JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE

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ARTICLES

Fixed and floating charges over book debts: Reception of Spectrum Plus in Australia – Mark Louie

In National Westminster Bank Plc v Spectrum Plus Ltd [2005] 2 AC 680; [2005] UKHL 41, the House of Lords characterised a charge over book debts as a floating charge. This is a landmark decision, both for the House of Lords' discussion of the contentious issue of the proper characterisation – fixed or floating – of this common security device and for the profound impact it will have on practices in the banking and finance industry. Moreover, from an Australian perspective, the decision potentially upsets decades-old understanding and practice. This article discusses the nature of charges over book debts, describes the development of case law relating to the proper characterisation of these charges, and examines in detail Spectrum Plus and its potential application in the Australian context. The article concludes that compelling arguments exist against the decision being received into Australian law.

Banks, unconscionability and economic duress – a small step towards deregulation? – Peter Gillies

Managed investment schemes – winding up and stakeholder entitlements: Part $I-Matthew\ Broderick$

Managed investment schemes, regulated under Ch 5C of the *Corporations Act 2001* (Cth), are commonplace these days, especially as Australia enjoys record wealth and investment. The recent collapse of the Westpoint group has drawn attention to the prudential requirements of operating managed investment schemes and the statutory protections that are lacking in unregistered schemes. The winding up of unregistered schemes is an emerging area of the law that is likely to expand as the Australian Securities and Investments Commission continues in its statutory role to shut down unregistered schemes

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to protect investors. The focus of this article is the winding up of unregistered managed investment schemes and the entitlements of stakeholders, particularly investors. Part I of this article reviews the legislative provisions and the structural changes introduced under the <i>Managed Investments Act 1998</i> (Cth); examines the definition of a "managed investment scheme"; and considers the grounds for winding up an unregistered scheme. Part II will address the court's powers in a scheme winding up, choice of liquidator, financial product laws, corporate governance, distribution of assets and the winding up of registered schemes. Part II will appear in the next issue of this Journal.	186
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Corrigendum

Please note that in Sean Mitchell's article "The Elecktrim litigation: Consequences for the capital markets" (2006) 17 JBFLP 81 at 81, the text "€" should read "Euro".

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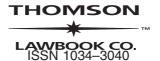
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