



Annual Report
2007

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Professor Ian Ramsay Director

2007 proved to be a very successful year for the Centre for Corporate Law and Securities Regulation. Members of the Centre continued to undertake important research projects and the Centre conducted an active conference and seminar program dealing with a range of topical matters relevant to academics and practitioners. Fourteen seminars and conferences were held in 2007 with several of these seminars being held in Sydney. The Centre also hosts the corporate law judgment website. By the end of 2007, 5,396 judgments were on the website.

Research

Members of the Centre for Corporate Law continue to maintain a very active research program.

In 2007, the following books were published by Centre members:

- Ali, P (editor), *Secured Finance Transactions: Key Assets and Emerging Markets*, Globe Business Publishing (2007)
- Hanrahan, P, *Funds Management in Australia: Officers' Duties and Liabilities*, LexisNexis Butterworths (2007)
- Austin, RP, and Ramsay, IM, *Ford's Principles of Corporations Law*, 13th edition, LexisNexis Butterworths (2007)
- Hanrahan, P, Ramsay, IM, and Stapledon, G, *Commercial Applications of Company Law*, 8th edition, CCH Australia (2007)
- Parker, C, and Evans, A, *Insider Lawyers' Ethics*, Cambridge University Press (2007)

In addition, 2007 has seen a steady stream of articles published, or accepted for publication, in journals. These articles include:

- Landau I, Mitchell R, O'Connell A and Ramsay I, 'Employee Share Ownership in Australia: Theory, Evidence, Current Practice and Regulation' (2007) 25 *UCLA Pacific Basin Law Journal* 25-132
- Lew N and Ramsay I, 'Corporate Law Reform and Delisting in Australia' (2007) 2 *Virginia Law & Business Review* 265-306
- Barnes A, Josev T, Lenne J, Marshall S, Mitchell R, Rider C and Ramsay I, 'Employee Share Ownership Schemes: Evaluating the Role of Tax and Other

Factors Using Two Case Studies' (2007) 35 *Australian Business Law Review* 73-92

- Anderson K, Marshall S, Mitchell R and Ramsay I, "Union Shareholder Activism in the Context of Declining Labour Law Protection: Four Australian Case Studies" (2007) 15 *Corporate Governance: An International Review* 45-56

Full details of the publications of members of the Centre are included in this report under the heading 'Research'.

Members of the Centre for Corporate Law continue to undertake major research projects which have been funded by competitive research grants. Projects underway in 2007 funded by competitive grants received in earlier years included:

- *Employee Share Ownership Plans: Current Practice and Regulatory Reform*, Australian Research Council Discovery Grant (Chief Researchers: Professor Ian Ramsay, Associate Professor Ann O'Connell and Professor Richard Mitchell)
- *The Impact of ACCC Enforcement Action: Evaluating the Explanatory and Normative Power of Responsive Regulation and Responsive Law*, Australian Research Council Discovery Grant - Australian Research Fellowship (Chief Researchers: Dr Christine Parker and Vibeke Nielsen)

In 2007, Associate Professor Christian Witting received an Australian Research Council Discovery Grant for his project "The Liability of Corporate Groups".

In addition, 2007 was the last year of funding for an Australian Research Council Discovery Project Grant titled "Partnerships at Work: The Interaction between Employment Systems, Corporate Governance and Ownership Structure". The Chief Investigators for this grant are Professor Ian Ramsay and Professor Richard Mitchell. This large-scale case study examines the interaction between several key factors in the creation and sustainability of 'Partnerships at Work'. These factors include particular employment systems, forms of corporate governance and ownership structures. The project proposes to discover how these various factors have interacted so as to give rise to — or fail to give rise to — 'high performance' partnership-style relations at work.

Another important aspect of the Centre's research program is its research report and research paper series in corporate law and securities regulation. There were 10 further publications in 2007. These were:

- Phillip Lipton, *A History of Company Law in Colonial Australia: Legal Evolution and Economic Development*
- Malcolm Anderson, Meredith Jones, Shelley Marshall, Richard Mitchell and Ian Ramsay, *Evaluating the Shareholder Primacy Theory: Evidence From a Survey of Australian Directors*

- Meredith Jones, Shelley Marshall, Richard Mitchell and Ian Ramsay, *Company Directors' Views Regarding Stakeholders*
- Kym Sheehan and Colin Fenwick, *Seven: The Corporations Act, Corporate Governance, and Termination Payments to Senior Employees*
- Colin Fenwick and Kym Sheehan, *Share-Based Remuneration and Termination Payments to Company Directors: What are the Rules?*
- Ann O'Connell, *Employee Share Ownership Plans in Australia - The Taxation Law Framework*
- Ingrid Landau and Ian Ramsay, *Employee Share Ownership Plans in Australia - The Corporate Law Framework*
- Ingrid Landau, Richard Mitchell, Ann O'Connell and Ian Ramsay, *Employee Share Ownership - A Review of the Literature*
- Ingrid Landau, Richard Mitchell, Ann O'Connell and Ian Ramsay, *An Overview of Existing Data on Employee Share Ownership in Australia*
- Kirsten Anderson, Shelley Marshall and Ian Ramsay, *Do Australian Institutional Investors Aim to Influence the Human Resource Practices of Investee Companies?*

The research reports and research papers are available on the Centre's website.

Seminars and Conferences

In 2007 the Centre hosted or was involved in the organisation of 11 seminars and conferences. Frequently, 100 or more people register for the Centre's seminars.

Particular thanks are due to Hellen Blue who plays a key role in organising the Centre's seminars.

The seminars and conferences dealt with topics including: 'Financial Sector Development in East Asia and the Role of Law'; 'The Takeovers Panel - Consequences of the Alinta Litigation'; 'ASIC v Citigroup - The Decision and its Implications'; 'ASIC v Citigroup - The Issues and Their Significance'; 'Employee Participation in a Unionised Environment: What do Workers Want?'; 'Should Institutional Investors Use Their Considerable Market Power to Influence the Human Resource Practices of Companies?'; 'Public Enforcement of Securities Laws'; 'No Seat at the Table-How Corporate Governance and Law Keep Women Out of America's Boardrooms'; 'Contesting Accountability and Legitimacy in Non-State Regulatory Regimes' and 'Law and the Market: The Impact of Enforcement'.

Full details of the 2007 seminars are included in this report under the heading ‘Seminars.’

Links with peak organisations

2007 saw the further development of links with peak organisations both in Australia and overseas. Members of the Centre continue to play an active role with organisations such as the Law Council of Australia and the Australian Institute of Company Directors. This includes writing submissions regarding law reform proposals on behalf of several of these peak organisations. Further details are included in this report under the heading ‘Links with Peak Organisations’.

Corporate Law Bulletin

2007 saw the continued development of the Corporate Law Bulletin. The monthly electronic Bulletin is published with the support of the Australian Securities and Investments Commission, the Australian Securities Exchange and leading national law firms and distributed in partnership with SAI Global. The Bulletin is distributed widely within companies, regulators, law firms and government departments.

By the end of 2007, 124 issues of the Bulletin had been published.

The Bulletin has been supported and promoted by organisations such as the Corporate Lawyers Association, the Commercial Law Association, the Law Council of Australia, the Australian Institute of Company Directors, and the Institute of Company Secretaries. We continue to receive very positive feedback on the Bulletin.

Centre for Corporate Law Website

The website of the Centre for Corporate Law and Securities Regulation continues to be upgraded. It has proved to be an important research tool for academics and practitioners. Particular features of the website are:

- Corporate Law Judgments. This section of the website contains a comprehensive database of corporate law judgments delivered by courts of all Australian jurisdictions since September 1999. It also contains decisions of the Takeovers Panel. By the end of 2007, 5,396 judgments were included in the database.
- Corporate Law Bulletin. This section of the website contains an archive of previous issues of the Corporate Law Bulletin published by the Centre for Corporate Law.
- Research papers. This section of the website contains a range of topical research papers which deal with matters such as the Financial Services Reform Act, the Takeovers Panel, compulsory acquisition of shares, dual listed companies, and directors’ duties.
- Links to other sites of interest. This section of the website contains links to many other sites divided by category. The categories include:

- World securities commissions (links to approximately 60 securities commissions);
- World stock exchanges (links to approximately 110 stock exchanges);
- Asia-Pacific corporate law and securities regulation sites (links are provided, on a country by country basis, to sites such as stock exchanges, securities commissions, corporate law legislation and corporate law judgments for each of these countries);
- Governmental and regulatory bodies;
- Corporate governance (links to a range of organisations which are involved in corporate governance issues);
- Professional and interest bodies;
- Corporate social responsibility; and
- Financial news.

In a review of the corporate law judgments website published in the Law Institute Journal in April 2003, the website is described as “a great alternative to AustLII for locating corporate law decisions”.

In the September 2003 issue of the Law Institute Journal, a review of the Centre for Corporate Law and Securities Regulation website stated that the website “has a fabulous list of national and international websites relevant to corporations law practice”.

Contributions to law reform

Members of the Centre for Corporate Law make contributions to law reform in three ways. First by drafting submissions on matters dealing with corporate law reform either in a personal capacity or on behalf of organisations such as the Institute of Company Directors and the Law Council of Australia. Second, research reports of the Centre for Corporate Law are relied upon by law reform bodies. Third, Professor Ian Ramsay is a member of the Corporations and Markets Advisory Committee which is the Federal Government’s main corporate law reform advisory body.

Major policy research

Members of the Centre for Corporate Law have contributed to important policy research in recent years. These contributions have included the following:

- A report by Professor Ian Ramsay for the Australian Broadcasting Authority (now the Australian Communications and Media Authority) on reform of the Authority’s enforcement powers. The recommended reforms were enacted as part of the

Communications Legislation Amendment (Enforcement Powers) Act 2006.

- A report by Professor Ian Ramsay for the Australian Securities and Investments Commission (ASIC) on disclosure of fees and charges in managed investments. The recommended reforms were implemented in ASIC's fee disclosure model for managed investments and were enacted as part of the Financial Services Reform Amendment Act 2003.
- A report by the Taskforce established by the International Federation of Accountants (of which Professor Ian Ramsay was a member) titled 'Rebuilding Confidence in Financial Reporting'.
- A report by Professor Ian Ramsay for the Australian Government on the independence of auditors. The recommended reforms in this report were enacted as part of the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004.

Editorial positions

Members of the Centre continued in 2007 to occupy editorial positions with major corporate law publications including the *Company and Securities Law Journal*, the *Journal of Corporate Law Studies* and the *Corporate Law Bulletin*. A full list of editorial positions held by members of the Centre is included in this report under the heading 'Editorial Positions'.

Supervision of graduate students' research

Members of the Centre for Corporate Law supervised in 2007 a large number of theses being undertaken by graduate students. Of the theses, 19 were PhD theses, 1 was a SJD thesis and 3 were Master of Laws theses.

Further details are included in this report under the heading 'Supervision of Graduate Students' Research'.

Media coverage of Centre activities

The research activities of Centre members received significant coverage in the media in 2007. Members of the Centre gave approximately 200 reported interviews to the media in 2007. Full details of the media coverage are included in this report under the heading 'The Centre as a Public Resource'.

Visitors to the Centre

Visitors to the Centre in 2007 included Professor Douglas Arner, University of Hong Kong; Professor Julia Black, London School of Economics and Political Science; Professor John Coffee, Columbia Law School; Professor Douglas Branson, University of Pittsburgh; Professor Howell Jackson, Harvard Law School and Professor John Farrar, University of Waikato.

Consultancies and pro bono work

Members of the Centre are active in providing their expertise to those outside of The University of Melbourne, both in relation to pro bono matters and also significant corporate transactions including company restructurings, takeovers, schemes of arrangement and capital raising transactions.

Acknowledgments

Many people deserve thanks for their contribution to the work of the Centre during 2007. In particular, they include the members of the Australian Advisory Board. Members of the International Advisory Board of the Centre have also provided valuable advice in relation to international developments and have been active in assisting the work of the Centre.

The objectives of the Centre and its members are to:

- undertake and promote research on corporate law and securities regulation;
- undertake the teaching of corporate law and securities regulation subjects within the Melbourne Law School and the Faculty of Economics and Commerce at The University of Melbourne and develop and promote innovative teaching methods and teaching materials;
- host conferences to disseminate the results of research undertaken under the auspices of the Centre or in other programs associated with the Centre;
- develop and promote links with academics in other Australian universities and in other countries who specialise in corporate law and securities regulation;
- establish and promote links with similar bodies, internationally and nationally, and provide a focal point in Australia for scholars in corporate law and securities regulation;
- promote close links with peak organisations involved in corporate law and securities regulation;
- promote close links with those members of the legal profession who work in corporate law and securities regulation; and
- attract students of the highest calibre to the Law School's programs and provide opportunities for their involvement in corporate law research projects.

The Centre has an International Advisory Board comprised of leading Judges and corporate law academics. The members of the International Advisory Board are:

- Professor Theodor Baums, JW Goethe University Frankfurt, Germany
- Professor Brian Cheffins, Faculty of Law, University of Cambridge, England
- Professor John Coffee, School of Law, Columbia University, USA
- Professor Ronald Daniels, Provost and Professor of Law, University of Pennsylvania, USA (former Dean, Faculty of Law, University of Toronto, Canada)
- Professor Deborah DeMott, School of Law, Duke University, USA
- Professor Kenjiro Egashira, Faculty of Law, University of Tokyo, Japan
- Associate Professor Say Goo, Faculty of Law, University of Hong Kong
- Professor Hideki Kanda, Faculty of Law, The University of Tokyo, Japan
- Associate Professor CK Low, Chinese University of Hong Kong
- Professor Jiang Ping, China University of Political Science and Law, China
- Professor Dan Prentice, Faculty of Law, Oxford University, England
- Professor Roberta Romano, Yale Law School, USA
- Shane Tregillis, Assistant Managing Director, Securities and Futures Department, Financial Supervision Group, Monetary Authority of Singapore
- The Honourable E Norman Veasey, former Chief Justice, Supreme Court of Delaware, USA
- Professor Eddy Wymeersch, Director, Financial Law Institute, University of Ghent, Belgium

The Centre has an Australian Advisory Board chaired by the Honourable Mr Justice Hayne and comprising leading members of the Australian legal and business communities. The members of the Australian Advisory Board are:

- The Hon Justice Kenneth Hayne, AC, High Court of Australia (Chair)
- Professor Robert Baxt, AO, Partner, Freehills
- Jeremy Blackshaw, Partner, Minter Ellison
- Mark Burger, Partner, Phillips Fox
- Stephen Creese, Vice-President and General Counsel, Rio Tinto Limited
- Quentin Digby, Partner, Freehills
- Tony Greenwood, Consultant, Blake Dawson Waldron
- Michael Hoyle, Director, Macquarie Corporate Finance
- Alison Lansley, Partner, Mallesons Stephen Jaques
- Rodd Levy, Partner, Freehills
- The Hon Justice Philip Mandie, Supreme Court of Victoria
- Simon Morris, Partner, Corrs Chambers Westgarth
- Charles Rosedale, Partner, Clayton Utz
- Joseph Santamaria QC, Member of the Victorian Bar
- Ray Schoer, Director of IOOF Ltd, IIML Ltd and Australian Property Exchange Ltd, and former National Director of the Australian Securities Exchange
- Catherine Walter, Director of Australian Securities Exchange Limited and Orica Limited
- The Hon Justice Marilyn Warren, AC, Chief Justice, Supreme Court of Victoria
- Jon Webster, Partner, Allens Arthur Robinson

The following academics were members of the Centre in 2007.

Associate Professor Paul Ali

Paul Ali is an Associate Professor in the Melbourne Law School at the University of Melbourne. He rejoined the Law School in February 2006. Before becoming an academic, Paul worked as a finance lawyer in Sydney, in the Banking & Finance and Corporate groups of two of the leading Australian law firms and also in the securitisation team of a US bank. Paul's books include *International Corporate Governance after Sarbanes-Oxley* (2006), *Opportunities in Credit Derivatives and Synthetic Securitisation* (2005) and *Securitisation of Derivatives and Alternative Asset Classes* (2005).

Ms Helen Bird

Helen Bird is a graduate in Law (Hons) and Commerce from the University of Queensland. After graduation, she completed her articles of clerkship and worked as a solicitor in the corporate, property and commercial litigation departments of Freehills. She joined the University of Melbourne in 1994 and teaches Contract Law, Corporate Law and Principles of Business Law at the Melbourne Law School. Her research interests are corporate governance, corporate regulation and enforcement, and legal theory. She is the co-author (with Susan Woodward and Sally Sievers) of *Corporations Law in Principle* (LBC Information Services, 7th ed, 2005). Helen was on leave during 2007.

Ms Hellen Blue

Hellen Blue is Associate Director of the Centre for Corporate Law and Securities Regulation. She is a graduate in Law and Arts from the University of Western Australia. After graduation, she taught Business Law in Western Australia. She joined The University of Melbourne in 1998. She teaches Corporate Law. Hellen organises the seminar and conference program of the Centre for Corporate Law and Securities Regulation.

Associate Professor Pamela Hanrahan

Pamela Hanrahan joined the academic staff of the University of Melbourne as a Senior Lecturer in February 1997, having previously practised corporate law and securities law as a Senior Associate with Arthur Robinson & Hedderwicks in Melbourne. She holds Honours degrees in Arts and Law from the University of Melbourne and a Master of Laws degree from Case Western Reserve University, Ohio USA. In 2005 Pamela completed an SJD at the University of Melbourne.

Pamela teaches Corporate Law and Regulation of Managed Investments. Her research interests include the law of managed funds, corporate and securities law and derivatives regulation. Pamela was Special Counsel with Allens Arthur Robinson from 2001-2004 and was on leave from the University during this time. She returned to the University in 2004

as Associate Professor.

Dr John Howe

Dr John Howe is a Senior Lecturer in the Melbourne Law School at the University of Melbourne. He joined the Melbourne Law School and the Centre for Corporate Law and Securities Regulation in 2005. His research interests include regulatory theory, corporate accountability and labour law, and he teaches in the areas of corporate law, administrative law and labour law.

John received a PhD in law from the University of Melbourne in 2004 for his thesis 'Government Promotion of Job Creation in Australia: Regulatory Objectives, Instruments and Law'. He also holds undergraduate degrees in Law and Arts from Monash University and an LLM (Summa Cum Laude) from Temple University in Philadelphia, USA.

John is also a member of the Centre for Employment and Labour Relations Law. Prior to commencing an academic career, John worked in private legal practice, and also as a researcher for public policy and advocacy organisations in Washington DC.

Associate Professor Cally Jordan

Cally Jordan is an Associate Professor in the Melbourne Law School. She joined the Law School in 2007. She has degrees in both civil law and common law (LLB/BCL McGill University; DEA Université de Paris I (Panthéon-Sorbonne)) and has practised law in Canada, New York, California and Hong Kong. She spent several years in the New York office of Cleary, Gottlieb, Steen & Hamilton practising international finance. She was previously an Associate Professor at the University of Florida where she taught International Securities Regulation and Corporations.

Cally has worked with the World Bank as an advisor on corporate governance, corporate law and capital markets in a number of countries (Indonesia, Vietnam, Tunisia, China, Chile, Korea, Slovakia, Armenia, Macedonia, Lithuania, Egypt, Kenya, Uganda, Tanzania).

Between 1991 and 1996, she was an Associate Professor at the Faculty of Law at McGill University and a member of the Institute of Comparative and Private Law. She has taught as an adjunct at the University of Melbourne, Georgetown Law Center in Washington, DC and Osgoode Hall Law School in Toronto, Canada. She is a frequent speaker on corporate governance, capital markets and corporate law. She is the author of proposals for the reform of Hong Kong companies law and spent nearly five years living in Asia.

Mr Jurgen Kurtz

Jurgen Kurtz graduated in Law (Hons) and Arts from the University of Melbourne in 1993. He completed his articles of clerkship at Mallesons Stephen Jaques in 1994 and practised in corporate law until 1999. He was appointed a consultant in corporate law to Mallesons in 2000.

He has taught Corporate Law at the Melbourne Law School.

Jurgen's main research interest is in international efforts to liberalise domestic investment laws and the impact of those efforts on the regulation of transnational corporations.

Professor Timothy Lindsey

Tim Lindsey is a graduate of the Melbourne Law School at the University of Melbourne and has a doctorate in Indonesian Studies. He is Director of the Law School's Asian Law Centre. He teaches Insolvency Law and also Indonesian Law, Malaysian Law and Islamic and Traditional Customary Law. Particular subjects he teaches include Commercial Law in Asia, Resources Law and Policy in Indonesia and International Marketing and Franchising in Asia. He researches and teaches in Indonesian. His books include *Indonesia: Law and Society*, and *How Companies Work*.

Associate Professor Christine Parker

Christine Parker is an Associate Professor and Reader at the University of Melbourne. In 1999, Oxford University Press published her first book *Just Lawyers: Regulation and Access to Justice*. In 2002, Cambridge University Press published Christine's second book titled *The Open Corporation: Self Regulation and Corporate Citizenship*. She has taught subjects dealing with ethics and professional conduct in the legal profession as well as corporate law and a subject dealing with corporate compliance issues. She is currently leading a major research project (in collaboration with the Centre for Competition and Consumer Policy at the Australian National University and the Australian Competition and Consumer Commission) evaluating the compliance impact of ACCC enforcement activity.

Professor Ian Ramsay

Ian Ramsay is the Harold Ford Professor of Commercial Law in the Melbourne Law School at the University of Melbourne where he is Director of the Centre for Corporate Law and Securities Regulation. He has practised law with the firms Sullivan & Cromwell in New York and Mallesons Stephen Jaques in Sydney. Other positions Ian currently holds or has previously held include:

- Associate Dean, Masters Program, Melbourne Law School, the University of Melbourne (2005 to date)
- Dean, Melbourne Law School, the University of Melbourne (2002-2003)
- Member of the Takeovers Panel (which is the main forum for resolving takeover disputes) (2000 to date)
- Deputy Director of the Federal Government's Companies and Securities Advisory Committee where he wrote a number of reports which resulted in changes to the law including a report on directors' and officers' insurance (1991-1992)
- Head of the Federal Government's inquiry on auditor independence (2001)

- Member of the Corporations and Markets Advisory Committee (which is the Federal Government's main corporate law reform advisory body) (2002 to date)
- Member of the Federal Government's Implementation Consultative Committee for the Financial Services Reform Act (2001 - 2005)
- Member of the Executive Committee of the Business Law Section of the Law Council of Australia (1990-1999)
- Member of the National Law Committee of the Australian Institute of Company Directors (1995 to date) and the Corporations Law Committee of the Law Council of Australia (1995 to date)
- President of the Corporate Law Teachers Association (2000-2001)
- Member of the International Federation of Accountants taskforce on rebuilding confidence in financial reporting (2002-2003)
- Consultant to the Australian Securities and Investments Commission (ASIC) and author of the report for ASIC on disclosure of fees and charges in superannuation and other managed investments (2002)
- Director of the Audit Quality Review Board (2006 to date)
- Member of the Federal Government's Companies Auditors and Liquidators Disciplinary Board (2004 to date)
- Consultant to the Australian Broadcasting Authority (ABA) and author of the report for the ABA on reform of the ABA's enforcement powers (2004)
- Member of the Australian Securities and Investments Commission's Corporate Governance Roundtable (1998-2002)
- Consultant to the Australian Law Reform Commission for its managed investments project (1992)
- Member of the Australian Law Reform Commission's Advisory Committee for its civil and administrative penalties project (2000-02)
- Consultant to the Victorian Government on corporate law reform (2000, 2003 and 2007)
- Consultant to the Parliament of Australia House of Representatives Standing Committee on Economics, Finance and Public Administration (2004)
- Member of the Appeals Commission of the Federation of International Basketball Associations (2002 to date)
- Distinguished Visiting Professor, Faculty of Law, The University of Toronto (1997)

- Distinguished Visiting Professor and Professorial Fellow, Faculty of Law, The University of Hong Kong (2001)

Ian has published extensively on corporate law issues both internationally and in Australia. His books include *Ford's Principles of Corporations Law* - which is Australia's leading corporate law book - (co-author, 13th edition, 2007); *Commercial Applications of Company Law* (co-author, 8th edition, 2007); *Commercial Applications of Company Law in Singapore* (co-author, 2nd edition, 2006); *Commercial Applications of Company Law in New Zealand*, (co-author, 2nd edition, 2005); *Company Directors: Principles of Law and Corporate Governance* (co-author, 2005); *Experts' Reports in Corporate Transactions* (co-author, 2003); *Key Developments in Corporate Law and Trusts Law: Essays in Honour of Professor Harold Ford* (editor, 2002); *Commercial Applications of Company Law in Malaysia* (co-author 2002); *Company Directors' Liability for Insolvent Trading* (editor, 2000); *Securities Regulation in Australia and New Zealand* (co-editor, 1998); *The Corporate Law Economic Reform Program Act Explained* (co-author 2000); *The New Corporations Law* (co-author, 1998); *Corporate Governance and the Duties of Company Directors* (editor, 1997); and *Education and the Law* (co-author, 1996).

Professor Geof Stapledon

Geof Stapledon joined the Melbourne Law School at the University of Melbourne in 1995. He was appointed Professor of Law in 2005 and from 2005 to 2007 had a part time appointment in the Melbourne Law School. In June 2005 Geof was appointed Managing Director of ISS Australia, which is the regional headquarters of Institutional Shareholder Services (ISS) - the world's largest proxy voting and corporate governance adviser. ISS Australia was established in mid-2005 when ISS acquired Proxy Australia, a Melbourne-based proxy voting and governance research firm that Geof co-founded.

Geof has taught corporate law, competition law and corporate governance at the University of Melbourne. He has published widely in the areas of corporate governance, institutional investment, and corporate law. His book *Institutional Shareholders and Corporate Governance* was published by Oxford University Press in 1996. Geof is the Editor of the *Company and Securities Law Journal*; a member of the Editorial Board of the *Journal of Corporate Law Studies*; and the Asia-Pacific and Far East Contributing Editor for *Governance* newsletter.

Geof has degrees in Economics and Law from the University of Adelaide, and a doctorate from the University of Oxford. He has previously worked as a solicitor specialising in corporate advisory work.

Ms Stacy Steele

Stacey Steele joined the Centre for Corporate Law and Securities Regulation at the Melbourne Law School in 2005. She joined the Asian Law Centre in 1997 as a research associate and was appointed Associate Director (Japan) for the Asian Law Centre in January 2002.

Stacey holds degrees from the University of Queensland (BA (Jap)), Monash University (MA (Jap)) and the University of Melbourne (LLB (Hons) and LLM (by thesis)) and works as a Senior Associate in the Financial Services Group at Blake Dawson Waldron.

Stacey teaches Insolvency Law, Law and Society in Japan and other subjects offered by the Law School and has published a translation of the Law Relating to Recognition and Assistance for Foreign Insolvency Proceedings for the Ministry of Justice, Japan.

Her research interests are in the areas of Japanese insolvency law, law reform and the Japanese legal system.

Associate Professor Christian Witting

Christian Witting is an Associate Professor in the Melbourne Law School, Fellow of the European Centre for Tort and Insurance Law, and Barrister and Solicitor (Vic). He teaches Corporate Law and Torts at the University of Melbourne. His current research relates to corporate groups. Earlier research concerned the duty of care in tort and causation of economic losses. This culminated in publications including Witting, *Liability for Negligent Misstatements* (Oxford, 2004) and Van Boom, Koziol and Witting (eds), *Pure Economic Loss* (Vienna, 2004). His work has been cited in the House of Lords, the High Court of Australia, Federal Court of Australia and other appellate courts. Christian has presented many papers internationally and has spoken at professional training courses conducted, inter alia, for the College of Law for England and Wales, Munich-Reinsurance and Victorian Government Departments.

Associates of the Centre

Mrs Sally Sievers

Sally Sievers (BA, LLB (Melb); LLM (Monash)) is an Associate of the Centre for Corporate Law and Securities Regulation. She was previously a Senior Lecturer at the Faculty of Law at Monash University. Her main research interests are corporate law, especially directors' duties and non-profit associations. She is the author of *Associations and Clubs Law in Australia and New Zealand* (2nd ed, 1996) and co-author of *Corporations Law in Principle* (7th ed, 2005). She is also the author of the chapter titled "Voluntary Associations" in *Halsbury's Laws of Australia*. Sally has taught Corporate Law. Sally is also a Barrister and Solicitor of the Supreme Court of Victoria. She was a member of the Corporations Law Committee of the Law Council of Australia.

Mr Andrew White

Andrew White is an Associate Professor of Law in the Singapore Management University School of Law. Andrew's primary research focus is on Asian and Islamic law, including especially Islamic commercial law (Fiqh al-Muamalat) in Asia and commercial law reform in developing countries. Andrew has extensive experience as a consultant in areas of commercial law reform, including Sharah/Fiqh al-Muamalat and other areas of commercial law in Afghanistan and Pakistan.

Prior to joining Singapore Management University, Andrew was a Senior Fellow in the Melbourne Law School, where he taught corporate law, dispute resolution and legal ethics subjects. He also holds a continuing appointment in the Melbourne Law School's Asian Law Centre.

Andrew received his LL.M. (First Class Honours in all subjects) from the University of Melbourne and his Juris Doctor degree from Case Western Reserve University (Ohio, USA). For nearly 25 years, he practised business and commercial law (transactional and litigation) in the US and Europe as a partner in a major international law firm based in Washington, DC, as a senior attorney in a law firm in Germany, and most recently as principal in his own law firm in North Carolina, USA.

His most recent publications include: 'Part II, Asia Pacific: Australia [*Combating Money Laundering and Terrorism Financing in Australia: Current AML/CTF Laws and Proposed Reforms*]' in Wouter H Muller, et al (eds.), *Anti-Money Laundering: International Law and Practice* (John Wiley & Sons: 2007); '*The Paradox of Corruption as Antithesis to Economic Development: Does Corruption Undermine Economic Development in Indonesia and China, and Why Are the Experiences Different in each Country?*' 8(1) *Asian-Pacific Law & Policy Journal* (University of Hawai'i: 2006); and '*Decentralized Environmental Taxation in Indonesia: A Proposed Double Dividend for Revenue Allocation and Environmental Regulation*' 19(1) *Journal of Environmental Law* (Oxford University Press: 2007). He has recently completed another manuscript, '*How does a Culture of Corruption Affect Asian Companies Laws?: Companies Laws in China and Singapore Compared*'.

Ms Susan Woodward

Susan Woodward (LLB (Hons)(Melb) Barrister and Solicitor of the Supreme Court of Victoria) is an Associate of the Centre for Corporate Law and Securities Regulation. She taught at the University of Melbourne Law School until 2004.

Prior to joining The University of Melbourne, Susan practised in commercial law both in Australia and London. She also worked as in-house legal counsel for the Australian Industry Development Corporation. At the Melbourne Law School, Susan taught Corporate Law for several years.

Susan was the lead author of *Corporations Law in Principle* (Law Book Co 7th ed 2005), together with colleagues Helen Bird and Sally Sievers. As part of the In Principle Series, the book was awarded a prize for the best Tertiary Book Series at the Australian 10th Annual Excellence in Educational Publishing Awards.

Susan's research has involved conducting a three year research project on "Accountability and Corporate Governance in Not-for-profit Companies". The final report for this project (which includes law reform recommendations) was published in 2004.

Research Fellows and Research Assistants

Ms Meredith Jones

Ms Shelley Marshall

Ms Ingrid Landau

Mr Benjamin Saunders

Mr Nicholas Lew

A number of highly successful conferences and seminars were organised by the Centre for Corporate Law during 2007. A list of previous seminars and conferences is contained in Appendix A.

Financial Sector Development in East Asia and the Role of Law

(23 August 2007)

Speaker: Associate Professor Douglas Arner, Director, Asian Institute of International Financial Law, Faculty of Law, University of Hong Kong

This seminar was co-hosted with the Asian Law Centre

The Takeovers Panel - Consequences of the Alinta Litigation

(19 July 2007 Melbourne, 21 August 2007 Sydney)

Speakers: George Durbridge, Special Advisor, Freehills (Melbourne and Sydney seminars); Norman O'Bryan QC, Victorian Bar (Melbourne and Sydney seminars); Professor Cheryl Saunders, Director, Centre for Comparative Constitutional Studies, University of Melbourne (Sydney and Melbourne seminars)

ASIC v Citigroup - The Decision and its Implications

(17 July 2007 Melbourne, 18 July 2007 Sydney)

Speakers: Associate Professor Pamela Hanrahan, Deputy Director, Centre for Corporate Law and Securities Regulation, University of Melbourne (Sydney and Melbourne seminars); Michael Schoenberg, Partner, Allens Arthur Robinson (Melbourne seminar); John Warde, Partner, Allens Arthur Robinson (Sydney seminar)

ASIC v Citigroup - The Issues and Their Significance

(5 June 2007 Sydney, 7 June 2007 Melbourne)

Speakers: Associate Professor Pamela Hanrahan, Deputy Director, Centre for Corporate Law and Securities Regulation, University of Melbourne (Sydney and Melbourne seminars); Michael Schoenberg, Partner, Allens Arthur Robinson (Melbourne seminar); John Warde, Partner, Allens Arthur Robinson (Sydney seminar)

Employee Participation in a Unionised Environment: What do Workers Want?

(4 June 2007)

Speaker: Associate Professor Christina Cregan, Associate Professor in Industrial Relations, Department of Management and Marketing, the University of Melbourne

This seminar was co-hosted with the Centre for Employment and Labour Relations Law

Should Institutional Investors Use Their Considerable Market Power to Influence the Human Resource Practices of Companies?

(31 May 2007)

Speakers: Professor Ian Ramsay, Harold Ford Professor of Commercial Law, Director of the Centre for Corporate Law and Securities Regulation, the University of Melbourne; Shelley Marshall, Research Fellow, Corporate Governance and Workplace Partnerships Project, the University of Melbourne

Public Enforcement of Securities Laws

(29 May 2007)

Speaker: Professor Howell Jackson, Professor of Law, Harvard Law School, United States

No Seat at the Table-How Corporate Governance and Law Keep Women Out of America's Boardrooms

(7 May 2007)

Speaker: Professor Douglas Branson, University of Pittsburgh

Contesting Accountability and Legitimacy in Non-State Regulatory Regimes

(4 April 2007)

Speaker: Professor Julia Black, London School of Economics and Political Science

This seminar was co-hosted with the Centre for Employment and Labour Relations Law

2007 Corporate Governance Conference

(16 March 2007)

Speakers: Kevin Murphy, Professor of Finance and Business Economics, USC Marshall School of Business and Professor of Business and Law, USC Law School; Jeremy Cooper, Deputy Chairperson, ASIC; Eric Mayne, Chief Supervision Officer, Australian Securities Exchange Limited; Andrew Sisson, Managing Director, Balanced Equity Management; Ken Jarrett, Director CJT

Capital; Richard Searby QC, Linda Nicholls, President, Australian Institute of Company Directors (Vic Div), Deputy Chairman, Healthscope Limited and Director, St George Bank and Sigma Pharmaceutical Group; John Brakey, Head of Alternative Investments, Macquarie Bank; Doug Little, CEO, Constellation Investment Management; Bob Van Munster, Tyndall Investment Management; Richard Phillips, Managing Director, Caliburn Partnership

This conference was co-hosted with Institutional Shareholder Services

Law and the Market: The Impact of Enforcement

(12 March 2007)

Speaker: Professor John Coffee, Adolf A Berle Professor of Law, Columbia University

Links with Peak Organisations

The Centre has developed links with peak organisations with an interest in corporate and securities law. During 2007 academic members of the Centre were also members of:

- The Takeovers Panel (Professor Ian Ramsay)
- The Corporations and Markets Advisory Committee (Professor Ian Ramsay)
- The Corporations Law Committee of the Business Law Section of the Law Council of Australia (Associate Professor Pamela Hanrahan and Professor Ian Ramsay)
- The National Law Committee of the Australian Institute of Company Directors (Professor Ian Ramsay)
- The Companies Auditors and Liquidators Disciplinary Board (Professor Ian Ramsay)
- The Executive Committee of the Corporate Law Teachers Association (Professor Ian Ramsay)
- The Audit Quality Review Board (Professor Ian Ramsay)

During 2007 academic members of the Centre occupied editorial positions with a number of corporate law and other publications:

- *Across the Board* (Member of the Editorial Board: Professor Ian Ramsay)
- *Australian Accounting Review* (Member of the Editorial Board: Professor Ian Ramsay)
- *Australia & New Zealand Journal of Law & Education* (Member of the Editorial Board: Professor Ian Ramsay)
- *Australian Journal of Asian Law* (Editor: Professor Timothy Lindsey)
- *Company and Securities Law Journal* (Editor: Professor Geof Stapledon; Member of the Editorial Board: Professor Ian Ramsay)
- *Corporate Law Bulletin* (Editor: Professor Ian Ramsay)
- *Doing Business in Asia* (Contributing Editor and Member of the Editorial Advisory Board: Professor Tim Lindsey)
- *Employment Law in Asia* (Member of the Editorial Advisory Board: Professor Tim Lindsey)
- *Governance* (Member of the Editorial Board: Professor Geof Stapledon)
- *Governance, Risk and Compliance Newsfeed* (Editorial Advisor: Professor Ian Ramsay)
- *International Securities Regulation: Pacific Rim* (Consulting Editor: Professor Ian Ramsay)
- *Journal of Corporate Law Studies* (Member of the Editorial Board: Professor Geof Stapledon)
- *Journal of Corporate Ownership and Control* (Member of the Editorial Board: Professor Ian Ramsay and Professor Geof Stapledon)
- *Journal of Law and Financial Management* (Member of the Editorial Board: Professor Ian Ramsay)
- *Macquarie Journal of Business Law* (Member of the Editorial Board: Professor Ian Ramsay)
- *Singapore Academy of Law Journal* (Member of the International Editorial Board: Professor Ian Ramsay)

Books

Ali P (editor), *Secured Finance Transactions: Key Assets and Emerging Markets*, Globe Business Publishing (2007)

Austin RP and Ramsay IM, *Ford's Principles of Corporations Law*, 13th edition, LexisNexis Butterworths (2007)

Hanrahan P, Ramsay IM and Stapledon G, *Commercial Applications of Company Law*, 8th edition, CCH Australia, (2007)

Hanrahan, P, *Funds Management in Australia: Officers' Duties and Liabilities*, LexisNexis Butterworths (2007)

Parker C and Evans A, *Insider Lawyers' Ethics*, Cambridge University Press (2007)

Research Reports and Research Papers

Phillip Lipton, *A History of Company Law in Colonial Australia: Legal Evolution and Economic Development* (2007)

Malcolm Anderson, Meredith Jones, Shelley Marshall, Richard Mitchell and Ian Ramsay, *Evaluating the Shareholder Primacy Theory: Evidence From a Survey of Australian Directors* (2007)

Meredith Jones, Shelley Marshall, Richard Mitchell and Ian Ramsay, *Company Directors' Views Regarding Stakeholders* (2007)

Kym Sheehan and Colin Fenwick, *Seven: The Corporations Act, Corporate Governance, and Termination Payments to Senior Employees* (2007)

Colin Fenwick and Kym Sheehan, *Share-Based Remuneration and Termination Payments to Company Directors: What are the Rules?* (2007)

Ann O'Connell, *Employee Share Ownership Plans in Australia - The Taxation Law Framework* (2007)

Ingrid Landau and Ian Ramsay, *Employee Share Ownership Plans in Australia - The Corporate Law Framework* (2007)

Ingrid Landau, Richard Mitchell, Ann O'Connell and Ian Ramsay, *Employee Share Ownership - A Review of the Literature* (2007)

Ingrid Landau, Richard Mitchell, Ann O'Connell and Ian Ramsay, *An Overview of*

Existing Data on Employee Share Ownership in Australia (2007)

Kirsten Anderson, Shelley Marshall and Ian Ramsay, *Do Australian Institutional Investors Aim to Influence the Human Resource Practices of Investee Companies?* (2007)

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Conference Papers

"Consultation and Accountability in Implementing Best Practice Regulation". Paper presented by I Ramsay as a commentary at the Financial Regulation: Costs, Benefits and the Process of Regulatory Change Conference, Melbourne Centre for Financial Studies, Melbourne, 19 September 2007

"Private Equity and Conflicts of Interest". Paper presented I Ramsay as a commentary at the World Economy and Global Finance Conference, University of Warwick, England, 12 July 2007

"Regulation and its Effects on Business, Economics, Productivity and Workplace Cultures". Paper presented by I Ramsay as a commentary at the Compliance, Risk and Ethics 2007 Forum, Sydney, 7 June 2007

"Do Institutional Investors aim to Influence the Human Resource Practices of Investee Companies? Paper presented by I Ramsay and S Marshall at the Centre for Corporate Law and Securities Regulation and Centre for Employment and Labour Relations Law seminar, University of Melbourne, 31 May 2007

"Directors' Duties – Recent Developments". Paper presented by I Ramsay at the Australian Corporate Lawyers Association In-House Counsel Symposium, Sydney, 30 March 2007

"The Impact of Enforcement". Commentary on Professor John Coffee's paper "Law and the Market: The Impact of Enforcement" presented by I Ramsay at the Dynamics of

Capital Market Governance Conference, Australian National University, Canberra, 14 March 2007

“Getting the Balance Right on Corporate Governance Requirements”. Paper presented by I Ramsay at the 2007 Australian Securities and Investments Commission Summer School, Sydney, 7 March 2007. This paper was also presented by I Ramsay at the annual Bankers and Lawyers Seminar, Perth, 8 November 2007

During 2007 the Centre published ten research reports and research papers as part of its series in corporate law and securities regulation. These publications are available on the website of the Centre for Corporate Law and Securities Regulation.

A History of Company Law in Colonial Australia: Legal Evolution and Economic Development

By Phillip Lipton

The interaction of economic development and the evolution of company law in colonial Australia presents an interesting case study of a company law transplant because it allows for the examination of this interaction in the context of the development of a capitalist society over a relatively short period of time.

Little has been written about the history of Australian company law, possibly because it has been regarded as a mere copy of the English legislation with few if any distinguishing features worthy of note apart from some local innovations in the 1870s and 1890s. This paper looks at the history and evolution of company law in colonial Australia and finds several noteworthy features which depart from the notion that the Australian developments were largely a bland imitation of the law in England. In fact, there were innovative features in the development of company law which were specific to the Australian experience and which cast light on the interrelationship between economic development and legal evolution.

By the 1820s and 1830s there was already demand for pooled equity investment and share trading and the utilisation of unincorporated joint stock companies with transferable shares. This early use of joint stock companies set in train an evolutionary trajectory well before the introduction of companies' legislation and the establishment of formal stock exchanges. This suggests that companies would have continued to evolve as a matter of commercial practice irrespective of legislative developments.

Limited liability partnerships which had some of the characteristics of companies were introduced in New South Wales and Victoria in the early 1850s for mining enterprises.

This legal form was short-lived, but it indicates a preparedness of colonial governments to seek innovative responses to the needs of their business communities despite the absence of equivalent English legislation. At the same time in England, the introduction of limited liability was still being vigorously debated.

The introduction of companies legislation in Victoria in 1864 and in the other colonies around this time, broadly coincided with the beginning of a gold mining boom which was a major driver of economic growth. The facilitation of company formations in the gold mining industry was a significant factor in the development of this key industry and the enormous wealth it generated. The introduction of the no liability company in 1871 was an innovative response to the requirements of the gold mining industry and occurred at a time of significant expansion in gold output.

The investor protection reforms of the 1890s in Victoria were also highly progressive and while largely based on English law reform proposals, occurred more than a decade before similar reforms were introduced in England. These legislative amendments were a response to the widespread losses suffered by investors in the aftermath of the boom and bust and severe depression of the 1890s.

Evaluating the Shareholder Primacy Theory: Evidence From a Survey of Australian Directors

By Malcolm Anderson, Meredith Jones, Shelley Marshall, Richard Mitchell and Ian Ramsay

An important debate in corporate governance concerns the validity of the shareholder primacy theory—a theory which depicts the role of company directors as primarily being to act in the interests of shareholders and maximise the wealth of shareholders. This paper reports the results of a survey of Australian company directors that had, among its objectives, testing the validity of the shareholder primacy theory. Findings are presented on four questions: (i) Do directors prioritise the interests of shareholders above the interests of employees and other stakeholders? (ii) If so, does the source of that prioritisation lie in legal obligation or duty? (iii) Are directors in types of companies corresponding to the market/outsider model more inclined to prioritise shareholder interests? (iv) Does the prioritisation of shareholder interests tend to come at the expense of employees?

Seven: The Corporations Act, Corporate Governance, and Termination Payments to Senior Employees

By Kym Sheehan and Colin Fenwick

Publicly listed companies are subject to much regulation of payments to senior executives and directors. Regulation may take the form of mandatory rules requiring companies to disclose all forms of remuneration received by key management personnel. Other rules require shareholders to approve particular payments or benefits, but do not allow shareholders to determine how much is paid or given. Further regulation takes the form of advisory guidelines or principles which companies can choose to adopt or not, with a requirement to explain “if not, why not” should the company choose to not adopt the practices recommended. Further rules are provided by accounting standards which mandate how items are to be valued for the purposes of the company’s financial statements.

For the most part, private and unlisted public companies are spared this regulation. One notable exception is the requirement under Part 2D.2 of the *Corporations Act 2001* (Cth). Section 200B(1) makes it an offence for companies to give benefits to officers upon retirement from office without prior shareholder approval unless the benefit falls within one of the limited exceptions in s 200F(1) or the total benefits given fall below thresholds specified in s 200F(3), (4) and s 200G(2), (3). Regulation of this particular remuneration practice is long-standing but has received little attention empirically in Australia. As far as the authors are aware, this is the first study to empirically explore the operation of the

thresholds sanctioned by Part 2D.2, ASX Listing Rule 10.19 and ACSI Corporate Governance Guideline 14.1 respectively.

The authors draw a sample of 28 managing directors from the S&P/ASX 50 as at 1 July 2005 and use details of the remuneration, service contracts and relevant share plans rules (where available) for each managing director to explore the nature and size of payments that would have been made if that managing director's employment was terminated by the company on 1 March 2006. The authors then compare the size of these payments to the thresholds permitted by Part 2D.2, the ASX Listing Rules and the ACSI Corporate Governance Guidelines. This comparison highlights the large termination benefits companies can give under both Part 2D.2 and the ASX Listing Rules. Only four of the 28 termination payments would require prior shareholder approval under Part 2D.2, with payments as large as \$129 million sanctioned by Part 2D.2 thresholds. The ASX Listing Rule threshold is unlikely to be breached by the termination of one executive, but could be triggered if there was some larger-scale termination of a number of senior executives, possibly as the result of takeover or merger and acquisition activities. The ACSI threshold was exceeded by all but one payment.

Based on these findings, the authors question whether a threshold-based approach to deciding which payments are acceptable (in the sense that prior shareholder approval is not required) and which payments should be approved by shareholders in advance may prove unworkable in practice.

In a further contribution to the corporate governance literature, the authors undertake an empirical analysis of the termination provisions of executive service contracts. Given a hypothetical termination date of 1 March 2006, nine of the 28 companies examined would have paid an amount equivalent to at least 18 months' cash remuneration by way of contractual termination payment to the managing director.

Share-Based Remuneration and Termination Payments to Company Directors: What are the Rules? By Colin Fenwick and Kym Sheehan

This paper is about the operation of the legal requirements that regulate the making of termination payments to senior company employees. The authors aim to review the relevant provisions and what is known about them based on prior judicial and academic analysis, together with legislative history where necessary. However, the authors focus in particular on whether the provisions are able to operate effectively in relation to the widespread practice of share-based remuneration. In doing so, the authors both draw and build on related work in which they carried out an empirical study of termination payments to managing directors of ASX/50 companies.

The key legislative provisions are in Part 2D.2 of the *Corporations Act 2001* (Cth) (the Act). In essence, the provisions prohibit termination payments, unless they have been approved by the shareholders, or they fall within prescribed limits. The current provisions were most recently amended as part of the Corporate Law Economic Reform Program (CLERP) 9 reforms in 2004. The changes introduced new requirements for companies to disclose the nature and size of any termination payments as part of the directors' report in their annual report. They also introduced caps on the level of certain types of payments to

a director, beyond which the company must secure shareholder approval. In some cases, however, the maximum payment that will be lawful without shareholder approval will be as much as seven times the average annual remuneration of the executive in question. Despite the obvious potential in such a limit for very significant payments, when the provisions were introduced, the government indicated that they were intended to ensure shareholder scrutiny other than for 'relatively small' payments.

The provisions are intended to restrain companies from giving 'golden handshakes' or 'golden parachutes' to departing corporate executives and directors. A particular concern is the giving of these payments in the case of executives that depart due to corporate restructure, however, the statutory provisions also apply 'where an executive has been dismissed, forced to resign or even departed voluntarily.' Broadly speaking, the goal of these corporate governance requirements is to protect the company and its shareholders (and by extension, the market) against the risk that company executives will use their position to extract excessive rents. That is, they seek to control company officers' personal gain by limiting the expense that the company may incur in remunerating them.

Employee Share Ownership Plans in Australia - The Taxation Law Framework

By Ann O'Connell

Taxation law has featured prominently in the regulation of employee shares ownership plans (ESOPs) in Australia. Indeed, it is largely through reforms to the taxation law framework over the past several decades that the Australian Government has sought to promote, and shape, employee share ownership.

This paper examines the taxation treatment of employee share ownership plans and the effect of these tax rules on current practice in the area. It also identifies the major criticisms of the current regulatory regime.

While this paper is predominately concerned with broad-based employee share ownership plans – plans in which a majority of employees in the company are eligible to participate – it does briefly discuss executive-based plans. This is because it is impossible to discuss the regulation of broad-based ESOPs in Australia without discussing the perennial concern of regulators to prevent the abuse of such plans by company executives.

Part 2 of the paper identifies the key public policy rationales for the promotion of broad based employee share ownership in Australia. An understanding of these objectives is crucial to understanding the nature and limits of the current regulatory framework. Part 3 briefly traces the relevant legislative developments. Part 4 examines the current taxation treatment of employee shares or options. Part 5 looks at current market practice in the area. Finally, Part 6 identifies some of the key difficulties associated with the current taxation regime of employee share schemes.

Employee Share Ownership Plans in Australia - The Corporate Law Framework

By Ingrid Landau and Ian Ramsay

There is no singular piece of legislation regulating the establishment or administration of employee share ownership plans (ESOPs) in Australia. Companies in Australia proposing to offer securities to employees must ensure they comply with a myriad of regulatory requirements. These regulatory considerations emanate principally from corporate law and taxation law. This paper focuses on the corporate law aspects of broad-based employee share schemes.

Rules governing employee share ownership plans within a company may be found in a company's own constitution. Beyond this, the principal statute in Australia governing corporations – the *Corporations Act 2001* (Cth) – contains a number of general requirements relating to disclosure, fundraising and licensing that are relevant to the initial implementation and ongoing administration of an ESOP. While the Act contains several provisions relating specifically to employee share schemes, it does not generally provide for different treatment of employee shares. For this reason, the Australian Securities and Investments Commission (ASIC) has issued a Policy Statement and Class Order that provide conditional relief from specific disclosure and licensing provisions within the *Corporations Act* for companies establishing eligible employee share schemes.

Permeating the Australian corporate law regulatory framework for employee share plans is the concern of regulators to strike an appropriate balance between recognising the public policy objective of promoting broad-based employee share plans whilst protecting the interests of potential employee investors and existing shareholders. Whether the current balance struck between these objectives is the most desirable one remains the subject of contention.

Part 2 of the paper outlines the disclosure requirements upon companies when issuing securities to employees. It identifies the general requirements under the *Corporations Act* and examines the conditional relief from these provisions provided by ASIC. In Part 3, the authors consider how the *Corporations Act* regulates the funding of employee share schemes. Part 4 looks briefly at employee share scheme trusts. Australian Securities Exchange (ASX) Listing Rules relevant to employee share schemes are outlined in Part 5. Part 6 examines potential legal issues arising from companies in relation to financial services licensing and securities hawking. Part 7 looks briefly at the extent to which companies may impose restrictions upon employee shares. In Part 8, the authors identify and briefly outline relevant corporate governance standards. Part 9 outlines the broad accounting standard requirements upon companies in relation to employee share schemes.

Part 10 of the paper turns to consider how the current law governing directors' duties in Australia may regulate the implementation of employee share schemes. It looks at the duty of directors to act in good faith for the benefit of the company as a whole and the duty to issue shares for a proper purpose. Finally, it identifies how an employee shareholder who believes a director has abused his or her powers may challenge such actions. After exploring the regulatory framework governing the establishment of employee share schemes, the paper turns to consider, in Part 11, the extent to which the *Corporations Act* provides avenues through which employee shareholders can seek to

promote and protect their unique set of interests. Finally, in Part 12, the authors identify the key criticisms of the corporate law framework in this area.

Employee Share Ownership - A Review of the Literature

By Ingrid Landau, Richard Mitchell, Ann O'Connell and Ian Ramsay

Employee share ownership ('ESO') is a form of employee financial participation that confers on employees the right to share in the wealth of the company and, in theory at least, the right to exercise some degree of control over company affairs. In Australia, interest in employee share ownership is reflected in the inquiry held by the House of Representatives Standing Committee on Employment, Education and Workplace Relations into ESO in 2000; the establishment in 2003 of a promotional Employee Share Ownership Development Unit ('ESODU') within the Commonwealth Government's Department of Employment and Workplace Relations; and, in February 2004, the announcement by the Minister for Employment and Workplace Relations of a target of doubling ESOPs in workplaces from 5 to 11 percent of employees by 2009. In addition, there are several organisations and networks within Australia devoted to promoting employee ownership. Despite this interest, literature on employee share ownership in Australia remains scarce. What literature exists tends to be written from a practitioner's perspective, is limited to brief magazine articles, or is preliminary and tentative in nature.

The majority of the literature on employee share ownership comes from the UK and the US. An increasing amount also comes from Europe generally, as a result of increased promotion of financial participation, including ESO, by the European Commission since the early 1990s. There is also some, but very limited, attention paid to ESO in Africa, Asia and the transitional countries in Eastern Europe.

The diversity of the literature on employee share ownership makes compiling a literature review a challenging task. Literature on employee share ownership is found in a range of disciplines: Finance, Financial Economics, Labour Economics, Corporate Finance, Human Resource Management, and Industrial Relations. The various disciplines are interested in different issues posed by employee share ownership and tend to use different data. In particular, a distinction can be drawn between research and analysis that focuses on the control potential of financial participation and that which focuses on the productivity potential. Those who adopt the former view are concerned with the potential for employee share ownership to enhance employee control over the organisations in which they work, that is, to contribute to some form of industrial democratisation. Those who focus on the latter emphasise the effect that ESO may have on organisational performance.

This literature review organises the material as follows. Part 2 looks at the rationales provided for employee share ownership, focusing in particular on the Australian perspective. Part 3 identifies the key criticisms of employee share ownership. Part 4 provides an overview of the principle streams of research conducted into employee share ownership. In Part 5, the interaction between employee share ownership and corporate governance is considered. Finally, the review identifies the strand of literature that has taken a comparative approach to employee share ownership in different countries.

An Overview of Existing Data on Employee Share Ownership in Australia

By Ingrid Landau, Richard Mitchell, Ann O'Connell and Ian Ramsay

This paper provides an overview of existing data on employee share ownership (ESO) in Australia. It is concerned with broad-based employee share ownership plans: plans in which the majority of employees within the company are eligible to participate. It begins by briefly outlining the key quantitative studies on ESO undertaken in Australia over the last decade. It then looks at the incidence of ESO; trends over time; the incidence of various types of ESO plans (ESOPs); awareness of ESO among business; characteristics of companies with ESO; characteristics of employees taking up shares; and attitudes of businesses towards employee share ownership. Finally, for comparative purposes, it provides data on the incidence of employee share ownership in North America, Europe and Asia. The conclusion identifies areas in which our knowledge of employee share ownership remains very limited.

Do Australian Institutional Investors Aim to Influence the Human Resource Practices of Investee Companies?

By Kirsten Anderson, Shelley Marshall and Ian Ramsay

There has been considerable speculation recently regarding the effect of the growing prevalence of institutional investors in the equity markets on investee company behaviour. Institutional investors include superannuation funds, banks, mutual funds and insurance companies. It has been posited that the growth of institutional investors may lead to the pursuit of what is generally referred to in the human resource literature as 'high commitment' employment practices in investee companies. This may be because institutional investors are using 'voice' mechanisms to pressure investee companies to adopt 'high commitment' human resource practices. For the purposes of the study it is sufficient to note that these labour management practices typically involve managerial attempts to motivate and manage workers through a series of workplace practices that incorporate the interests of employees rather than through strict command and control structures. These might include investment in staff training and development, employment security, flexible workplace practices and self-directed work teams, investment in occupational health and safety, equitable remuneration, incentive pay, and 'partnerships' and consultation with employees and/or their representatives. In formal labour relations terms, it might also include respect for freedom of association, the right to bargain collectively and other core labour standards.

The purpose of this study is to discover whether it is the intention of institutional investors to encourage investee companies to adopt 'high commitment' employment practices through case studies of twelve prominent institutional investors with funds invested in the Australian equities market and the Australian Council of Superannuation Investors (an industry body representing 39 superannuation funds). In the event that the institutional investor did seek to influence investee companies, the authors asked (i) why they seek to influence the companies, and (ii) what mechanisms they use to exert this influence. In the event that they did not seek to influence investee companies in this way,

the authors asked (iii) why they did not and what barriers exist to taking into account companies' employment practices. The authors also sought to discover (iv) whether institutional investors take into account the employment practices of companies when making investment decisions, and if so, (v) what kinds of practices they take into account. In addition, the authors enquired into (vi) whether there are any differences between institutional investors, based on type, in relation to whether or not they have an intention to influence investee company employment practices, or the ability to do so.

Company Directors: Principles of Law and Corporate Governance (authored by Justice Robert Austin, Professor Harold Ford and Professor Ian Ramsay)

“This new book is the latest contribution to legal scholarship by the triumvirate which has, for many years, kept admirably up to date the leading work on Australian company law that first flowed from the pen of Professor Harold Ford more than 30 years ago. ...Canons of good corporate governance join principles of law as the foundation for a comprehensive treatment of the responsibilities, duties, powers and rights of company directors in 21st century Australia. ...This work will be of great value to practitioners, corporate counsel and students alike. It will be of interest to company directors themselves and other lay readers seeking insights into this ever-topical subject. The law as it is and the law as it might become are both covered, the latter under corporate governance rubric. The authors tell us in the preface which of them wrote which chapter. A form of blind tasting by this reviewer failed entirely to pick who wrote what. This is because of the uniformly high quality of the analysis and exposition by these three acknowledged experts in the field.”

Review published in the Australian Law Journal

“This book fills a long standing lacuna in the area. The text is written by the three most eminent scholars on corporations law in the country. ...Given the recent spate of corporate collapses both in Australia and around the globe highlighting the responsibilities of directors, this text is indeed timely. ...This book is a highly valuable addition to any practitioner’s library.”

Review published in the Australian Banking and Finance Law Bulletin

“The publication of Company Directors: Principles of Law and Corporate Governance is timely and makes an important and outstanding contribution to this theme particularly in its exposition of the legal principles relating to directors. Its authors are well-known and respected. ...Company Directors is an outstanding work and is a valuable addition to the library of anyone interested in a detailed exposition of the legal regulation of directors.”

Review published in the University of New South Wales Law Journal

“Corporate governance and the role of directors have never commanded greater attention, thanks in part to increased oversight and high profile governance failures. ...The authors of this timely release are generally accepted as being the foremost authorities on corporate governance in the Australian context, and they present a detailed, scholarly and comprehensive analysis of law and governance as they relate to Australian company directors. The book’s main focus is on the duties of company directors, remedies for breach of these duties, and the structure and operations of the board of directors, but the addition of expert commentary on corporate governance, as it relates to company directors, sets the text apart.”

Review published in Lawyers’ Weekly

“The book deals comprehensively with a broad range of legal issues affecting company directors. ...The treatment of directors’ duties is extremely detailed. ... The book is a must-have for corporate lawyers.”

Review published in Bar News (Journal of the New South Wales Bar Association)

“The book is divided into three broad areas representing the structures and powers of a board of directors; the duties of directors and, finally, the remedies for breach of duty and enforcement. The statutory, fiduciary and general corporate governance principles are approached in detail, applying statute where appropriate to illustrate the principle in question. The text also uses modern, relevant examples such as the HIH collapse and the resulting outcomes for the directors involved in the matter to illustrate the effect of breach of fiduciary and statutory duties and the resulting consequences. Thus a clear balance is made from authoritative precedents through to contemporary examples of the various legal principles. ...The book will be an important addition to all general counsels and law firms that have a growing corporate and commercial practice. This is a valuable reference tool for the many directors and other corporate officers who may have anxiety about their daily role in such a litigious environment.”

Review published in Keeping Good Companies (Journal of Chartered Secretaries Australia)

“The principles of proper corporate governance and the responsibility of directors for their implementation have been the subject of intensive debate over recent years both in Australia and overseas....The distinguishing feature of this text is that it approaches the law as it applies to corporations from a “director centred” perspective. It is a valuable reference for those advising directors about their obligations and duties or the potential implications for them of a transaction or state of affairs concerning a company in which they hold office...The text is well ordered and indexed, visually accessible and well written...There is an impressive coverage of the wide-ranging duties imposed on directors, including the duties owed in relation to internal management, fiduciary duties, insider trading, insolvent trading, improper profits and appropriation of corporate property, duties in relation to financial statements, capital raising, product liability, concurrent or accessorial liability for acts of the company and liabilities arising from unauthorised acts. Finally, the text includes a comprehensive summary of the legal and equitable remedies available to make directors accountable for breaches of duty, including a detailed discussion of the availability of derivative actions.”

Review published in the Law Institute Journal

The Open Corporation: Effective Self-Regulation and Democracy (authored by Dr Christine Parker)

“In a lively and challenging work...Christine Parker seeks to explore the possibility of transforming the corporation from an object of external regulation to a subject capable of self-regulation...Her account of the potential of corporations for a practical form of social citizenship is elegantly written and finely argued.”

Review published in the Griffith Law Review

“The book is a product of exhaustive research and presents a rich exploration of the literature on regulation and related topics... If you are genuinely interested in moving the debate about corporate social responsibility from nihilism to potentially achievable aspiration, I recommend that you read this book.”

Review published in the UNSW Law Journal

“Christine Parker’s *The Open Corporation* is a first rate piece of academic scholarship of international stature. It is the product of deep research, yet wears its learning lightly. The text is accessible and the style readable, a real achievement given the matters discussed. Parker’s passion for her topic, and for the need to create responsible and accountable corporations in the interests of social justice and democracy is always evident.”

Review published in the Australian Journal of Labour Law

“The alternative to command and control [approach to compliance and regulation] must be grounded on the principle of self-regulation, says Parker, and she calls in support a growing body of academic writing, which she has organised and analysed in an impressively coherent manner, backed up by the conclusions of her own field research among compliance professionals in several countries.”

Review published in the New Zealand Law Journal

“Parker’s book offers a method for approaching the complex job of achieving better democratic control of corporate power. [The book is] readable, actively engaged with the reality of “self-regulation” as experienced in the field, and well informed on the theory, as well as being a good how-to for practitioners in companies and in regulatory agencies.”

Review published in the Drawing Board: An Australian Review of Public Affairs

“This is a well researched, scholarly, articulate book which deserves to be read and understood by corporate executives, citizens and political leaders.”

Review published in Boss Magazine

The Law of Secured Finance (authored by Dr Paul Ali)

“Dr Paul Ali’s *The Law of Secured Finance* is a useful guide to an area of the law which has been more confused than many others by the interplay of statute and case law. Many will wish it had been available long ago, as texts in the area lacked such a clear structure.”

Review published in the Journal of International Banking Law and Regulation

Ford’s Principles of Corporations Law (authored by Professor Harold Ford, Justice Robert Austin and Professor Ian Ramsay)

“Corporate governance and proper disclosure have been under the spotlight over the last 18 months or so, especially in light of the sweeping reforms proposed by the Ramsay Report...Covering the whole spectrum of company law including formation, legal capacity, share issues, directors’ duties, auditing, shareholder remedies and insolvency (and much, much more) this is an in depth guide for the

professional, layman or student... Ford's Principles of Corporations Law has been the "bible" of corporate lawyers and students alike for a generation."
Review published in Lawyers Weekly

"It is not hard to see why Ford has remained one of the most popular texts on company law...One of the strengths of this book is the depth of the knowledge of the authors, so that related legal doctrines are woven seamlessly into the text, such as in the case of the explanation of directors' duties in Ch 8, or the rules that apply where the company is a trustee."
Review published in the Australian Law Journal

"I thoroughly recommend this book as a must for all legal libraries. Ford's Principles of Corporations Law remains the pre-eminent text on Australian corporations law, preserving its reputation for scholarship and unique insight into this increasingly complex area of law."
Review published in Proctor, Journal of the Queensland Law Society

"The authors achieve an impressive topical coverage and density of scholarship...It is an essential addition to the shelves of those with a commercial /corporate practice."
Review published in the Queensland Bar News

"The book remains the pre-eminent resource for lawyers, accountants, government and business throughout Australia...The text is accessible and authoritative... this work retains all of the substance, style and scholarship that has made it an indispensable legal classic for students and practitioners alike."
Review published in the Victorian Bar News

Key Developments in Corporate Law and Trusts Law – Essays in Honour of Professor Harold Ford (edited by Professor Ian Ramsay)

"This book is a wonderful idea. It is a collection of essays in honour of a person whose name is known to all corporate and insolvency lawyers...The book collects scholarship from authors of the highest quality, including 6 professors and 2 judges...Readers will find the book to be a stimulating read."
Review published in the Insolvency Law Bulletin

Commercial Applications of Company Law in Malaysia (authored by Pamela Hanrahan, Ian Ramsay, Geof Stapledon, Aman Narimin and Aisha Bidin)

"Lecturers will find this book a unique teaching aid...the publication of this comprehensive guide is timely, in light of the challenge of good corporate practice and compliance."
Review published in the Star (Malaysia)

Experts' Reports in Corporate Transactions (authored by Laurie McDonald, Grant Moodie, Professor Ian Ramsay and Jon Webster)

“It’s long overdue that the Australian securities industry had a more contemporary guide for expert report writers. This book goes a long way to fill the void between past experience and current best practice. By reference to case law and current ASIC policy statements and notes, it situates itself well in the tradition and precedence of immediate corporate and regulator experience and the interpretations of the judiciary. The team of authors provides the reader with a broad grasp of the salient aspects of the expert’s definition and tasks, as well as the downside of liability and the defences provided at law and in contract...The book is not afraid to explore issues for which practice often only provides inconclusive counsel. The ambiguity of many corporate situations aside, the book does a good job of highlighting the grey areas that demand all the more acute attention in the practicing real world.The book is a valuable addition to the library of the specialist practitioner report writer, to those who seek to engage them and to the legal professional who may be called upon to defend a client or test a report. It is very much a text that regulators should take serious note of in their framing of policy, around the practice - related difficulties of report writing.”
Review published in the Journal of the Securities Institute of Australia

“Experts have figured prominently in recent jurisprudence...the present work, as its title suggests, is concerned specifically with the role of the expert in the context of corporate transactions. The book is intended for those who prepare experts’ reports as well as others involved in corporate transactions where such reports are used. This will include company directors, and the reliance by directors on experts’ reports in the context of directors’ duties is specifically considered. As well as extensive legal analysis, the book includes a consideration of practical examples of experts’ reports that have not been the subject of litigation... [The book] will be highly useful to practitioners in the area.”
Review published in the New South Wales Law Society Journal

“The book is useful and informative. It deals with the requirements of the regulatory authorities; who is an expert; what is meant by terms such as ‘fair and reasonable’; and like matters. It also analyses the concept of an independent expert. There is also a section on the liability of experts and a chapter on the reliance by directors on experts’ reports. The book would be quite useful to solicitors, accountants and merchant bankers involved in the corporate finance area.”
Review published in the Australian Law Journal

Corporations Law - In Principle (authored by Susan Woodward, Helen Bird and Sally Sievers)

“The book is ideally suited for any student commencing their business studies...The language used in the book, the style and the ease of its use distinguish the book as a great teaching and learning resource.”
Review published in the Australian Journal of Corporate Law

“[The book provides] invaluable learning aids for students otherwise potentially overwhelmed by the breadth of topics and depth of material covered in company law courses, whether in law schools or in business schools.”

Review published in the Law Institute Journal

Company Directors’ Liability for Insolvent Trading (edited by Professor Ian Ramsay)

“[This book] is the most current and useful compendium of the law, practice and theory on the subject yet published, particularly for an Australian audience, although it will be of value to New Zealand and United Kingdom readers and in the context of scholarly debates. It serves several purposes. For liquidators, accountants and commercial legal practitioners, it is a very helpful way of coming to grips with the statutory provisions and case law. For those advising directors on their duties on how to manage a situation where they are concerned about a company’s financial position, it is a useful overview of how to approach the problem in practice and particularly in taking into account the role of voluntary administration and deeds of arrangement under Chapter 5.3A of the Corporations Law...The edition should prove very useful for practitioners in a number of fields, as well as those concerned with the scholarly debate.”

Review published in Keeping Good Companies – Journal of the Institute of Chartered Secretaries

“The University of Melbourne has provided us with a work of intellectual rigour...These 8 essays (including the editor’s own) form a multifaceted prism of scholarship and substance. An ASIC lawyer, a NZ barrister, a Sydney solicitor, Oxford dons, Australian professors and a Colorado professor are a laser of learned minds...This book is for those who are concerned to know the history of the insolvent trading provision, what the Australian law now states, its theoretical base and the principles actually applied, what the laws of other places say and what our law should say...The book well displays the access of the authors to their subject.”

Review published in the Journal of the Law Society of the Australian Capital Territory

Corporate Governance and the Duties of Company Directors (edited by Professor Ian Ramsay)

“The collection assembled by Professor Ian Ramsay is recommended reading for anyone who is interested in exploring issues [of corporate law] or in corporate governance more generally...It includes interesting and thought provoking material on issues which have become topical in the United Kingdom following the Law Commission’s consultative paper on company directors...The book is a worthwhile edition to the relevant literature.”

Review published in the International Company and Commercial Law Review

“This book is a collection of articles on general corporate governance issues and specific duties owed by company directors. For anyone seriously interested in the subject the book provides a useful introduction to current case law and detailed analysis of the principles in this area of the law.”

Review published in the New South Wales Law Society Journal

“The book will no doubt become a contemporary textbook in the study of corporate governance.”

Review published in Australian CPA

“This authoritative work discusses the duties of directors in Australia from a legal perspective. In his introduction the editor recognises that there are many definitions of corporate governance and explores why corporate governance has become an issue. In an original insight he demonstrates the breadth of corporate governance far more fully than most authorities, by identifying the various mechanisms that play a role in corporate governance.”

Review published in Corporate Governance: An International Review

“If you have always sought clarification as to just what constitutes “corporate governance” and succinct enlightenment as to the law defining directors’ duties, then Corporate Governance and the Duties of Company Directors is the book for you...The book holds appeal in that it attempts to define and present the ideology of corporate governance in more than one light, and illustrates its role in conflict minimisation within a corporate structure...The substantive law pertaining to directors’ duties is admirably presented.”

Review published in the Law Institute Journal

“This book provides timely perspectives on the various issues surrounding the role of directors and of corporate law in enhancing corporate governance practice...The text provides a useful snapshot of the current thinking regarding director liability, regulatory costs and different policy approaches. More importantly, it provides an impressive introduction for newcomers to this area of the law, whilst also prompting a re-evaluation by those familiar with the many policy skirmishes occurring within the confines of the corporate governance debate.”

Review published in the Company and Securities Law Journal

Securities Regulation in Australia and New Zealand (edited by Professor Gordon Walker, Dr Brent Fisse and Professor Ian Ramsay)

“The text Securities Regulation in Australia and New Zealand contributes a number of important elements to the ongoing regulatory debate. Perhaps most importantly, the commingling of legal concepts with financial, economic and accounting concepts is to be broadly and extensively applauded...This review cannot do justice to the numerous, innovative conceptual filters presented in the text, suffice it to say that the traditional black letter approach to securities regulation will come under closer scrutiny in the future as these conceptual filters are applied in a more comprehensive manner...One of the recurrent themes in this text is the powerful analytical insights to be derived from economic theory and

empirical studies...It is commendable that Securities Regulation in Australia and New Zealand has admirably tackled the major, and many subsidiary, issues in the current securities regulation debate and proffers solutions which draw from many conflicting theoretical disciplines and perspectives. The depth of the legal analysis combined with a philosophical awareness and application of the various regulatory schools of thought makes this text an essential item in every security market participant's library...[The book] can justifiably claim to provide all participants in the securities markets with important, insightful perspectives and critiques on the existing regulatory framework."

Review published in the Australian Business Law Review

"This is an important book...It is highly recommended and will hold an important place in the scholarship on securities regulation in Australasia...There is something for everyone in this useful collection of materials. Students and teachers of law and commerce will find the insights into theory and practice invaluable...And for legal practitioners there is comprehensive, albeit selective coverage, of Securities Act developments."

Review published in the Otago Law Review

Education and the Law (authored by Professor Ian Ramsay and Dr Ann Shorten)

"This is the most significant publishing event for perhaps two decades for those interested in the law and education in Australia...[The book] will quickly become the standard reference book."

Review published in Proctor, Journal of the Queensland Law Society

"Education and the Law is confirmation that the law relating to education is an established area of interest...[The book] is both timely and appropriate...It is a useful and much needed book. Both Professor Ramsay and Dr Shorten have researched and written in the area of education and the law for some years, and the erudite treatment of the vast body of information included in the book is praiseworthy...It is a book that would rightly take its place on the bookshelves of teachers, educational administrators, academics, and members of the legal profession with a roving eye on the emerging field of education law."

Review published in the Australia and New Zealand Journal of Law and Education

"Education and the Law is a comprehensive and well referenced text on all aspects of the law as it relates to education in Australia...Ramsay and Shorten have produced an excellent text, invaluable to both lawyer and the education administrator."

Review published in Law Letter, Bulletin of the Law Society of Tasmania

The Melbourne Law School at The University of Melbourne has a very strong graduate program in corporate law and securities regulation. The 37 subjects offered are:

- Accounting for Commercial Lawyers *
- Company Takeovers
- Comparative Companies Law in Asia
- Comparative Corporate Governance
- Corporate Governance and Directors' Duties *
- Corporate Insolvency and Reconstruction*
- Corporate Taxation (Companies and Consolidation) *
- Corporate Taxation (Shareholders, Debt and Equity) *
- Current Issues in Corporate Law
- Derivatives Law and Practice
- Electronic Commerce Law *
- Equity and Commerce *
- Financial Sector Compliance Management
- Financial Sector Regulation *
- Financial Services Law
- Governing Not-for-Profit Organisations *
- International Financial System: Law and Practice *
- International Financial Transactions: Law and Practice
- International Securities Regulation *
- International Taxation: Treaties and Overseas Entities
- Law of Secured Finance *
- Managed Investments Law *
- Principles of Corporate Finance
- Principles of Corporate Law *
- Project Finance *
- Regulation of Securities Offerings
- Securitisation *
- Shareholders' Remedies *
- Sports Law: Entities and Governance
- State Taxes and Duties
- Superannuation Law
- Taxation of Business and Investment Income A *
- Taxation of Business and Investment Income B
- Taxation of Financial Instruments
- Taxation of Small and Medium Enterprises *
- The Corporation as Criminal
- United States Securities Regulation

A list of all the Faculty of Law's graduate subjects offered in 2007 is contained in Appendix B.

At the undergraduate level, the following subjects are offered:

- Corporate Governance in the Modern Company*
- Corporations Law*
- Insolvency Law*
- Takeovers and Securities Regulation*

In addition, the Law School is responsible for teaching the subject Corporate Law in the Faculty of Economics and Commerce.

A feature of the graduate program in corporate law is the use of international corporate lawyers. These have included Professor Roberta Karmel who is a former Commissioner of the United States Securities and Exchange Commission; Professor Deborah DeMott of Duke University School of Law; Professor Douglas Branson of the University of Pittsburgh School of Law; Professor Paul Mahoney of the University of Virginia School of Law; Professor Dale Oesterle of the University of Colorado School of Law; Professor Cally Jordan of the World Bank and the Asian Development Bank and Professor Steven Schwarcz, Duke University School of Law.

* indicates taught in 2007

In 1997 the Centre for Corporate Law and Securities Regulation commenced publishing the Corporate Law Bulletin. It has been established with the support of the Australian Securities and Investments Commission, the Australian Securities Exchange and leading national law firms. In 2002 SAI Global (previously known as LAWLEX) commenced publishing the Bulletin.

By the end of 2007, 124 issues of the Bulletin had been published

The monthly Bulletin includes the following:

- details of significant corporate law and corporate governance developments (both statutory amendments and recent court judgments); and
- significant announcements made by the Australian Securities and Investments Commission (for example new ASIC Regulatory Guides), the Australian Securities Exchange and the Takeovers Panel.

Readers of this Annual Report who are interested in seeing some previous issues of the monthly Bulletin can access them through the archive site on the Internet, the address of which is:

<http://cclsr.law.unimelb.edu.au/go/corporate-law-bulletin/index.cfm>

Subscriptions to the Bulletin can be obtained from SAI Global at its website:

<http://www.saiglobal.com>

This section identifies the competitive research grants that funded research by members of the Centre in 2007. A list of competitive research grants obtained in 1996-2006 is contained in Appendix C.

Grants Funding Research in 2007

The Liability of Corporate Groups

Type of Grant

ARC Discovery Project Grant

Funds Received

\$ 157,618

Chief Researcher

Associate Professor Christian Witting

Project Summary

The importance of a re-examination of the rules of limited liability has been demonstrated in many recent cases of corporate wrongdoing and collapse. This has been highlighted by the restructuring of the James Hardie Group of companies, the conscious aim of which was the decision to free the group of its asbestos liability 'legacy'. Were it not for government intervention, thousands of persons injured by asbestos products would have gone without compensation. One means by which such unfairness can be avoided is by reform to the rules of limited liability. This project will explore the means by which this could be achieved.

Employee Share Ownership Plans: Current Practice and Regulatory Reform

Type of Grant

Australian Research Council Discovery Grant

Funds Received

\$ 323,000

Chief Researchers

Professor Ian Ramsay, Associate Professor Ann O'Connell and Professor Richard Mitchell

Project Summary

Employee Share Ownership Plans (ESOPs) are important to the development of an economic culture of enterprise and innovation and the building of national wealth and savings in response to long-term demands of intergenerational equity. ESOPs require development through appropriate regulatory frameworks. This project subjects the existing regime of tax, corporate and labour law to technical and empirical scrutiny. This will enhance the capacity of policy makers to evaluate and identify appropriate regulatory techniques to ensure the growth of efficiency of ESOPs at the national and enterprise level.

The Impact of ACCC Enforcement Action: Evaluating the Explanatory and Normative Power of Responsive Regulation and Responsive Law

Type of Grant

Australian Research Council Discovery Grant (Australian Research Fellowship)

Funds Received

\$ 350,000

Chief Researchers

Dr Christine Parker and Vibeke Nielsen

Project Summary

The project will enhance the capacity of the ACCC and other business regulators to ethically and effectively regulate to achieve the goals of regulatory policy such as a fair, competitive economy, occupational health and safety, and environmental integrity. Australia is already well recognised as a leader in ambitious empirical and policy oriented social science research on regulatory compliance (through the ARC funded Governance Network including RegNet at ANU). This project will enhance that reputation with the most comprehensive data set on the corporate compliance impact of enforcement action and fundamental re-thinking of foundational theoretical questions about the nature and capacities of regulation.

The Governance Research Network (GovNet)

Type of Grant

Australian Research Council Research Network Grant

Funds Received

\$ 1,500,000

Chief Researchers

Professor Charles Sampford, Griffith University; Participants from the Centre for Corporate Law - Professor Ian Ramsay and Dr Christine Parker

This project brings together 50 scholars from 12 universities to undertake cross-disciplinary governance research.

Project Summary

Institutions and their governance are frequently part of our most pressing problems - not least in our national research priorities. Hence, institutions are invariably a key part of the solutions. GovNet unites three ARC Centres, two existing networks (RegNet, ANZSOG) and several other dynamic centres to create an interdisciplinary network of ethicists, lawyers, political scientists, economists and historians. It will tackle issues of institutional governance, from small firms to global institutions recognising both common governance issues and radically differing contexts.

Together with APSEG and government agencies, it will apply cross-disciplinary, theory-driven, evidence-based research to governance issues in the region.

Corporate Governance and Institutional Investment in the Australian Financial Markets

Type of Grant

Australian Research Council Discovery Grant

Funds Received

\$130,000

Chief Researchers

Associate Professor Paul Ali and Professor Geof Stapledon

Project Summary

The financial markets play a vital role in Australian economic life. The majority of the assets of Australian superannuation funds and managed investment funds are financial products.

This project will provide a comprehensive account of the different types of complex financial products available in Australia and an assessment of the corporate governance practices at Australian companies and Australian institutional investors in relation to their use of complex financial products.

Through these outcomes, the project will contribute to a broader understanding of the Australian financial markets and the enhancement of corporate governance practices in Australia.

Partnerships at Work: The Interaction between Employment Systems, Corporate Governance and Ownership Structure

Type of Grant

ARC Discovery Project Grant

Chief Researchers

Professor Ian Ramsay and Professor Richard Mitchell

Funds Received

\$640,500

Project Summary

The project examines the interaction between several key factors in the creation and sustainability of 'Partnerships at Work'. These factors include particular employment systems, forms of corporate governance and ownership structures. The project proposes to discover how these various factors have interacted so as to give rise to — or fail to give rise to — 'high performance' partnership-style relations at work.

There is a widely held view that production systems based on hierarchical management control, confliction work relationships and low trust between management and labour have been less competitive than models based upon co-operative/high trust work relations. Governments in systems historically marked by 'confliction' employment systems are now supporting the development of more co-operative workplace relations systems between employers and employees. In Britain this has been based in the Blair government's 'Third Way' policy which actively seeks the promotion of a 'Partnership at Work' agenda. In Australia the Federal Government has also been pursuing a policy of 'co-

operative' workplace relations based upon individual contracts, employee participation, more flexible working arrangements, performance appraisal, and various forms of profit sharing, including employee share ownership. More recently the Victorian Labor government has announced its 'Partners at Work' program designed 'to encourage Victorian workplaces to develop partnerships with employees, unions and other shareholders...to improve workplace performance'. As a result of this policy direction, the identification of those factors which support the development and sustainability of co-operative 'partnership-style' workplace systems is now one of the most important issues in contemporary employment relations.

At the same time, there is debate concerning whether there will be international convergence around the Anglo-American model of corporate governance and ownership structure. The emergence of corporate governance frameworks based around highly liquid capital markets, dispersed share-ownership, vulnerability to hostile takeover bids and the presence of large institutional investors anxious for quarterly improvements can entrench a narrow understanding of 'shareholder value' as the dominant objective of corporate management. On the other hand, systems of corporate governance characterised by relatively concentrated patterns of shareholding, with a dominant shareholder holding a majority or near majority stake, are said to more easily establish and sustain co-operative arrangements between all relevant stakeholders, including industry employees.

This project focuses on the interaction between these factors within a regulatory environment established by labour law and corporate law. What are the elements of 'co-operative' or 'partnership' employment systems? What are the integrating institutions or conventions - if any - that incorporate workers or their representatives into managerial processes? How do company directors actually balance the interests of employees and shareholders within the framework of the obligations imposed by directors' duties? How flexible are those duties? What possible shortcomings might exist in the practical application of those duties? Is there congruence between types of corporate governance systems and types of employment system?

This section identifies the supervision of graduate students undertaken by members of the Centre in 2007.

PhD Theses in Progress

- Allan, S: M: The Regulation of Science: Research on Human Embryos, Cloning and the Law
Supervisor: Dr Christine Parker
- Alneyadi, M: The Law of Construction Contracts in the United Arab Emirates
Supervisor: Professor Tim Lindsey
- Bird, H: Conciliatory Enforcement of Australian Company Law: The Operation and Use of Enforceable Undertakings by ASIC, the Corporate Regulator
Supervisor: Professor Ian Ramsay
- Brophy, C: The Law and Integrative Medicine: Legal Issues Arising when Doctors Incorporate Complementary Medicine into Conventional Medical Practice
Supervisor: Dr Christine Parker
- Colmenares, N: International Jurisdiction and Amnesty
Supervisor: Professor Tim Lindsey
- Fenwick, S: Islamic Liberalism and the Rule of Law: Rights and the Politics of Transition in post-Suharto Indonesia
Supervisor: Tim Lindsay
- Graydon, C: Domestic Violence in Timor-Leste: Is there a Place for Indigenous Justice Systems?
Supervisor: Professor Tim Lindsey
- Harper, E: Beyond Brahmi: The Effectiveness and Sustainability of UN Legal Codes in Post-Conflict Situations
Supervisor: Professor Tim Lindsey

- Kingsley, J: Sometimes it is a Painful Love: Terrorism, Law Reform and 'Being Muslim'
Supervisor: Professor Tim Lindsey
- Merrett, A: The Assessment and Regulation of Market Power in Australia
Supervisor: Professor Geof Stapledon
- Parker, D: Lifting the Veil and Corporate Personality
Supervisor: Professor Ian Ramsay
- Pausacker, H: In the Eye of the Beholder: Law, Pornography and Indonesia's Islamic Defenders Front
Supervisor: Tim Lindsey
- Ruschena, D: Litigation and Liability as Regulation to Reduce Tobacco Related Harm: Making the Polluter Pay for the Harm Tobacco Causes
Supervisor: Dr Christine Parker
- Sheehan, K: In Excess: Does Extended Disclosure of Executive Remuneration Expose the Links Between Company Performance and the Level of Executive Remuneration?
Supervisor: Professor Geof Stapledon
- Shi, C: Corporate Governance, its Theoretical Development and Issues of Chinese Corporate Governance
Supervisor: Professor Tim Lindsey
- Wardrop, E: Representation of the Public Interest in the Insolvency of Privatised Essential Services
Supervisor: Professor Tim Lindsey
- Welsh M: Civil and Administrative Penalties and the Corporations Act
Supervisor: Professor Ian Ramsay
- White, A: Islamic Arbitration (Takhim) as an Answer to Demands for Shariah-based Dispute Resolution in the Context of Secular States. An Analysis of the Experience in Indonesia and a Proposed Framework for Implementation in the United States

Supervisor: Professor Tim Lindsey

- Wynn-Pope, P: What are the Criteria for Determining When a Threat to or Violation of Human Security Should Justify an External Intervention?

Supervisor: Professor Tim Lindsey

SJD Thesis in Progress

- Sherman, T: The Introduction of the Consolidated Regime into the Income Tax Assessment Act 1997: An Analysis of the Effect on the Subsidiary Disposal Decision for a Corporate Group

Supervisor: Professor Geof Stapledon

Master of Laws in Progress

- Date, J: Implications of Canon Law for Church Organisations Operating in Australia.

Supervisor: Professor Ian Ramsay

- Dzau, J: Corporate Social Responsibility: To Act in the Best Interests of the Company - A Paradigm Shifts

Supervisor: Dr Christine Parker

- Testart, M: Pure Economic Loss and the Australian Insurance Industry: The Search for a Bright Line

Supervisor: Associate Professor Christian Witting

The Centre makes its knowledge and expertise available as a public resource in a number of ways including providing interviews and information to the media, responding to requests for information, and writing submissions on matters of law reform.

Submissions

During 2007 members of the Centre participated in preparing a number of submissions relating to corporate law reform either in a personal capacity or on behalf of organisations such as the Australian Institute of Company Directors and the Law Council of Australia.

Requests for information

During 2007 members of the Centre provided information on Australian corporate law to a number of overseas academics, securities commissions and law reform commissions.

Media

During the course of the year members of the Centre gave approximately 200 reported interviews to newspaper, radio and television journalists.

Some of the newspaper articles published in 2007 which reported on the research of the Centre are listed below.

The media section is divided into three parts:

- Media coverage of Centre research reports
- Media commentary on other research by Centre members
- Centre members' comments in the media on current issues

(i) Media Coverage of Centre Research Reports

Media reports on Research Report, "Company Directors' Views Regarding Stakeholders"

- "Directors balance competing interests", Super Funds, November 2007
- "Report on director's views regarding stakeholders", Butterworths Corporation Law Bulletin, 19 October 2007
- "CEOs grab governance bull by horns, Risk Management, October 2007, page 7
- "Investors not first priority", The Courier Mail, 15 October 2007, page 36

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Seminars held in 1994-2006

Corporate Governance and the Management of Labour: Australian Perspectives

(7 and 8 December 2006)

Speakers: Kirsten Anderson, John Burgess, Richard Gough, John Howe, Meredith Jones, Jim Kitay, Russell Lansbury, Jarrod Lenne, John Lewer, Shelley Marshall, Richard Mitchell, Anthony O'Donnell, Max Ogden, Ian Ramsay, Nick Wailes, Peter Waring and Mark Westcott.

This conference was co-hosted with the Centre for Employment and Labour Relations Law, The University of Melbourne and the Corporate Law and Accountability Research Group, Department of Business Law and Taxation, Monash University

Guest at the Table? Independent Directors in Family Controlled Public Companies

(6 December 2006)

Speaker: Professor Deborah Demott, David F Cavers Professor of Law, Duke University, USA

The Impact of Stock-Market Listing on Employment Practices? A Comparison of Listed and Privately-Owned Workplaces in the UK

(29 September 2006)

Speaker: Professor Andrew Pendleton Department of Management Studies, The University of York, UK

Legal Professional Privilege

(24 August 2006 Sydney, 30 August 2006 Melbourne)

Speakers: Kirsten Grey, Legal Manager, BHP Billiton (Sydney and Melbourne); Emiliios Kyrou, Senior Partner, Mallesons Stephen Jaques (Sydney and Melbourne); Stephanie Martin, Deputy Commissioner, Australian Taxation Office (Sydney and Melbourne)

Shareholder Litigation

(13 June 2006 Sydney, 14 June 2006 Melbourne)

Speakers: Ashley Black, Partner, Mallesons Stephen Jaques (Sydney and Melbourne); Kathleen Harris, Special Counsel, Mallesons Stephen Jaques (Sydney and Melbourne); Professor Ian Ramsay, Director, Centre for

Corporate Law and Securities Regulation, The University of Melbourne (Sydney and Melbourne); John Walker, Managing Director, IMF (Australia) Ltd (Sydney and Melbourne)

Australian Auditing Standards - Imminent Changes

(6 June 2006 Sydney, 7 June 2006 Melbourne)

Speakers: Richard Mifsud, Principal Executive, Auditing and Assurance Standards Board; Lee White, Chief Accountant, Australian Securities and Investments Commission; Professor Ian Ramsay, Director, Centre for Corporate Law and Securities Regulation, The University of Melbourne

This seminar was co-hosted with the Auditing and Assurance Standards Board and Blake Dawson Waldron.

2006 Corporate Governance Conference

(24 February 2006)

Speakers: Professor Ronald J Gilson, Professor of Law and Business, Stanford Law School and Professor of Law and Business, Columbia Law School; Peter Doherty, Principal, Capital Partners; Nicholas Moore, Executive Director, Macquarie Bank; Anton Tagliaferro, Investment Director, Investors Mutual Limited; Stephen Mayne, Founder of crikey.com.au; Professor Kevin Keasey, Halifax Bank Professor of Financial Services, Leeds University Business School; Professor Geof Stapledon, Managing Director, ISS Australia and Professor of Law, University of Melbourne; Mike Hogan, Partner, Human Capital, Ernst & Young; Pat Handley, Chairman, Pacific Brands Limited; Mark Jankelson, Head of Leadership, Capability & Performance, ANZ; Robert Fowler, Investments and Governance Manager, HESTA Super Fund

This conference was co-hosted with Institutional Shareholder Services

From the Picketline to the Boardroom: Union Shareholder Activism in Australia

(24 November 2005)

Speakers: Professor Ian Ramsay and Kirsten Anderson, Faculty of Law, University of Melbourne

Enlightened Shareholder Value and the New Responsibilities of Directors: What Does the Best Director do for the Creditors?

(4 October 2005)

Professor Paul Davies, Cassel Professor of Commercial Law, London School of Economics and Political Science

Directors' Duties and Corporate Social Responsibility - The New Environment

(27 July 2005 Sydney, 18th August 2005 Melbourne)

Speakers: Bob Baxt AO, Partner, Freehills (Sydney and Melbourne); Bill Beerworth, Managing Director, Beerworth & Partners (Sydney); Leon Davis AO, Chairman, Westpac (Melbourne); Meredith Hellicar, Chairman, James Hardie Industries (Sydney); Harrison Young, Chairman, Morgan Stanley Australia (Melbourne); Richard St John, Convenor, Corporations and Markets Advisory Committee (Sydney and Melbourne).

Institutional Investors and Corporate Governance

(2 June 2005)

Professor Geof Stapledon, Faculty of Law, University of Melbourne

This seminar was co-hosted with the Centre for Employment and Labour Relations Law

The Takeovers Panel: Key Issues for Companies and Advisers

(26 May 2005 - Perth)

Speakers: Michael Ashforth, Managing Director, Gresham Advisory Partners Ltd; Jeremy Cooper, Deputy Chairman, ASIC; George Durbridge, Counsel, Takeovers Panel; Marie McDonald, Partner, Blake Dawson Waldron

The Takeovers Panel: Key Issues for Companies and Advisers

(3 March 2005 Melbourne, 9 March 2005 Sydney)

Speakers: Tim Bednall, Partner, Mallesons Stephen Jaques (Sydney); Richard Cockburn, Director, ASIC (Melbourne and Sydney); George Durbridge, Counsel, Takeovers Panel (Sydney); Byron Koster, Partner, Blake Dawson Waldron (Sydney); Alison Lansley, Partner, Mallesons Stephen Jaques (Melbourne); Marie McDonald, Partner, Blake Dawson Waldron (Melbourne); Simon McKeon, Executive Chairman, Macquarie Bank Limited and President, Takeovers Panel (Melbourne and Sydney); Nigel Morris, Director, Takeovers Panel (Melbourne)

Executive Remuneration and Corporate Governance

(23 February 2005)

Speaker: Gideon Haigh, journalist and corporate governance commentator

This seminar was co-hosted with the Centre for Employment and Labour Relations Law

Shareholder Meetings: Key Issues and Developments

(9 November 2004 Melbourne, 18 November 2004 Sydney)

Speakers: Andrew Lumsden, Partner, Corrs Chambers Westgarth (Melbourne and Sydney); Stephen Mayne, Crikey.com.au (Melbourne and Sydney); John McCombe, Partner, Corrs Chambers Westgarth (Melbourne and Sydney); Mervyn Peacock, Chief Investment Officer and Director, AMP Capital Investments (Sydney); Kathryn Watt, Corporate Counsel, Vanguard Investments Australia Ltd (Melbourne)

The Policies and Powers of the ACCC (1 October 2004)

Speaker: Graeme Samuel, Chair, Australian Competition and Consumer Commission; commentator Associate Professor Pamela Hanrahan, Centre for Corporate Law and Securities Regulation, the University of Melbourne

This seminar was co-hosted with the Securities Institute of Australia

The Ideas, Practices and Regulatory Context of Employee Share Ownership Schemes in Australia (27 August 2004)

Speaker: Jarrod Lenne, University of Melbourne

This seminar was co-hosted with the Centre for Employment and Labour Relations Law

Directors' Duties: Recent Developments and their Implications for Directors and Advisors (4 August 2004 Melbourne, 11 August 2004 Sydney)

Speakers: Alan Cameron, Company Director (Sydney); Rod Halstead, Partner, Clayton Utz (Sydney); John Harvey, Company Director (Melbourne); Andrew Lumsden, Partner, Corrs Chambers Westgarth (Melbourne and Sydney); Jan Redfern, Executive Director, Enforcement, ASIC (Melbourne and Sydney); Charles Rosedale, Partner, Clayton Utz (Melbourne)

Continuous Disclosure (25 May 2004 Melbourne, 8 June 2004 Sydney)

Speakers: Jane Couchman, General Counsel, Perpetual (Sydney); Quentin Digby, Partner, Freehills (Melbourne); Luise Elsing (Manager, Companies, Australian Stock Exchange (Sydney); Fiona Gardiner-Hill, Partner, Freehills (Sydney); James Gerraty, Manager of Companies, Australian Stock Exchange (Melbourne); Michaela Healey, Company Secretary, Orica Ltd (Melbourne); Jennifer O'Donnell, Deputy Executive Director, Policy and Markets Regulation, Australian Securities and Investments Commission (Melbourne and Sydney)

Directors' and Managers' Liability Under Occupational Health and Safety Laws - Do We Need a Stronger Regime of Individual Responsibility? (28 May 2004)

Speaker: Karen Wheelwright, School of Law, Deakin University

This seminar was co-hosted with the Centre for Employment and Labour Relations Law

Financial Services Reform: Reflections on the New Regime (10 May 2004)

Speakers: Gregg Drumm, Practice Leader-Products, Consumer, Business and Corporate Legal Group, ANZ Bank; Associate Professor Pamela Hanrahan, Centre for Corporate Law and Securities Regulation, University of Melbourne; Pamela McAlister, Deputy Executive Director - Financial Services Regulation, Australian Securities and Investments Commission

This seminar was co-hosted with the Securities Institute of Australia

Corporate Crime: Wealth by Stealth (7 May 2004)

Speaker: Professor Harry Glasbeek, Osgood Hall Law School, York University, Toronto

This seminar was co-hosted with the Centre for Employment and Labour Relations Law

Malaysian Securities Regulation (25 February 2004)

Speaker: Sau Ngan Wong, Head - Policy and Regulatory Review, Securities Commission of Malaysia

Reforming Not-for-Profit Regulation (19 February 2004)

Speaker: Sue Woodward, Centre for Corporate Law and Securities Regulation, University of Melbourne

Corporate Governance Conference (13 February 2004)

Executive Remuneration:

Speakers: Professor Randall Thomas, John Beasley Professor of Law and Business, Director, Law and Business Program, Vanderbilt University Law School- Plenary lecture on executive remuneration; Edward Wright, Managing Director, Equity Strategies Pty Ltd, Trends in the use of equity for executive incentive pay; Keryn Chalmers, Associate Professor, Department of Accounting and Finance, Monash University, The Determinants of CEO Compensation: Rent Extraction or Labour Demand?, Dean Paatsch, Director of Governance Services, SIRIS, Shareholder voting on executive pay resolutions: 2002 to 2003

Corporate Governance, Financial Integrity and Audit:

Speakers: Professor Steven L Schwarcz, Professor of Law and Faculty Director, Duke Global Capital Markets Center, Duke University Law School-Enron and the use and abuse of special purpose entities in corporate structures; Andrew Lumsden, Partner, Corrs Chambers Westgarth, The changing role of the audit committee; John O'Grady, Partner, Ernst & Young, Challenges in moving towards International Accounting Standards

Emerging Issues:

Speakers: Michaela Healey, Company Secretary, Orica Limited, The growing role of the company secretary; Steve Gibbs, Chief Executive Officer, PSS / CSS, The emergence of institutional investors

Virtual Shareholder Meetings: Who Decides How Companies Make Decisions? (19 November 2003)

Speaker: Professor Elizabeth Boros, Monash University

Shareholder Activism (29 July 2003)

Speakers: Stephen Creese, General Counsel, Rio Tinto; Quentin Digby, Partner, Freehills; Associate Professor Geof Stapledon, The University of Melbourne

Ownership and Control of ASX Listed Companies (3 June 2003)

Speaker: Dr Alan Dignam, University of London

Continuous Disclosure: The New Regime (8 April 2003, Sydney and 10 April 2003, Melbourne)

Speakers: Richard Cockburn, Director, Corporate Finance, Australian Securities and Investments Commission; James Gerraty, Manager of Companies, Australian Stock Exchange; Penny Grau, Partner, Clayton Utz; Rod Halstead, Partner, Clayton Utz; Charles Macek, Chairman, IOOF and non-executive Director, Telstra and Wesfarmers; Charles Rosedale, Partner, Clayton Utz; Gai McGrath, General Counsel and Company Secretary, Perpetual Trustees

This seminar was co-hosted with The Securities Institute of Australia

Corporate Complicity in International Law (9 April 2003)

Speaker: Professor Celia Wells, University of Cardiff

Corporate Governance Summit (26-27 November 2002)

The Centre for Corporate Law and Securities Regulation supported this conference which was organised by The Australian Financial Review

Topics and speakers for this conference included:

- ‘The role of taxation changes in supporting Australia’s economic performance and good corporate governance’, Senator The Hon Helen Coonan, Minister for Revenue and Assistant Treasurer
- ‘Ensuring Sound Governance and Responding to Pressures for Board Composition and Structure Changes’, The Hon Nick Greiner AC, Former Premier and Treasurer of New South Wales, Company Director
- ‘Policing Corporate Activity: The ACCC and the Review of the Trade Practices Act’, Professor Allan Fels AO, Chairman, ACCC
- ‘The Role of the CFO’, Tom Pockett, CFO, Woolworths
- ‘Ensuring Sound Governance and Outcomes of The Ramsay Report: An Update of the Impact of the Report on Corporate Governance’, Professor Ian Ramsay, Director of the Centre for Corporate Law and Securities Regulation
- ‘The Pathway to IASB Standards in 2005’, Keith Alfredson, Chairman, Australian Accounting Standards Board
- Keynote Address, Senator The Hon Ian Campbell, Parliamentary Secretary to the Treasurer
- ‘The Role of the Financial Reporting Council and the Move to IASB Standards’, Jeffrey Lucy, Chairman, Financial Reporting Council
- ‘Continuous Disclosure Obligations’, Susan Bray, National Coordinator – Market Integrity, Australian Stock Exchange
- ‘The Role of ASIC in Corporate Governance’, Professor Berna Collier, Commissioner, Australian Securities and Investments Commission
- ‘Expensing Executive Options and Remuneration and Independence of the Board’, Ted Rofe, Chairman, Australian Shareholders Association

Cross Border M & A Regulation Conference (23 October 2002)

Speakers: Dennis Garris, Chief of the Office of Mergers and Acquisitions, US Securities and Exchange Commission; Noel Hinton, Deputy Director General, London Takeovers Panel; Thorsten Behnke, Assistant Director, German Financial Supervisory Authority; Zhang Xin, Deputy Director General, China Securities Regulatory Commission; Luis Figueroa, Chilean Securities and Insurance Regulator; Peter Cameron, Chairman, Investment Banking, Credit Suisse First Boston Australia Ltd

This seminar was co-hosted with the Takeovers Panel and the Securities Institute of Australia

Enron - The Implications for Corporate Governance (5 July 2002)

Speaker: Professor James Cox, Duke University, USA

This seminar was co-hosted with the School of Law at La Trobe University

Auditors and Audit Committees: Key Issues and Developments (12 June 2002, Sydney and 28 May 2002, Melbourne)

Speakers: Jillian Segal, Deputy Chair, Australian Securities and Investments Commission; Alison Lansley, Partner, Mallesons Stephen Jaques (Melbourne); Jan McCahey, Partner, PricewaterhouseCoopers (Melbourne); Jan Muysken, Partner, PricewaterhouseCoopers (Sydney); Tony Bancroft, Partner, Mallesons Stephen Jaques (Sydney); Professor Ian Ramsay, Director, Centre for Corporate Law and Securities Regulation, The University of Melbourne

Compulsory Acquisitions: Key Issues and Developments (6 June 2002, Melbourne and 4 June 2002, Sydney)

Speakers: Allan Bulman, Australian Securities and Investments Commission; George Durbridge, Counsel, Takeovers Panel; Ron White, Partner, Coudert Brothers (Sydney); Rob Catto; Paul Meadows, Partner, Allens Arthur Robinson (Melbourne)

When Corporate Law & Labour Law Collide: Lessons from the Ansett Administration (23 May 2002)

Speakers: Leon Zwier, Partner, Arnold Bloch Leibler; Mark Mentha, Partner, Korda Mentha & Colleagues; Simone Bingham, Associate, Employment and Industrial Law Section, Maurice Blackburn Cashman; Richard Watts, Industrial Officer, Australian Council of Trade Unions

This seminar was co-hosted with the Centre for Employment and Labour Relations Law, Faculty of Law, The University of Melbourne

Eliminating Road Blocks to a Deal (18 April 2002, Sydney and 12 March 2002, Melbourne)

Speakers: Mr George Durbridge, Counsel, Takeovers Panel; Mr Bruce Dyer, Special Counsel, Blake Dawson Waldron (Melbourne); Mr Michael Hoyle, Director, Macquarie Bank Limited; Mr Ross Jones, Mergers Commissioner, ACCC; Mr John Kench, Partner, Blake Dawson Waldron (Sydney); Mr Michael O'Bryan, Barrister, Victorian Bar; Mr Damian Reichel, Partner, Blake Dawson Waldron (Sydney); Mr Bill Reid, Partner, Blake Dawson Waldron (Sydney)

Enron - The Consequences for Corporate Governance and Corporate Law Reform (16 April 2002)

Speaker: Professor Robert Haft, Georgetown University Law School, USA

The New Takeovers Panel: Key Issues and Developments (16 October 2001, Sydney and 26 September 2001, Melbourne)

Speakers: Richard Cockburn, Director, Corporate Finance, Australian Securities and Investments Commission; Mr Rodd Levy, Partner, Freehills (Melbourne); Mr Justin Mannolini, Partner, Freehills (Sydney); Mr Simon McKeon, President, the Takeovers Panel and Executive Director of Macquarie Bank

Market Misconduct and the Financial Services Reform Bill (14 August 2001, Sydney and 25 July 2001, Melbourne)

Speakers: Mr Joe Longo, Special Counsel, Freehills; Mr Robert Pride, General Counsel, Deutsche Bank; Mr John Kluver, Executive Director, Companies and Securities Advisory Committee

Dual Listed Companies: Structure and Legal Issues (18 July 2001)

Speakers: Mr Cameron Rider, Partner, Allens Arthur Robinson; Mr Jon Webster, Partner, Allens Arthur Robinson; Mr Shane Tregillis, Executive Director, Policy and Markets Regulation, Australian Securities and Investments Commission

Lock-ups and Break Fees in the United States (6 July 2001)

Speaker: Professor David Skeel, University of Pennsylvania, USA

This seminar was co-hosted with the Takeovers Panel and the Corporate Law Teachers Association

Penalties and Regulatory Enforcement (14 June 2001)

Speaker: Professor Anthony Ogus, University of Manchester and Research Professor, University of Maastricht

This seminar was co-hosted with the Corporate Law Teachers Association and The University of Melbourne Faculty of Law

The Purposes and Accountability of the Corporation in Contemporary Society: Corporate Governance at a Crossroads (4 June 2001)

Speaker: Professor Cindy Schipani, University of Michigan, USA

This seminar was co-hosted with the Corporate Law Teachers Association and The University of Melbourne Faculty of Law

The Very Uncertain Prospect of Global Convergence in Corporate Governance (3 May 2001)

Speaker: Professor Doug Branson, University of Pittsburgh, USA and Visiting Fellow, The University of Melbourne

This seminar was co-hosted with the Corporate Law Teachers Association

Key Developments in Corporate Law & Equity - A Celebration of the Scholarship of Emeritus Professor Harold Ford (16 March 2001)

Welcome:

Professor Ian Ramsay, Harold Ford Professor of Commercial Law, The University of Melbourne

International Perspectives on Corporate Law and Corporate Governance

Comparative Corporate Governance and the Australian Experience: Professor Brian Cheffins, University of Cambridge

Shareholders as Principals - Their Powers in Relation to Directors: Professor Deborah DeMott, Duke University

Commentator: Professor John Farrar, Bond University and The University of Melbourne

Key Issues in Corporate Law

The Role of Corporate Governance Practices in the Development of Legal Principles Relating to Directors: Justice Alex Chernov, Court of Appeal, Supreme Court of Victoria

Directors' Duty of Care and the New Business Judgment Rule in a 21st Century Environment: Professor Robert Baxt, Partner, Arthur Robinson & Hedderwicks

Tending to Sick Companies: The Role & Responsibilities of Voluntary Administrators: Justice Robert Austin, Supreme Court of New South Wales

Key Issues in Equity and Trusts Law

Reflections on Commercial Applications of the Trust: Professor Michael Bryan, The University of Melbourne

Equitable Compensation as a Remedy for Breach of Fiduciary Duty: Professor Elizabeth Boros, Monash University

Commentator: Justice Paul Finn, Federal Court of Australia

This one day conference was co-hosted by The University of Melbourne Law School and The University of Melbourne Law Society

2001 Australian Securities and Investments Commission Summer School (18-23 February 2001)

The 2001 Australian Securities and Investments Commission Summer School was held at The University of Melbourne. It was planned with the support of the Centre for Corporate Law and Securities Regulation. The theme of the Summer School was 'Retail Financial Product Distribution: Challenges for Financial Service Firms, Consumers and Regulators in the 21st Century'. The Summer School brought together senior regulators from many countries including the United Kingdom, Canada, New Zealand, Hong Kong, Singapore, Malaysia, Thailand, Indonesia, Sri Lanka and Papua New Guinea.

Keynote speakers at the Summer School included:

Mr Seelan Singham, Partner, McKinsey and Company; Dr Günther Sattelhak, Senior Lawyer, Global Technology and Services Division, Deutsche Bank Head Office, Frankfurt; Professor Ann Harding, Professor of Applied Economics and Social Policy and inaugural Director of the National Centre for Social and Economic Modelling, University of Canberra; Ms Deirdre Hutton CBE, Chairman, National Consumer Council, United Kingdom; Mr Rick Eager, Vice-President, Financial Services Group, CSC Australia; Mr Graham Rich, Chief Executive Officer and Publisher, Morningstar; Ms Victoria Weekes, Director, Legal and Compliance, Salomon Smith Barney, Australia; Mr Brian McKenna, Director and Head of Private Client Group, Salomon Smith Barney, Australia; Mr Michael Hawker, Group Executive, Australian Business and Personal Banking, Westpac Banking Corporation; Mr Roger Murray, Executive Legal Counsel, AMP Financial Services; Mr Rob Coombe, Executive Vice-President, Head of Retail, BT Funds Management; Mr Robert King, Chief Executive Officer, Macquarie Bank, Financial Enrichment Pty Ltd; Mr Stuart Marks, Principal Lawyer, Macquarie Bank, eDivision; Mr Brian Thomas, Head of Retail Funds, Credit Suisse Asset Management; Mr Peter Kell, Co-director, Office of Consumer Protection, Australian Securities and Investments Commission; Ms Louise Sylvan, Chief Executive Officer, Australian Consumers Association.

Enforcement of Foreign Country Judgments and the Proposed Hague Convention (5 February 2001)

Speaker: Linda Silberman, Professor of Law, New York University, USA

This seminar was co-hosted by The University of Melbourne Faculty of Law and the Institute for Comparative and International Law

A Transactional Framework to Interpret Contract Law

(5 February 2001)

Speaker: Victor Goldberg, Professor of Law, Columbia University, USA

This seminar was co-hosted by The University of Melbourne Faculty of Law and the Institute for Comparative and International Law

Directors' Duties: Recent Developments and their Implications for Directors and Advisers (8 November 2000)

Speakers: Mr Tom Bostock, Partner, Mallesons Stephen Jaques; Mr Tony Greenwood, Partner, Blake Dawson Waldron; Mr John Kluver, Executive Director, Companies and Securities Advisory Committee

This seminar was co-hosted with the Australian Institute of Company Directors

The Future of Corporate Regulation: Hughes and Wakim and the Referral of Powers (3 November 2000)

Speakers: The Hon Joe Hockey, Minister for Financial Services and Regulation; Mr Ian Govey, General Manager, Civil Justice and Legal Services, Attorney-General's Department; Mr Alan Cameron AM, Chairman, ASIC; Mr Joseph Longo, National Director, Enforcement, ASIC; Professor Geoffrey Lindell, Faculty of Law, The University of Melbourne, Mr Dennis Rose AM, QC, Special Counsel, Blake Dawson Waldron, Canberra, Adjunct Professor of Law, University of Canberra, and formerly Chief General Counsel, Attorney-General's Department; Professor Cheryl Saunders AO, Director of the Centre for Comparative Constitutional Studies, Faculty of Law, The University of Melbourne; the Hon Justice R P Austin, Supreme Court of New South Wales; the Hon Justice G F K Santow OAM, Supreme Court of New South Wales; Associate Professor Michael Whincop, Faculty of Law, Griffith University and Director of the Program on Business Ethics, Regulation and White Collar Crime of Griffith University's Key Centre for Ethics, Law, Justice and Governance

This seminar was presented in association with the Corporate Law Teachers Association, the Australian Association of Constitutional Law and the Faculty of Law, University of Sydney

E-Commerce and Financial Services (16 October 2000)

Speakers: Mr Joe Longo, National Director, Enforcement, ASIC; Mr Malcolm Rodgers, Director, Regulatory Policy, ASIC; Ms Delia Rickard, Director, Office of Consumer Protection, ASIC; Mr Mark Sneddon, Partner, Clayton Utz; Mr Peter Mathews, Assistant Company Secretary, ANZ Banking Group Ltd; Mr Michael Irving, Chief Financial Controller, InvestorWeb; Ms Leanne Bailey, Business Analyst, Computershare

This seminar was co-hosted with the Australian Securities and Investments Commission

Economic Law Reform in Developing Countries: The Case of Indonesian Company Law (11 August 2000)

Speaker: Professor Paul Brietzke, Professor of Law, Valparaiso University Law School, USA

Presented by the Faculty of Law Asian Law Centre, Centre for Corporate Law and Securities Regulation and Institute for Comparative and International Law

Insider Trading: Recent Developments and Practical Issues for Market Participants (4 July 2000)

Speakers: Mr Michael Hoyle, Director, Macquarie Corporate Finance; Mr Stephen Kerr, Partner, Freehills; Mr Joseph Longo, National Director, Enforcement, Australian Securities and Investments Commission; Mr Alan Shaw, National Manager, Supervision, Australian Stock Exchange Limited

Hughes and Wakim: The Challenges for Corporate Regulation (22 June 2000)

Speakers: The Hon Michael E J Black AC, Chief Justice, Federal Court of Australia, Mr Alan Cameron AM, Chairman, Australian Securities and Investments Commission; Professor Robert Baxt, Partner, Arthur Robison & Hedderwicks; Professor Cheryl Saunders AO, Director, Centre for Comparative Constitutional Studies, The University of Melbourne

The Corporate Law Economic Reform Program and Fundraising (30 March 2000)

Speakers: Mr Jon Webster, Partner, Arthur Robison & Hedderwick; Mr Michael Ziegelaar, Partner, Freehills; Ms Deborah Hambleton, National Listings Counsel, Australian Stock Exchange; Mr John Price, Principal Lawyer, Regulatory Policy Branch, Australian Securities and Investments Commission

The Corporate Law Economic Reform Program and Takeovers (9 March 2000)

Speakers: Mr Rodd Levy, Partner, Freehills; Ms Alison Lansley, Partner, Mallesons Stephen Jaques; Mr Richard Cockburn, National Coordinator, Fundraising and Mergers and Acquisitions, Australian Securities and Investments Commission; Mr Simon McKeon, Executive Director, Macquarie Bank, President, Corporations and Securities Panel

Corporate Law Economic Reform Program Paper 6 and Securities
(9 September 1999)

Speakers: Ms Pamela Hanrahan, Senior Lecturer in Law, The University of Melbourne; Ms Alison Lansley, Partner, Mallesons Stephen Jaques; Mr Alan Shaw, National Manager - Market Integrity, Australian Stock Exchange

Lawyers' Professional Negligence: Recent Developments
(23 August 1999)

Speakers: Professor Robert Baxt, Partner, Arthur Robinson & Hedderwicks; Mr Norman O'Bryan, Member of the Victorian Bar; Professor Michael Tilbury, Edward Jenks Professor of Law, The University of Melbourne

Directors' and Officers' Liability Insurance: Practical and Legal Issues (12 August 1999)

Speakers: Mr Ross Castle, Director, Aon Financial Services Australia Limited; Mr Fred Hawke, Special Counsel, Clayton Utz; Ms Rachel Symes, Manager, Executive Protection Department, Chubb Insurance

This seminar was co-hosted with the Australian Institute of Company Directors

Share Capital Changes: Practical Implications (20 May 1999)

Speakers: Mr Quentin Digby, Partner, Freehill Hollingdale & Page; Mr Norman O'Bryan, Member of the Victorian Bar; Mr Timothy Neilson, Special Counsel, Blake Dawson Waldron; Mr Charles Rosedale, Partner, Clayton Utz

The Business Judgment Rule: Key Issues for Company Directors and Officers and Their Advisers (4 May 1999)

Speaker: Professor Douglas Branson, Professor of Law, University of Pittsburgh; Visiting Fellow, Faculty of Law, The University of Melbourne

Commentators - Professor John Farrar, School of Law, Bond University; Professorial Associate, Faculty of Law, The University of Melbourne; Mr Ian Renard, Partner, Arthur Robinson & Hedderwicks; Director of AMP Limited, CSL Limited, Newcrest Mining Limited and Ericsson Australia Pty Ltd

This seminar was co-hosted with the Australian Institute of Company Directors

1999 Australian Securities and Investments Commission Summer School (21-26 February 1999)

The 1999 Australian Securities and Investments Commission Summer School was held at The University of Melbourne. It was planned with the support of the

Centre for Corporate Law and Securities Regulation. The theme of the Summer School was 'Strengthening the Architecture of the Financial System: National, Regional and International Responses to Volatile Global Financial Markets'. The Summer School brought together senior regulators from many countries including Australia, China, the United Kingdom, the United States, Canada, Singapore, Hong Kong, New Zealand, Thailand, Indonesia, Korea, Malaysia, The Philippines, Fiji, India, Sri Lanka and Papua New Guinea

The keynote speakers at the Summer School included:

Mr Phillip Thorpe, Managing Director of the United Kingdom Financial Services Authority; Mr Anthony Neoh, Chief Advisor to the China Securities Regulatory Commission and Professor of Law at Peking University, Beijing; former Chairman of the Hong Kong Securities and Futures Commission and former Chairman of the Technical Committee of the International Organisation of Securities Commissions; Ms Felice Friedman, Assistant Director, Office of International Affairs, United States Securities and Exchange Commission; Mr Donald Mercer, Chairman of the Australian Information Economic Advisory Council and Director of the Australian Prudential Regulation Authority; former Chief Executive Officer of the ANZ Banking Group Limited; Dr John Edwards, Chief Economist of HSBC-Australia; Mr Alan Cameron, Chairman of the Australian Securities and Investments Commission and Chairman of the Joint Forum on Financial Conglomerates; Mr Shane Tregillis, National Director, Regulation, Australian Securities and Investments Commission; Professor Ian Ramsay, Harold Ford Professor of Commercial Law and Director of the Centre for Corporate Law and Securities Regulation, The University of Melbourne

Interpreting Ministerial Directions to Statutory Corporations: Can Responsible Government Determine Corporate Governance? (21 October 1998)

Speaker: Mr Christos Mantziaris, Research School of Social Sciences, Australian National University

Long-Term Contracts and Competition Laws (16 September 1998)

Speakers: Mr David Goddard, Partner, Chapman Tripp, New Zealand; Professor Robert Baxt, Partner, Arthur Robinson & Hedderwicks, Professorial Associate, The University of Melbourne; Associate Professor Joshua Gans, Melbourne Business School

A United States Perspective on the Business Judgment Rule (13 July 1998)

Speaker: Professor Deborah DeMott, School of Law, Duke University, USA

This seminar was co-hosted with the Corporations Law Committee of the Law Council of Australia

Patrick Stevedores v Maritime Union of Australia: The Labour Law, Corporate Law and Commercial Litigation Issues

(24 June 1998)

Speakers: Dr Graham Smith, Partner, Clayton Utz; Mr Andrew Lumsden, Partner, Corrs Chambers Westgarth; Professor Greg Reinhardt, Executive Director, Australian Institute of Judicial Administration

This seminar was co-hosted with the Centre for Employment and Labour Relations Law of The University of Melbourne

1998 Australian Securities Commission Summer School

(22-27 February 1998)

The 1998 Australian Securities Commission Summer School was held at The University of Melbourne. It was planned with the support of the Centre for Corporate Law and Securities Regulation. The theme of the Summer School was Investors, Global Financial Markets and Regulation: Current Trends and Issues. The Summer School brought together senior regulators from many countries including Australia, the United States, Canada, the United Kingdom, Hong Kong, China, New Zealand, Singapore, Malaysia, Indonesia, Taiwan, The Philippines, Thailand, Sri Lanka and Papua New Guinea

Keynote speakers at the Summer School included:

Mr Barry Barbash, Director, Division of Investment Management, United States Securities and Exchange Commission; Dr Mohd Munir Abdul Majid, Chairman of the Securities Commission of Malaysia and Chairman of the Emerging Markets Committee of the International Organisation of Securities Commissions; Mr Edward Waitzer, Senior Partner, Stikeman, Elliott, Toronto; former Chairman of the Ontario Securities Commission, former Chairman of the Technical Committee of the International Organisation of Securities Commissions and former Vice-President of the Toronto Stock Exchange; Professor Ian Harper, Director of the Ian Potter Centre for International Finance, Melbourne Business School and member of the Wallis Committee of Inquiry into the Australian Financial System; Mr Alan Cameron, Chairman of the Australian Securities Commission and Chairman of the Joint Forum on Financial Conglomerates

The Regulation of Managed Investments: Current Issues and Perspectives (24 February 1998)

Speakers: Mr Edward Waitzer, Senior Partner, Stikeman, Elliott, Toronto; former Chairman of the Ontario Securities Commission and former Vice-President of the Toronto Stock Exchange; Mr Barry Barbash, Director of the Division of Investment Management, United States Securities and Exchange Commission; Mr Shane Tregillis, National Director, Regulation, Australian Securities Commission; Ms Pamela Hanrahan, Senior Lecturer and Member of the Centre for Corporate

Law and Securities Regulation, The University of Melbourne, Senior Associate,
Arthur Robinson & Hedderwicks.

This seminar was co-hosted with the Australian Securities Commission

Developments in Closely Held Firms in the United States

(13 February 1998)

Speaker: Professor Robert Thompson, Washington University, USA

The Corporate Law Economic Reform Program (21 November 1997)

Keynote speakers included Mr Jim Murphy, First Assistant Secretary, Business Law Division, The Treasury; Ms Claire Grose, Chairperson, Corporations Law Committee, Business Law Section of the Law Council of Australia and Partner of Freehill Hollingdale & Page; Professor Robert Baxt, Chairman, Corporations Law Committee, Australian Institute of Company Directors and Partner of Arthur Robinson & Hedderwicks; Professor Bernard Black, Columbia University Law School, USA; Mr David Goddard, Partner, Chapman Tripp Sheffield Young, New Zealand

This one day conference was co-hosted with the Centre for Law and Economics, The Australian National University

Do Independent Directors Matter? (20 November 1997)

Speakers: Professor Bernard Black, Columbia University Law School, USA; Henry Bosch AO, Company Director; Jeffrey Lawrence, J P Morgan

This seminar was co-hosted with the Australian Institute of Company Directors

Contemporary Developments in Corporate Insolvency Law (A Centenary Celebration of Salomon v Salomon & Co Ltd)

(18 September 1997)

Speakers: The Rt Hon The Lord Cooke of Thorndon, Member of the House of Lords and Judicial Committee of the Privy Council; Professor Len Sealy, SJ Berwin Professor of Corporate Law, University of Cambridge; Professor Roy Goode, Norton Rose Professor of English Law, University of Oxford; Professor John Farrar, School of Law, Bond University and Professorial Associate, The University of Melbourne

This seminar was co-hosted with the Business Law Section of the Law Council of Australia and the 30th Australian Legal Convention

Directors' and Officers' Remuneration: Current Australian and United States Issues (30 July 1997)

Speakers: Professor Charles Yablon, Cardozo Law School, New York, USA; Ms Elizabeth Alexander, Victorian State President of the Australian Institute of Company Directors and Partner of Price Waterhouse; Mr Alan Cameron, Chairman of the Australian Securities Commission; Mr Paul Jennings, Member of the Corporate Governance Committee of the Australian Investment Managers Association and Australian Shares Manager of National Mutual Funds Management; Mr John Egan, remuneration advisor to governments and the private sector

This seminar was co-hosted with The University of Melbourne Law School Foundation

Commercial Fiduciary Duties (8 July 1997)

Speaker: Professor Gillian Hadfield, Faculty of Law, University of Toronto; Commentator: Professor Tony Duggan, Faculty of Law, Monash University

Electronic Commerce: Regulating in a World of Technological Change (11 February 1997)

Speaker: Mr Steven Wallman, Commissioner, United States Securities and Exchange Commission; Commentators - Mr Shane Tregillis, National Director, Regulation, Australian Securities Commission and Associate Professor Mark Sneddon, Faculty of Law, The University of Melbourne

This seminar was co-hosted with the Australian Securities Commission

Corporate Law Teachers National Conference (9-11 February 1997)

Thirty papers were presented at the Conference. The keynote speakers included:

Professor Ron Daniels, Dean, Faculty of Law, University of Toronto, Canada - **Beyond the Board of Directors: A Broader Look at the Corporate Governance Debate in Canada**

Professor Eddy Wymeersch, Director, Financial Law Institute, University of Ghent, Belgium - **Corporate Governance: Converging Patterns**

Professor Lynne Dallas, University of San Diego School of Law, USA - **The Dual Board and the Corporate Ombudsperson**

Professor Michele Havenga, Faculty of Law, University of South Africa - **Corporate Governance: Recent Developments in South Africa**

Professor Curtis Milhaupt, School of Law, Washington University in St Louis, USA - **The Market for Innovation in the United States and Japan: Venture Capital and the Comparative Corporate Governance Debate**

Professor Guanghua Yu, School of Law, University of Hong Kong - **Policy Implications of Comparative Corporate Governance Studies**

This conference was co-hosted with the Corporate Law Teachers Association

The Courts and Corporate Law (31 October 1996)

Speakers: Justice Norman Veasey, Chief Justice, Supreme Court of Delaware; Justice David Malcolm, Chief Justice, Supreme Court of Western Australia; Justice Edmund Thomas, Court of Appeal of New Zealand; Andrew Rogers QC, former Chief Judge, Commercial Division, Supreme Court of New South Wales; Alan Cameron, Chairman, Australian Securities Commission; Catherine Walter, professional non-executive company director; Karen Byrne, General Counsel, Australian Stock Exchange; Professor Robert Baxt, Partner, Arthur Robinson & Hedderwicks; Michael Rozenes QC, Commonwealth Director of Public Prosecutions; Alex Chernov QC, Victorian Bar; Professor Ian Ramsay, Centre for Corporate Law and Securities Regulation, The University of Melbourne

This conference was co-hosted with the Australian Institute of Company Directors, the Australian Institute of Judicial Administration and the Business Law Section of the Law Council of Australia

Corporate Strategies in the Single European Market (20 August 1996)

Speaker: Professor Gilles Guyot of the University of Lyon

Derivatives Regulation in the United States: Problems and Issues (8 July 1996)

Speaker: Professor Roberta Romano of Yale University School of Law and School of Management; Commentator - Mr Shane Tregillis of the Australian Securities Commission

Deregulation of Public Utilities (4 June 1996)

Speaker: Professor Michael Trebilcock of the University of Toronto Law School with a panel consisting of Professor Philip Williams of the Melbourne Business School, Mr Jim Holmes, Executive Manager, Business Development of Powernet, Mr David Goddard a partner with the New Zealand firm of Chapman Tripp Sheffield Young, and Mr John Perham of the Privatisation and Industries Reform Division of the Victorian State Treasury Department. This public lecture was co-hosted with the Australian Law and Economics Association

The CRA-RTZ Merger (7 May 1996)

Speakers: Mr Stephen Creese of CRA Limited and Mr Ian Renard and Mr Cameron Rider of Arthur Robinson & Hedderwicks

Recent Developments in Legal Professional Privilege and the Privilege Against Self-Incrimination (21 March 1996)

Speakers: Associate Professor Sue McNicol of Monash University and Mr Peter Cranswick and Mr Peter Hiland of the Australian Securities Commission

Corporate Governance: An International Perspective (12 February 2006)

Speaker: Professor Richard Buxbaum, University of California at Berkeley

Shareholders' Remedies: Australian and United States Developments (20 June 1995)

Speakers: Professor Deborah DeMott, Duke University School of Law; Mr John Kliver, Companies and Securities Advisory Committee; Dr Elizabeth Boros, Blake Dawson Waldron

Daniels v AWA Limited (28 June 1995)

Speakers: Professor Robert Baxt, Arthur Robinson & Hedderwicks; The Hon Andrew Rogers QC, formerly Chief Judge, Commercial Division, Supreme Court of New South Wales; Mr W R M Irvine, Chairman of the Board of Directors, National Australia Bank

Recent US Developments in Directors' Duty of Care in Corporate Transactions (10 May 1995)

Speaker: Professor Douglas Branson, University of Pittsburgh School of Law

Gambotto v WCP Limited (5 April 1995)

Speakers: Quentin Digby, Freehill Hollingdale & Page; Geoff Hone, Blake Dawson Waldron; Ian Renard, Arthur Robinson & Hedderwicks; Ron White, Norton Smith & Co

Corporate Groups: A United States Perspective on Current Legal Issues and Policies (12 December 1994)

Speaker: Professor Phillip Blumberg, University of Connecticut School of Law

The NRMA Case (7 December 1994)

Speakers: George Durbridge, Australian Securities Commission; Frances Hanks, The University of Melbourne; Norman O'Bryan, Barrister; Jon Webster, Arthur Robinson & Hedderwicks

Recent Developments in Closely Held Firms in the United States: Limited Liability Companies and Limited Liability Partnerships (17 November 1994)

Speaker: Professor Larry Ribstein, George Mason University School of Law, Washington, DC

2007 Faculty of Law Masters Subjects

Administrative Law in Commonwealth Countries
Advanced Construction Claims
Advanced Construction Contracts
Advanced Corporate Taxation
Advanced Litigation
Advanced Restrictive Trade Practices
Alternative Dispute Resolution
Anti-Discrimination Law at Work
Australian International Taxation
Avoiding and Managing Construction Disputes
Banking and Debt Recovery in Asia
Bargaining at Work and Industrial Action
Capital Gains Tax: Problems in Practice
Commercial Dispute Resolution in Asia
Commercial Law in Asia
Company Takeovers
Comparative Companies Law in Asia
Comparative Law
Competition Regulation of Mergers
Constitutionalism in Asian Societies
Construction Contracts
Construction: Principles into Practice
Consumer Banking
Copyright Law
Corporate Governance and Directors' Duties
Corporate Taxation
Current Developments in Negligence Law
Current Issues in Tax Avoidance
Cybercrime
Cybersecurity Law
Defamation Law
Derivatives Law and Practice
Designs Law and Practice
Developing Countries and the WTO
Effective Written Advocacy
e-Health Law
Electronic Commerce Law
Equity and Commerce
Event Management Law
Expert Evidence
Family Law
Film and Television Law: Production, Financing and Distribution

Financial Services Law
Fiscal Reform and Development
Foundations of Medical Law
Free Trade Agreements
Fundamentals of Islamic Law
Fundamentals of the Common Law
Global Health Law
Goods and Services Tax Principles
Human Rights and Global Justice
Human Rights and the Use of Force
Human Rights, Gender and Religion
Human Rights Litigation and Advocacy
Infrastructure Delivery A: Principles and Practice
Intellectual Property in the Digital Age
International and Comparative Labour Law
International Commercial Arbitration
International Construction Law
International Criminal Law
International Environmental Law
International Human Rights Law
International Humanitarian Law
International Institutions
International Issues in Intellectual Property
International Law and Children's Rights
International Law and the Use of Force
International Legal Internship
International Oil and Gas Transactions
International Peace and Security Law
International Trade Law
International Trade Remedies in the WTO
Interpretation and Validity of Patent Specifications
Introduction to United States Sports Law
Islamic Law and Politics in Asia
Law and Development
Law Firm Strategy and Structure
Law, Medicine and Ethics
Law of Secured Finance
Legitimacy and the WTO
Liability for Pure Economic Loss
Licensing Law and Technology Transfer
Managing Clients
Managing Resources and Processes
Market Power and Competition Law
Mediation Theory and Practice
Mineral Law
National Human Rights Monitoring
Native Title Law and Practice
New Directions in Law and Economics
Patent Law

Patent Practice
Personal Property
Principles of Government Law
Principles of International Law
Principles of WTO Law
Privacy, Celebrity and the Media
Privacy Law
Professional Indemnity Insurance
Project Finance
Proof in Litigation
Protecting Rights
Regulating Individual Work Relationships
Regulating Working Conditions
Regulation and the Law
Regulation of Securities Offerings
Remedies in Construction Disputes
Researching Labour Law
Rights and Liabilities in Construction
Securitisation
Sports Labour Law
Sports Law: Entities and Governance
State Taxes and Duties
Taxation Administration: Penalties, Prosecutions and Ethics
Taxation of Business and Investment Income A
Taxation of Business and Investment Income B
Taxation of Consolidated Groups
Taxation of Remuneration
Taxation of Small and Medium Enterprises B
Terrorism and Counter-Terrorism
Trade Mark Practice
Trade Marks and Unfair Competition
Trade Unions and Freedom of Association
Transnational Commercial Litigation
UK International Taxation in its European Context
United States Securities Regulation
Workplace Health and Safety

Competitive Research Grants Obtained in 1996-2006

Employee Share Ownership Plans: Current Practice and Regulatory Reform

Type of Grant

Australian Research Council Discovery Grant

Funds Received

\$ 323,000

Chief Researchers

Professor Ian Ramsay, Professor Cameron Rider, Associate Professor Ann O'Connell and Professor Richard Mitchell

Project Summary

Employee Share Ownership Plans (ESOPs) are important to the development of an economic culture of enterprise and innovation and the building of national wealth and savings in response to long-term demands of intergenerational equity. ESOPs require development through appropriate regulatory frameworks. This project will subject the existing regime of tax, corporate and labour law to technical and empirical scrutiny. This will enhance the capacity of policy makers to evaluate and identify appropriate regulatory techniques to ensure the growth of efficiency of ESOPs at the national and enterprise level.

The Impact of ACCC Enforcement Action: Evaluating the Explanatory and Normative Power of Responsive Regulation and Responsive Law

Type of Grant

Australian Research Council Discovery Grant (Australian Research Fellowship)

Funds Received

\$ 350,000

Chief Researchers

Dr Christine Parker and Vibeke Nielsen

Project Summary

The project will enhance the capacity of the ACCC and other business regulators to ethically and effectively regulate to achieve the goals of regulatory policy such as a fair, competitive economy, occupational health and safety, and environmental integrity. Australia is already well recognised as a leader in ambitious empirical and policy oriented social science research on regulatory compliance (through the ARC funded Governance Network including RegNet at ANU). This project will enhance that reputation with the most comprehensive data set on the corporate compliance impact of enforcement action and fundamental re-thinking of foundational theoretical questions about the nature and capacities of regulation.

The Governance Research Network (GovNet)

Type of Grant

Australian Research Council Research Network Grant

Funds Received

\$ 1,500,000

Chief Researchers

Professor Charles Sampford, Griffith University; Participants from the Centre for Corporate Law - Professor Ian Ramsay and Dr Christine Parker

This project brings together 50 scholars from 12 universities to undertake cross-disciplinary governance research.

Project Summary

Institutions and their governance are frequently part of our most pressing problems - not least in our national research priorities. Hence, institutions are invariably a key part of the solutions. GovNet unites three ARC Centres, two existing networks (RegNet, ANZSOG) and several other dynamic centres to create an interdisciplinary network of ethicists, lawyers, political scientists, economists and historians. It will tackle issues of institutional governance, from small firms to global institutions recognising both common governance issues and radically differing contexts.

Together with APSEG and government agencies, it will apply cross-disciplinary, theory-driven, evidence-based research to governance issues in the region.

Corporate Governance and Institutional Investment in the Australian Financial Markets

Type of Grant

Australian Research Council Discovery Grant

Funds Received

\$130,000

Chief Researchers

Associate Professor Paul Ali and Professor Geof Stapledon

Project Summary

The financial markets play a vital role in Australian economic life. The majority of the assets of Australian superannuation funds and managed investment funds are financial products.

This project will provide a comprehensive account of the different types of complex financial products available in Australia and an assessment of the corporate governance practices at Australian companies and Australian institutional investors in relation to their use of complex financial products.

Through these outcomes, the project will contribute to a broader understanding of the Australian financial markets and the enhancement of corporate governance practices in Australia.

Partnerships at Work: The Interaction between Employment Systems, Corporate Governance and Ownership Structure

Type of Grant

ARC Discovery Project Grant

Chief Researchers

Professor Ian Ramsay and Professor Richard Mitchell

Funds Received

\$640,500

Project Summary

The project examines the interaction between several key factors in the creation and sustainability of 'Partnerships at Work'. These factors include particular employment systems, forms of corporate governance and ownership structures. The project proposes to discover how these various factors have interacted so as to give rise to — or fail to give rise to — 'high performance' partnership-style relations at work.

There is a widely held view that production systems based on hierarchical management control, confliction work relationships and low trust between management and labour have been less competitive than models based upon co-operative/high trust work relations. Governments in systems historically marked by 'confliction' employment systems are now supporting the development of more co-operative workplace relations systems between employers and employees. In Britain this has been based in the Blair government's 'Third Way' policy which actively seeks the promotion of a 'Partnership at Work' agenda. In Australia the Federal Government has also been pursuing a policy of 'co-operative' workplace relations based upon individual contracts, employee participation, more flexible working arrangements, performance appraisal, and various forms of profit sharing, including employee share ownership. More recently the Victorian Labor government has announced its 'Partners at Work' program designed 'to encourage Victorian workplaces to develop partnerships with employees, unions and other shareholders...to improve workplace performance'. As a result of this policy direction, the identification of those factors which support the development and sustainability of co-operative 'partnership-style' workplace systems is now one of the most important issues in contemporary employment relations.

At the same time, there is debate concerning whether there will be international convergence around the Anglo-American model of corporate governance and ownership structure. The emergence of corporate governance frameworks based around highly liquid capital markets, dispersed share-ownership, vulnerability to hostile takeover bids and the presence of large institutional investors anxious for quarterly improvements can entrench a narrow understanding of 'shareholder value' as the dominant objective of corporate management. On the other hand, systems of corporate governance characterised by relatively concentrated patterns of shareholding, with a dominant shareholder holding a majority or near majority stake, are said to more easily establish and sustain co-operative arrangements between all relevant stakeholders, including industry employees.

This project focuses on the interaction between these factors within a regulatory environment established by labour law and corporate law. What are the elements of 'co-operative' or 'partnership' employment systems? What are the integrating institutions or conventions - if any - that incorporate workers or their representatives into managerial processes? How do company directors actually balance the interests of employees and shareholders within the framework of the

obligations imposed by directors' duties? How flexible are those duties? What possible shortcomings might exist in the practical application of those duties? Is there congruence between types of corporate governance systems and types of employment system?

Corporate Governance in the Australian Financial Markets

Type of Grant

Melbourne University Research Grant

Funds Received

\$14,000

Chief Researchers

Dr Paul Ali and Dr Geof Stapledon

Project Summary

The project examines the corporate governance aspects of transactions in the Australian financial markets, in particular the legal design of complex financial products, the efficacy of the new regime introduced by the Financial Services Reform Act 2001 (Cth) for the regulation of financial products, and the role of institutional investors in supervising the use of complex financial products by the companies in which they have invested.

Synthetic Securitisations and the Revolution in Credit Risk Management

Type of Grant

Melbourne University Early Career Researcher Grant

Funds Received

\$8,750

Chief Researcher

Dr Paul Ali

Project Summary

This project focuses on recent innovations in securitisation, particularly in relation to the issuance of debt securities backed by derivatives. These so-called synthetic securitisations, in essence, segregate assets into their component risks and effect a

transfer of certain risks independent of the assets to the investors in the debt securities. The key example is the synthetic CDO (Collateralised Debt Obligations) which involves the securitisation of the credit risk on bond or loan portfolios. The emerging class of managed arbitrage synthetic CDOs is also examined. In addition, the project investigates the securitisation of non-traditional assets.

Islamic Law in Contemporary Indonesia

Type of Grant

Australian Research Council Discovery Project Grant (formerly ARC Large Grant)

Chief Researchers

Associate Professor Tim Lindsey and Barry Hooker (Australian National University)

Funds Received

\$139, 270

Project Summary

This project aims to fill serious gaps in Asian and Western scholarship on Islamic law in contemporary Indonesia in the context of the tension between Islam and state, an issue highlighted by the Bali bomb and Jemaah Islamiyah trials. It aims to do so by working closely with leading Indonesian legal scholars and institutions to develop an approach to researching Islamic law that embraces internal Islamic jurisprudence, both Middle Eastern and Southeast Asian, as well as leading Western scholarship on Islam and law.

It seeks a new syncretic approach to Islamic legal scholarship, to be constructed within the limited confines of an investigation into the practical operation of *syariah* in Indonesia in the last 50 years, with a particular focus on the last decade. This project aims to produce journal articles, briefing papers, teaching materials and a joint monograph by the Chief Investigators in English and Indonesian.

In the longer term, this project will contribute to increasing Australian understandings of Islamic law, culture and societies.

Accountability and Corporate Governance in Non-Profit Companies

Type of Grant

Australian Research Council Strategic Partnerships with Industry Grant

Chief Researchers

Professor Ian Ramsay and Ms Susan Woodward

Industry Partner

Philanthropy Australia Inc

Funds Received

\$80,000 (over 3 years) with in-kind support contributed by Philanthropy Australia Inc

Project Summary

Australians give \$2.8 billion annually to non-profit organisations. Official estimates suggest spending by these organisations represents almost 10% of Gross Domestic Product. Increasingly the importance of the sector is being recognised, but in Australia there has been limited research into non-profit companies. This collaborative project examines the appropriateness of existing corporate structures for non-profit organisations. It also evaluates the effectiveness of laws relating to directors' duties as a means of providing accountability and good governance to stakeholders (eg, members, grant givers and the public). The appropriateness of laws designed for companies with profit-making objectives is investigated.

Directorship in Entrepreneurial Firms and the Role of Public and Private Capital Markets

Type of Grant

Australian Research Council Large Grant

Chief Researchers

Associate Professor Michael Whincop (Griffith University Law School), Professor Ian Ramsay and Dr Geof Stapledon (University of Melbourne Law School) and Professor R J Gilson (Stanford and Columbia Law Schools)

Funds Received

\$127,393

Project Summary

This project examines the purposes of boards of directors in entrepreneurial firms, the optimal corporate law to support these institutions, characteristics of the market for these director services, and the connection with public and private capital markets. It examines and challenges the applicability of corporate governance models developed for listed corporations to entrepreneurial firms. It tests hypotheses concerning the effect of venture capital and the investor's strategy for exiting the firm on the structure of entrepreneurial boards.

An Analysis of Factors Influencing the Share-back Decision

Type of Grant

University of Melbourne Faculty of Economics and Commerce Research Grant

Chief Researchers

Dr Asjeet Lamba (Centre of Financial Studies, The University of Melbourne) and Professor Ian Ramsay

Funds Received

\$7,000

Project Summary

This project extends and expands upon a study conducted by the Chief Researchers titled 'Share Buy-backs in a Highly Regulated and Less Regulated Market Environment' which documents the market's valuation of share buy-backs announced by ASX listed firms during 1989-98. In addition to updating and extending this study, this project provides evidence on (1) the long-run return behaviour of various share buy-back programs and (2) the relationship between firm-specific variables and the short-run and long-run return behaviour of share buy-backs. The results of the study should lead to a better understanding of the factors influencing the share buy-back decision of managers.

The Governance of Managed Investment Schemes

Type of Grant

Australian Research Council Large Grant

Chief Researchers

Professor Ian Ramsay, Ms Pamela Hanrahan and Dr Geof Stapledon

Funds Received

\$137,000

Project Summary

As of 30 June 1998, the consolidated assets of managed investment schemes such as cash management, equity and property trusts in Australia exceeded \$100 billion. The Managed Investments Act 1998 (Cth) introduced a fundamentally new regime for the regulatory oversight and governance of managed investment schemes. This project examines and evaluates the effectiveness and efficiency of this new regime as a means of ensuring compliance with the requirements of the Managed Investments Act and for maximising investor protection.

Use and Operation of the Enforcement Regime Attracted by Contraventions of Directors' Duties in the Australian Corporations Law

Type of Grant

Australian Research Council Strategic Partnership With Industry - Research and Training Grant

Chief Researchers

Ms Helen Bird, Professor Ian Ramsay and Professor Arie Freiberg (Department of Criminology, The University of Melbourne)

Industry Partner

The Australian Securities and Investments Commission

Funds Received

\$90,000 with matching funds contributed by the Australian Securities and Investments Commission

Project Summary

This project is the first comprehensive study of the operation of civil penalties and other sanctions for promoting compliance with legislation imposing duties on directors of Australian corporations. It involves an empirical study of enforcement and prosecution activities undertaken by the Australian corporate law

regulator, the Australian Securities and Investments Commission (ASIC), from its inception in 1991 until 1998. The significance of the project is that it will be undertaken at a time when there is widespread community concern about corporate crime. The project will evaluate the effectiveness of enforcement of directors' duties by ASIC.

Southeast Asian Laws in Transition: 1945-1995

Type of Grant

Australian Research Council Large Grant

Chief Researcher

Dr Timothy Lindsey

Funds Received

\$128,000

Project Summary

This research project has two aims. First, to access and analyse legal materials and original sources currently unavailable to researchers and practitioners in Asian Law. Second, to publish twelve volumes of materials and commentary (two theoretical and ten covering individual countries) providing resources for practising and academic lawyers for understanding:

- (1) legal and commercial developments in South-East Asia; and
- (2) the intra-regional influence of Japan and China on law and business in South-East Asia.

Reducing the Cost of Capital Raising: An Empirical Analysis of ASIC Modifications of the Fundraising Provisions of the Corporations Law

Type of Grant

Australian Research Council Small Grant

Chief Researcher

Dr Geof Stapledon

Funds Received

\$7,500

Project Summary

The Australian Securities and Investments Commission (ASIC) has the power to modify the prospectus - and other fundraising - provisions of the Corporations Law on a case-by-case basis. The project involves an analysis of the use of this power by ASIC. The objective is to determine whether the statutory fundraising requirements could be reduced further than is being proposed under the Federal Government's Corporate Law Economic Reform Program, in order to minimise the cost of capital raising to Australian business.

The Costs of Corporate Litigation

Type of Grant

University of Melbourne Faculty of Economics and Commerce Research Grant

Chief Researchers

Professor Ian Ramsay and Dr Asjeet Lamba (Department of Accounting and Finance, The University of Melbourne)

Funds Received

\$8,900

Project Summary

The project examines the costs associated with corporate litigation and possible sources of these costs by using event study methodology. In particular, the study provides evidence on (1) the costs of litigation involving companies and a breakdown of these costs and (2) the rules on allocating legal costs between parties. The results of the study should lead to a better understanding of the market's reaction to corporate litigation events and to more informed dispute resolution.

Electronic Prospectuses: Devising an Appropriate Regulatory Regime

Type of Grant

Australian Research Council Strategic Partnership With Industry - Research and Training Grant

Chief Researchers

Dr Elizabeth Boros and Professor Ian Ramsay

Industry Partner

The Australian Securities and Investments Commission

Funds Received

\$93,000 with matching funds contributed by the Australian Securities and Investments Commission

Project Summary

In late 1996 the Australian Securities and Investments Commission (ASIC) stated that it would permit the distribution of prospectuses on the Internet. In 1995 almost \$5 billion in capital was raised by companies listed on the Australian Stock Exchange using prospectuses to raise capital. However ASIC still requires the existence of a paper prospectus. This project aims, in collaboration with ASIC, to devise a regulatory regime which will meet the three goals of (1) enabling market participants to fully exploit the capabilities of electronic commerce; (2) protecting investors; and (3) harmonising Australian law with international regulatory regimes.

Corporate Disclosure: An Analysis of the Role of Prospectuses in Capital Raising in Australia and New Zealand

Type of Grant

Australian Research Council Large Grant

Chief Researchers

Professor Ian Ramsay and Mr Gordon Walker (University of Canterbury)

Funds Received

\$65,000

Project Summary

Public investment in the shares of Australian and New Zealand companies is undertaken by companies preparing and issuing prospectuses. Yet there are major concerns that the existing law regulating prospectuses does not adequately reflect an appropriate balance of the costs and benefits associated with prospectus regulation. The project will test the actual use made of prospectuses by investors and their advisers. It will also obtain evidence on why there is substantial non-compliance with the existing law regulating prospectuses.

The Impact of Institutional Investors on Capital Markets and Corporate Performance

Type of Grant

Australian Research Council Collaborative Grant

Chief Researchers

Professor Ian Ramsay, Dr Geof Stapledon and Professor Kevin Davis
(Department of Accounting and Finance, The University of Melbourne)

Industry Partner

The Australian Investment Managers' Association (which represents approximately the 60 largest institutional investors in Australia)

Funds Received

\$72,452 with matching funds contributed by the Australian Investment Managers' Association

Project Summary

Institutional investors are significant investors in Australian companies. The impact of institutional investment upon capital markets and upon corporate performance are important matters that have been widely researched overseas, but have received little attention in Australia. One reason for the lack of Australian research is the lack of information about institutional shareholdings in Australian companies. The project will provide this information, largely through the Australian Investment Managers' Association, by identifying the fund managers which control the registered shareholdings disclosed by companies. The information will then be utilised in several studies of the impact of institutional investors on the capital markets and corporate performance.

Directors' Misconduct Decriminalised: Are the 'Civil' Sanctions in the Corporations Law Effective?

Type of Grant

Criminology Research Council Grant

Chief Researchers

Ms Helen Bird, Dr George Gilligan and Professor Ian Ramsay

Funds Received

\$20,395 plus research infrastructure funds provided by The University of Melbourne of \$4,000

Project Summary

This project examines the effect of decriminalisation of misconduct by company directors in contravention of the Corporations Law. It involves an empirical study of prosecution and enforcement actions taken by the Australian Securities and Investments Commission before and since decriminalisation took effect in 1993.

Using Electronic Commerce to Authorise Electronic Transactions: Changes Required to the Legal and Regulatory Framework

Type of Grant

University of Melbourne Special Initiatives Grant

Chief Researcher

Associate Professor Mark Sneddon

Funds Received

\$15,000

Project Summary

Many governments and businesses have proposed that paper-based transactions as diverse as sales contracts and issuing drivers' licences be replaced by electronic messages. Electronic signatures will be used to authenticate the sender's identity and make the person to whom that signature is certified to belong legally bound by the message. The possible changes required to existing laws involve important policy choices. This project will (1) identify existing Australian laws that would require alteration and (2) provide a comparative analysis of the models for legal change proposed in Australia and overseas and their underpinning policy choices.

The Role of Institutional Investors in Corporate Governance and the Influence of Corporate Law on this Role

Type of Grant

Australian Research Council Small Grant

Chief Researchers

Professor Ian Ramsay and Dr Geof Stapledon

Funds Received

\$19,800 plus research infrastructure funds provided by The University of Melbourne of \$4,954

Project Summary

There is a lack of evidence and information on the role of institutional investors in corporate ownership and control. The project provides this evidence by way of detailed interviews with Australian institutional investors on a range of matters relating to their activities and views on corporate governance and investment policy. The project also identifies possible barriers, including legal barriers, to institutional investor activism (ie, why institutional investors may not actively monitor the management of companies in which they invest) and the views of institutional investors are sought in relation to whether these possible barriers do actually inhibit institutional investor activism.

The Use and Operation of Management Banning Orders as Enforcement Tools Under the Corporations Law

Type of Grant

Australian Research Council Small Grant

Chief Researcher

Ms Helen Bird

Funds Received

\$7,500 plus research infrastructure funds provided by The University of Melbourne of \$3,000

Project Summary

This project is the first phase of a comparative study of the use and operation of management banning orders by governments as sanctions for promoting compliance with legislation regulating corporations. It focuses on the Australian regulatory environment and involves an empirical study of management banning actions undertaken by the Australian Securities Commission during the years 1992 to 1997.

Compulsory Acquisition of Minority Shareholdings

Type of Grant

Australian Research Council Small Grant

Chief Researcher

Dr Elizabeth Boros

Funds Received

\$7,000 plus research infrastructure funds provided by The University of Melbourne of \$3,500

Project Summary

Debate regarding the landmark decision in *Gambotto v WCP Ltd* has culminated in a law reform proposal by the Companies and Securities Advisory Committee (CASAC) proposing expansion of the range of situations in which a majority shareholder can compulsorily acquire all outstanding shares in a company. This project will conduct detailed interviews with takeover offerors in order to ascertain the relative importance to them of the various benefits of 100 per cent ownership. It will then seek to determine whether the most significant of those advantages can be achieved by means other than expropriation of minority shareholdings and, if so, to suggest alternative directions for law reform to that proposed by CAMAC.

The Legal Implications of the Relative Performance of Publicly Listed Australian Companies With and Without a Controlling Shareholder

Type of Grant

University of Melbourne Special Initiatives Grant

Chief Researcher

Dr Geof Stapledon

Funds Received

\$12,000

Project Summary

Many publicly listed Australian companies have a single shareholder who/which has effective control of the company. The project will compare the past performance of such controlled companies with that of non-controlled listed companies. If the performance of the controlled companies is superior then there may well be a case for amending certain parts of the legislation governing takeovers so as to produce a legal framework more conducive to controlled companies.

Analysis of Victorian Legal Signature and Writing Requirements for Compatibility with the Proposed Electronic Commerce Framework Act

Type of Grant

State of Victoria Office of Multimedia Grant

Chief Researcher

Associate Professor Mark Sneddon

Funds Received

\$16,340

Project Summary

This project will investigate the legislative need to facilitate electronic signatures and records with particular focus upon Victorian legislation.

Remedies for Directors' Improper Use of Position

Type of Grant

University of Melbourne Special Initiatives Grant

Chief Researcher

Dr Elizabeth Boros

Funds Received

\$12,000

Project Summary

This project focuses on the situation where directors divert a business opportunity away from the company of which they are a director either to themselves or to another company of which they are also a director.

Specifically, it:

- (1) examines the means by which courts determine the amounts which are recoverable from directors in equitable proceedings and in proceedings brought under statutory provisions; and
- (2) seeks to identify the assumptions and policies underlying the results of the decided cases.

Women and Commerce

Type of Grant

University of Melbourne Special Initiatives Grant

Chief Researcher

Dr Belinda Fehlberg

Funds Received

\$8,000

Project Summary

Commercial law (including corporate law) has historically been dominated by men. This project will analyse legal and other materials (for example government reports) to consider:

- (1) how United Kingdom and Australian law depicts women in commercial (including corporate) transactions; and
- (2) to what extent the law in this area reflects the practical role of women and the concerns of women.