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ARTICLES

Reserve Bank of New Zealand Decision-Making – Is a Governance Board the Best Option for Prudential Regulation? – *Helen Dervan and Simon Jensen*

The New Zealand Government is currently undertaking a review of the *Reserve Bank of New Zealand Act 1989* (NZ), the legislation establishing and empowering the country's central bank and prudential regulator. As part of this review, the Minister of Finance has made a key decision to change the governance structure within the Reserve Bank of New Zealand and utilise a governance board for all decision-making. This article argues that a governance board, in the form currently proposed, does not provide the optimal decision-making structure for prudential regulation and supervision. It recommends that New Zealand would be better served by adopting a statutory committee structure for these purposes. This model is more likely to ensure that the requisite expertise and experience is captured in the governance structure, and to reduce the risk of cognitive biases adversely influencing decision-making and hampering change. 197

Community Standards and Expectations: Has There Been a Fundamental Shift in the Obligations on Financial Services Licensees under Pt 7.6 of the Corporations Act 2001 (Cth)? – *Patrick Hall*

This article argues that the duty on financial services licensees to do all things necessary to ensure that their licensed services are provided "efficiently, honestly and fairly", as contained in s 912A(1)(a) of the *Corporations Act 2001* (Cth), has been substantially affected by recent appellate authority and statements from the Banking Royal Commission's Final Report. In particular, the Royal Commission's mandate to address "community standards" and "community expectations" in the financial services industry has created an extended period of uncertainty as to the exact standard expected of financial services licensees. This may be attributable to the recent ascendancy of "fairness" within the duty, which is unsettling previously established case law. 221

Conceptual Models of the PPSA Security Interest: Moving Beyond the Unitary/ Minimalist Dichotomy – *Adam Waldman*

This article explores the existing conceptual models of the "security interest" under the *Personal Property Securities Act 2009* (Cth) – the "unitary model" and the "minimalist model". It reviews the elements of and rationales for the models, and their consequences which have been explored in the literature thus far. It then examines the potential variants of, and uncertainties within, the models. In light of these uncertainties, it is contended that the contents of the security interest cannot be reduced to a dichotomy; rather, each of the issues touched upon by the models of the security interest should be viewed as discrete albeit interconnected constructional questions. Consequently, the models should be restricted to the core issue in response to which they were developed, being whether (or not) certain parties are deemed to be owners for the purposes of holding "rights in the collateral" under

s 19. It is further contended that, instead of adopting the proposed solution of expressing a preference for one of the models in the Explanatory Memorandum, the government should directly amend the legislation to address the key issues that flow from them. 231

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