

JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE

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ARTICLES

How to get a whole lot more out of your business: Importation of United Kingdom whole business securitisation technology into Australia – *Caroline Purtell*

Whole business securitisation refers to the securitisation of the cash flows of an entire business unit as opposed to just a specific pool of assets as is the case in traditional securitisation transactions. This article provides an overview of whole business securitisation and examines how and why whole business securitisation technology, which developed in the United Kingdom, can be successfully imported into Australia. It is divided into a number of sections dealing with an explanation of whole business securitisation (in particular how a secured loan structure instead of a true sale structure is used), the relevant legal provisions in the United Kingdom and Australia which make whole business securitisations viable, analysis of a typical security package which would be used in a whole business securitisation and practical consideration of the significant benefits and certain vulnerabilities of whole business securitisations.293

A review of the regulation of payment facilities – *Rhys Bollen*

Having outlined the history and major features of the most frequently encountered payment facilities in a previous article, the author discusses the main risks associated with a range of payment facilities and how those risks can be addressed. The potential regulatory and supervisory options are introduced and the author discusses their advantages and disadvantages. Following further analysis, the author concludes that, on balance, some form of regulation is justified. The article goes on to outline the current regulatory regimes in Australia, the European Union, the United Kingdom and the United States. Finally, four potential regulatory models are described and assessed as potential law reform concepts to be further developed.325

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