

# JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE

Volume 30, Number 1

2019

ARTICLES

**A CCP Resolution Regime for Australia – Eve Brown**

In the years that have followed the global financial crisis, the international regulatory community has taken assertive and organised action to deal with the regulatory gaps in wholesale financial markets. Complex and non-standardised derivative markets, while not thought to be the main cause of the crisis, have been recognised as a significant contributing factor. This has led the Financial Stability Board to encourage member states to require central clearing of more derivative trades than ever before, which in turn has created a new systemically significant entity in the central counterparty (CCP). While most attention has been given to developing appropriate local resolution regimes for commercial and investment banks, the new role of CCPs makes a resolution regime for these entities equally important. Against a backdrop of comparable recovery and resolution regimes overseas, this article proposes a CCP resolution regime for Australia. Specifically, it suggests which recovery tools might be appropriate in the Australian context, whether and when a government bailout should occur, and which Australian regulator should be the resolution authority. .... 3

**BEARING Responsibility for Cyber Security in Australian Financial Institutions: The Rising Tide of Directors’ Personal Liability – Kayleen Manwaring and Pamela Hanrahan**

The Banking Executive Accountability Regime commenced in July 2018; in November 2018 the Australian Prudential Regulation Authority (APRA) released its new Prudential Standard CPS 234 on information security. It requires that an APRA-regulated entity “clearly define the information-security related roles and responsibilities of the Board and of senior management, governing bodies and individuals”. This article considers the implications of these related developments for individual directors of financial institutions that experience cyber security breaches related to customer data, systems or infrastructure. It concludes that these developments set a hard floor under community and regulator expectations of a director’s role in ensuring that adequate cyber security measures are adopted, which flows through to the standard of care required of them. .... 20

**BANKING LAW AND BANKING PRACTICE – Editors: Alan L Tyree and John Sheahan QC**

**Blockchain II: Permissioned Blockchains – Alan L Tyree ..... 43**

**INSOLVENCY LAW AND MANAGEMENT – Editors: Lindsay Powers, Gerard Breen and Jason Harris**

**Will Combating Phoenix Activity Stifle Genuine Restructuring Activity? – Jason Harris ..... 47**

BOOK REVIEWS

<b>A Bank's Duty of Care</b> – <i>Reviewed by Gregory Burton SC</i> .....	51
<b>Dispute Resolution in Transnational Securities Transactions</b> – <i>Reviewed by Gregory Burton SC</i> .....	52