale, 96-98
 - legal basis, 96-98
 - sale, resolution by, 93-96
 - cash-in-the-market effect, 95
 - international coordination difficulties, 95-96
 - legal basis, 93-94
 - risks, high level, associated with, 94-95
 - cross-border, and location of centre of main interests, 271-274
 - financial distress, navigating through uncertain times, 192-196
 - communication, importance of regular, effective and appropriate, 193-194
 - existence of business, understanding reason for, 192-193
 - state of business, understanding, 193
 - getting out of trouble, how to deal with financial distress, 194-195
 - advice, getting, 195
 - restructuring, sustainable, 195
 - law and management, recent publications, 53, 132, 199-200, 275
 - Insurance**
 - China Insurance Regulatory Commission (CIRC)
 - derivative contracts, and insurance businesses regulated by, 17
 - Investment planning**
 - recent publications, 53, 133, 275
 - Japan**
 - Act on Investment Trusts and Investment Corporations 1951 (Japan) (ITICA), amendment to, 57
 - real estate investment trusts (J-REIT), creation of, 57

-
- Financial Instruments and Exchange Act, amendment to, 277-280
 - crowdfunding, amendment to Financial Instruments and Exchange Act, 277-278
 - financial benchmark regulation, amendment to Financial Instruments and Exchange Act, 278-279
 - gun jumping, safe harbour guidelines and amendment to Financial Instruments and Exchange Act, 279
 - sale of fund interests, amendment to Financial Instruments and Exchange Act, 278
 - waiting period for public offerings, abolition of, 280
 - insider trading regulations, amendments in respect of, 57-58
 - real estate investment trusts (J-REIT)
 - creation of, 57
 - insider trading in, 58
 - Real Estate Specified Joint Enterprise Act 1994 (Japan) (RESA), amendment to, 56
 - Journal of Banking and Finance Law**
 - founding, focus and, 213
 - General Editor, Q and A with, 213-214
 - publishing, changes in, 214
 - Leases**
 - disclaimer of
 - contract, lease of land as, 49
 - High Court, decision in *Willmott Growers Group Inc v Willmott Forests Ltd (rec & mgr apptd) (in liq)*, 48-49
 - proportionality, proprietary rights and, 51
 - Lend Lease Development Pty Ltd v Commissioner of Stamp Duty (Vic)**
 - appeal, on, 264-266
 - first instance, at, 263
 - High Court, 266-267
 - Lenders of last resort**
 - insolvency of banks, and use of, 90-91
 - Letters of credit** *see also* **Documentary credit**
 - autonomy principle and, 219-220
 - beneficiary, advising of credit to, 217
 - buyer
 - application to bank to set up, 216
 - seller, and, underlying contract of sale between, 220-221
 - contract of sale, beginning transaction by, 216
 - correspondent bank and beneficiary, contract between, 223-225
 - issuing bank
 - beneficiary and, contract between, 221-223
 - correspondent bank and, contract between, 225
 - law, applicable, in letters of credit transactions, 215-227
 - determination of, 225-226
 - operation of, 216-219
 - presentation of documents, payment and, 217
 - release of documents, 217
 - remittance of documents, 217
 - uniformity, international, in regulation of, 215
 - what are, 215
 - Mann on the Legal Aspect of Money**
 - book review, 208-209
 - Marshall**
 - Australia, position in, 130-131
 - Canadian PPSA, and, 107
 - common debtor requirement, 110-111
 - covenants against, 109-110
 - equity, source and nature of, 113
 - Highbury decision in respect of, 108-113
 - how it works, 106
 - limited recourse mortgages and, 113
 - New Zealand PPSA, and, 107
 - Personal Properties Securities Act 2009 (Cth), operation of equitable remedy and registration system under, 107
 - pitfalls in applying doctrine, 129-131
 - recent decisions in respect of, 108-113
 - securities, of debts or, 111-112
 - statute, and, 107-108
 - Szepietowski decision in respect of, 108-113, 129-130
 - Torrens system, operation of equitable remedy under, 107
 - United States, in, 107
 - Money transfer operators (MTOs)**
 - account closures, in Australia, 245-246
-

- Australian law, position under, 251-253
 - advantage, taking, 252-253
 - market, defining relevant market power and, 251
 - Dahabshiil Transfer Services Ltd v Barclays Bank Plc, 248-250
 - financial inclusion, promotion by, 244
 - industry body to represent, 255
 - Pacific Island countries, importance to, 243-256
 - regulatory framework, current, 246-250
 - AM/CTF Act, obligations under, 246-247
 - Australian law and regulator, 246
 - bank reaction, 248
 - enforcement, by regulators internationally, 247
 - international bodies, 246
 - role of, 243-244
- Mortgages**
 - limited recourse, marshalling and, 113
 - securities and, recent publications, 52, 132, 198, 276
- National Association of Financial Market Institutional Investors (NAFMII)**
 - Chinese interbank market players, formation by, 20
- Negative pledges**
 - Clough Engineering approach, 126
 - conditional drawing, clauses permitting, 125-126
 - Lucas Stuart approach, 126
 - origins of, 125
- New Zealand**
 - Credit Contracts and Consumer Finance Act, 204
 - Australia, comparison with, 206-207
 - Credit Contracts and Consumer Finance Amendment Act 2014, amendment by, 204-206
 - Law Reform Act 1936, s 9 statutory charge and directors' liability insurance policies, 59, 62
 - claims, priorities of, 63
 - legislative history and purpose, 64-65
 - payments, ability to make, 63
 - marshalling, New Zealand PPSA, and, 107
 - Supreme Court, decision in *Steigrad v BFSL 2007 Ltd*, 61-66
 - earlier judgments, 61
 - factual background, 60-61
 - majority reasoning, 62-65
 - market response, 67
 - minority reasoning, 65-66
- No-action clauses**
 - efficacy, 6-12
 - Eurobond trust deeds, in, 4
 - wording of typical, 4
 - extra-contractual claims, application to
 - expansive approach, 7-8, 13
 - restrictive approach, 7-9
 - individual claims, and, 10-11
 - issuer, and differentiated treatment by, 11
 - distinguishing factors, effect, 11-12
 - objections to, 12-13
 - purposes, 5-6
 - scope, 6-12
 - trust indentures, in New York law governed, 4
 - pre-default claims, 10
 - wording of typical, 5
- Over-the-counter (OTC) derivatives**
 - China, regulation in, 14-25
 - basic licence, creation of, 17
 - Chinese central counterparty (CCP), clearing of standardised transactions through, 23-24
 - finality orders, effect, 23-24
 - general licence, creation of, 17
 - hedging balance sheet assets, use of derivatives for, 15
 - international practice, and, 25
 - National Association of Financial Market Institutional Investors (NAFMII) documents
 - contract law, and, 21
 - Enterprise Bankruptcy Law of the People's Republic of China 2006, EBL documents and, 21-23
 - inherent counterparty risk under contract law and, 20
 - policy in initial adoption of prudential regulation, 15

-
- rationale in initial adoption of prudential regulation, 15
 - Pacific Island countries**
 - Australian perspective, 245
 - common goals, working together to achieve, 253
 - money transfer operators (MTOs), importance to, 243-256
 - banking regulation, 255
 - benefit to, as developing countries, 244-245
 - financial inclusive products, 254-255
 - government action, 256
 - regulation, 256
 - Penalties**
 - dishonour fees as, 43, 45
 - fees charged by banks as, 43-46
 - Andrews v Australia and New Zealand Banking Group Ltd, 43
 - statute of limitations, 46
 - consumer protection, and, 46
 - honour fees as, 43, 45
 - late payment fees on credit card accounts as, 43, 45
 - non-payment fees as, 43, 45
 - overlimit fees on credit card accounts as, 43, 45
 - Penalty clauses**
 - documentary credits, and illegality as exception to autonomy principle, 164-165
 - Performance bonds**
 - demand guarantees as, 124
 - future of, 127-128
 - reasons for taking, 124
 - negative pledges
 - Clough Engineering approach, 126
 - conditional drawing, clauses permitting, 125-126
 - Lucas Stuart approach, 126
 - origins of, 125
 - payment, preventing, 124-128
 - Personal Properties Securities Act 2009 (Cth)**
 - marshalling, and operation of equitable remedy and registration system under, 107
 - Preferential transfers**
 - documentary credits, and illegality as exception to autonomy principle, 163-164
 - Priority rules**
 - chattel paper, relating to, 236-238
 - returned goods, 238-240
 - Property management agreement**
 - disclaimer of, 49-50
 - Provisional Administrative Rules Governing Derivatives Activities of Financial Institutions 2004 (PARGDAFI) (China)**
 - Contract Law of the People's Republic of China (1999) (China), relationship with, 15
 - derivatives activities, as mechanism for supervising, 15
 - revisions of, 16
 - social regulatory techniques, use before promulgation, 15
 - Real estate investment trusts (J-REIT) (Japan)**
 - creation of, 57
 - insider trading in, 58
 - Sale**
 - insolvency of banks, resolution by, 93-96
 - cash-in-the-market effect, 95
 - international coordination difficulties, 95-96
 - legal basis, 93-94
 - risks, high level, associated with, 94-95
 - Saudi Arabia**
 - Capital Market Authority (CMA), development of Corporate Governance Regulations by, 137
 - listed banks, corporate governance in, 137-156
 - Corporate Governance Disclosure Index (CGDI), 143-149
 - Corporate Governance Regulations, level of compliance with, 150-156
 - audit committee independence, as factor affecting, 154-155
 - audit committee size, as factor affecting, 154
 - bank size, as factor affecting, 155
 - board independence, as factor affecting, 153-154
 - board size, as factor affecting, 153
-

- CEO status, as factor affecting, 154
- leverage ratio, as factor affecting, 155-156
- ownership concentration, as factor affecting, 155
- data, descriptive analysis of, 151-152
- improvement, recommendations for, 156
- research methodology, 141-143
- Saudi Arabian Monetary Agency (SAMA), and better practices, 137
- Secret commission**
 - employees, and theft by, 268-270
 - principal, held on trust for, 189-191
- Securities**
 - China, corporate securities market in, 24
 - mortgages and, recent publications, 52, 132, 198, 276
- Security interest**
 - chattel paper
 - enforcing security interests in, 241-242
 - perfection of security interest over, 234-235
- Stamp duty**
 - tax and, recent publications, 52, 132, 197-198, 276
- Startup ventures**
 - capital
 - access to, in Australia, 102-103
 - gap, venture capital and, 103-104
 - equity crowdfunding
 - forum on Australian policymakers and, 257-259
 - role of, 104-105
 - financing new ventures, problems with, 102
- Stop payment**
 - assessment of right to, 179-180
 - bank cheques, and payment by, 177-178, 181
 - cash, and, 177
 - cheques, and payment by, 177, 180
 - credit cards, chargeback and, 177, 181
 - stop payment rights only for credit, 184
 - debit card payments, and, 177-179
 - disputes, uniform stop rule for, 187
 - insolvency of supplier, and position of consumer, 179
 - uniform rule, possibility of, 177-188
 - alternative dispute resolution and, 183
 - arguments for and against, 182-187
 - bargaining imbalance, codification to correct, 184
 - benefit argument in respect of cost outweighing, 183
 - confusion argument, 185
 - different costs argument, 185
 - distortion argument, 183-184, 186
 - fraud, and facilitation of, 183
 - pro-competition argument, 186
 - transaction costs, lessening by codification, 185
 - US Uniform New Payments Code (UNPC), failure of, 182, 188
- Szepietowski**
 - marshalling, decision in respect of, 108-113, 129-130
- Tax**
 - stamp duty and, recent publications, 52, 132, 197-198, 276
- United States**
 - marshalling in, 107
- Unjust enrichment**
 - Australian law, nature and role under, 123-124