JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE

Volume 32, Number 2

2021

ARTICLES

Open Banking in Australia: Competition and Money Laundering, Risks and Benefits – *Doron Goldbarsht, Baskaran Balasingham and Jeremy Moller*

Open banking – as pioneered in Europe with the European Union's revised Payment Services Directive and the United Kingdom's Open Banking Standard – is emerging around the world due to technological advancements and the increasing value of data. In Australia, open banking represents the culmination of previous government inquiries that highlighted the low levels of competition and innovation within the banking sector. This article sheds light on the implications of open banking regimes for competition and money laundering risks, and provides recommendations for enhancing financial integrity in the Australian financial sector. 59

The Actionability of Codes of Conduct in English and Irish Law – *David McIlroy and John Freeman*

The question of whether, and if so how, codes of conduct in the financial services industry, should be actionable is one which has elicited different responses in England and in Ireland. In both England and Ireland, codes of conduct are relied on by ombudsmen schemes in their decisions. In England, although voluntary codes of conduct have been replaced by mandatory codes of conduct in some cases, only individuals and not companies are able to sue for breaches of the codes. In England and Ireland, codes of conduct do not amount to implied terms of a contract between a firm and its customer. However, in Ireland, the moratorium provision in the Code of Conduct on Mortgage Arrears has been given effect by the courts. It is unclear whether codes of conduct are more broadly actionable under s 44 of the *Central Bank (Supervision and Enforcement) Act 2013*. 74

The Legal Structure of Quantitative Easing – *Will Bateman*

Since their inception during the financial crisis, quantitative easing (QE) programs have spread throughout the world and grown enormously in size. QE is now the preferred mechanism for implementing monetary policy in the Organisation for Economic Co-operation and Development and has been a critical emergency measure adopted in response to COVID-19. Despite that prominence, the legal frameworks underpinning QE have not received close analysis. This article fills that gap via a detailed analysis of the legal structure of QE in the United States (US), United Kingdom and Australia. By reference to the law governing the US Federal Reserve System, the Bank of England and the Reserve Bank of Australia, the central legal aspects of QE are systemically explained: the legal foundation of "reserve" accounts linking central banks to the private financial sector; the legal authorities supporting central bank asset purchases and money creation; the absence of a legal limit on the volume of money which can be created through QE (by comparison with legal limits on money creation under Gold Standards and the Bretton Woods system);

and the legislative and contractual rules supporting the finality of payment in central bank payment systems. 88

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