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Australian Regulation of Blockchain and Distributed Ledger Technology in Banking and Finance – *Annabelle Simpson*

Blockchain and distributed ledger technology (DLT) has been heralded as a key disrupter in the fintech space. As often occurs with disruptive technologies, the issue has arisen that the uptake of DLT in the banking and finance industry is likely to outpace the adoption of sufficiently robust legislation. In Australia, the absence of a clear legal framework for the use of DLT not only increases the risk of inefficiencies being realised, but also threatens DLT's disruptive potential. The failure of regulators to understand the nuances of DLT and to implement a targeted legislative regime, aligned with international standards, could have severe consequences, from both a practical and legal perspective. 73

Disclosures and Reporting of Financial Derivatives: Evidence from Australia's S&P/ASX 50 Listed Firms – *Tony Ciro and Bulend Terzioglu*

In the immediate aftermath of the global financial crisis (GFC) the use of complex financial derivatives in the form of residential mortgage backed securities and collaterised debt obligation securities attracted widespread regulatory attention. The link between the genesis of the crisis and complex financial instruments was established through a number of important inquiries both in the US and elsewhere, including in Australia. The use of financial derivatives by Australian entities had also become quite prominent during the GFC. This article presents an empirical snapshot of the use of financial derivatives by the top 50 listed entities on the Australian Securities Exchange in the immediate aftermath of the GFC. It also provides a time comparison from 2007 through to 2016 with the aim of shedding light on the different types, nature, scope and risks attached to the use of financial derivatives by Australia's S&P/ASX 50 listed entities by market capitalisation. 92

Voluntary Arrangements and the "Clean Slate" Mess – *Paulina Fishman*

Debtor companies in Australia may execute voluntary arrangements with their creditors when they are in, or near, insolvency. This regime is based on an English forerunner. At present, all unsecured creditors may have their rights against the debtor company extinguished by such voluntary arrangements – leaving the company with a "clean slate". However, the article points to three distinct instances of prima facie unfairness that may flow from the involvement of certain creditors in corporate voluntary arrangements, and asks why the English and Australian regimes are so wide-reaching. Neither the reports that spawned them, nor the justifications for the broad scope of other insolvency processes (namely, liquidation and bankruptcy), provide a satisfactory answer. Accordingly, it is contended that this aspect of corporate voluntary arrangements is under-theorised, and that presently the net of these regimes may be cast too wide. 109

Deposit Insurance: Friend or Foe? – *Crosby Radburn*

Following the Global Financial Crisis, many governments underwent reform to ensure stability in financial markets. One mechanism utilised throughout many jurisdictions is deposit insurance. The Reserve Bank of New Zealand has chosen not to adopt such regulation. This article criticises this decision and posits that the current regulatory framework leaves depositors vulnerable to losses upon bank failure, whereby recovery is subject to ministerial discretion. This creates depositor uncertainty over recovery and consequently aggravates the risk of bank runs and contagion. Adopting a suitably designed deposit insurance scheme will remove this uncertainty, create depositor confidence and increase stability in the banking sector. 131

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