

COMPANY AND SECURITIES LAW JOURNAL

Volume 37, Number 4

2020

EDITORIAL – *Editor: Edmund Finnane* 229

ARTICLES

Disclosure, Transparency and Regulation of Open Market Repurchases in Australia – *Christine Brown, John Handley and Asjeet S Lamba*

Australia simplified the legislative framework governing share repurchases in 1995. We analyse detailed daily data on Australian companies’ open market repurchases (OMRs) to document the extent of Australian OMRs and investigate company compliance with buyback regulations. We compare Australian regulation with that in other jurisdictions. Similar to other markets, Australian companies must follow exchange rules regarding the price of their transactions. We find companies are generally compliant with the existing regulations governing OMRs. However, unlike in most other countries, Australian regulations do not restrict the volume of shares companies may repurchase on-market in any day. In addition, the timing of company repurchases is generally unregulated. As a result, repurchasing companies dominate the market for their own shares on a substantial portion of repurchase days, with the potential to distort market prices. Policy changes related to restricting the timing and trading volume of repurchase trades may need to be considered. 230

Cyber-related Risk Disclosure in Australia: Evidence from the ASX200 – *Cary Di Lernia, Catherine Hardy and Asaf Dori*

Labelled “pervasive” by APRA, cyber risks have come to be recognised as a key category of business risk requiring board-level attention by ASIC and the Commonwealth Government. The ever-increasing pace of technological evolution, combined with its ever-broadening usage, poses an ever-widening array of risks to corporations and their stakeholders. With mandatory data breach reporting laws in Australia, APRA having released its first Prudential Standard on Information Security for regulated entities, and in view of a study by the ASX which found nearly two-thirds of Australia’s top 100 companies consider cyber “breaches” an “IT issue” as opposed to a governance issue, it is important to understand corporate management of internal and external cyber risks and communication around them. This article examines the annual reports of the ASX200 over the two most recent financial periods to understand the depth of consideration of cyber risks among Australia’s largest corporations and, thereby, to explore prevalent cyber resilience practices. Given the ubiquity of cyber risks, and the increasing rate and sophistication of cyber attacks, best practice relating to cyber risk management and security efforts among Australia’s largest companies is of significant and increasing importance to the wider market and its participants. 255

Should Australians Have a Revised Uniform Unincorporated Nonprofit Associations Act? – *Dr Matthew Turnour*

This article argues that revelations of the extent of sexual and other abuse occurring within unincorporated associations, coupled with the challenges facing both plaintiff victims and management committee (or equivalent) defendants, obliges Australian Governments to consider enacting legislation akin to the *Revised Uniform Unincorporated Nonprofit Association Act* (RUUNAA) adopted in many jurisdictions of the United States. The challenges facing Australian plaintiffs and defendants caused by the lack of legal recognition of unincorporated associations are common to Commonwealth countries. The article further considers both foreseeable advantages and challenges that arise if RUUNAA-like legislation was introduced into Australia. 279