



**Annual Report
2003**

Ms Eleanor Jackson

Administrator
Centre for Corporate Law and Securities Regulation
Law School
The University of Melbourne
Victoria 3010
AUSTRALIA
Telephone: +61 3 8344 5281
Facsimile: +61 3 8344 5285
Email: cclsr@law.unimelb.edu.au

Professor Ian Ramsay

Director
Centre for Corporate Law and Securities Regulation
Law School
The University of Melbourne
Victoria 3010
AUSTRALIA
Telephone: +61 3 8344 5332
Facsimile: +61 3 8344 5285
Email: i.ramsay@unimelb.edu.au

Centre Website

<http://cclsr.law.unimelb.edu.au>

Director's Report	4
Purposes and Objectives of the Centre	13
International Advisory Board	14
Australian Advisory Board	15
Academic Members of the Centre	17
Seminars	23
Links with Peak Organisations	24
Editorial Positions	25
Research	26
Monographs and Research Reports	29
Reviews of Books Authored by Centre for Corporate Law Members	38
Teaching	44
Corporate Law Bulletin	46
Competitive Research Grants Obtained	47
Supervision of Research	52
The Centre as a Public Resource	56
Appendix A: Seminars held in 1995-2002	71
Appendix B: 2003 Faculty of Law Graduate Subjects	86
Appendix C: Competitive Research Grants Obtained in 1996-2002	89

Professor Ian Ramsay Director

2003 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 a conference and seminar program dealing with a range of topical matters relevant to academics and practitioners. The Centre hosts the corporate law judgment website. In 2003, the 2,000th judgment was added to the website.

Research

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

In 2003, the following books were published by Centre members:

- Ali, P, Stapledon, G and Gold, M, *Corporate Governance and Investment Fiduciaries*, Thomson (2003)
- Ali, P and de Vries Robbe, J J, *Synthetic, Insurance and Hedge Fund Securitisations*, Thomson (2003)
- Austin, RP, Ford HAJ and Ramsay, IM, *Ford's Principles of Corporations Law*, Butterworths, 11th edition (2003)
- Hanrahan, P, Ramsay, IM and Stapledon, G, *Commercial Applications of Company Law*, CCH Australia, 4th edition (2003)
- McDonald, L, Moodie, G and Ramsay, IM and Webster, J, *Experts' Reports in Corporate Transactions*, Federation Press (2003)
- Woodward, S, Bird, H and Sievers, S, *Corporations Law in Principle*, Lawbook Co, 6th edition (2003)

In addition, 2003 has seen a steady stream of articles published, or accepted for publication, in journals. These articles include:

- Ali, P, 'Hedge Fund Investments and the Prudent Investor Rule' (2003) 17 *Tolley's Trust Law International* 74-89
- Parker, CE, 'Regulator-Required Corporate Compliance Program Audit' (2003) 25 *Law & Policy* 221-244

- Smith, MDH, ‘Corporate Governance in Australia: Some Recent Developments’ (2003) 24 *Forum of International Development Studies*, 75-93
- Stapledon, GP, ‘Auditor Super Funds and Proxy Voting’ (2003) 34 *JASSA – Journal of the Securities Institute of Australia*, 12-13
- Woodward, S, ‘Not-For-Profit Motivation in a for Profit Company Law Regime – National Baseline Data’ (2003) 21 *Company and Securities Law Journal* 102-133

Full details of the publications of members of the Centre are included 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. Two new grants were received in 2003. They were:

- Corporate Governance in the Australian Financial Markets (Chief Investigators: Dr Paul Ali and Dr Geof Stapledon)
- Synthetic Securitisations and the Revolution in Credit Risk Management (Chief Investigator: Dr Paul Ali)

Projects underway in 2003 funded by competitive grants included:

- Accountability and Corporate Governance in Non-Profit Companies
- Directorship in Entrepreneurial Firms and the Role of Public and Private Capital Markets
- The Governance of Managed Investment Schemes
- Use and Operation of the Enforcement Regime Attracted by Contraventions of Directors’ Duties in the Australian Corporations Law

In addition, 2003 was the first 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, Director of the Centre for Employment and Labour Relations Law.

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 series in corporate law and securities regulation. 2003 saw the publication of 3 further reports. These were:

- Ian Ramsay, *Use of Prospectuses by Investors and Professional Advisors*
- Grant Moodie and Ian Ramsay, *Managed Investment Schemes: An Industry Report*
- Helen Bird, Davin Chow, Jarrod Lennie and Ian Ramsay, *ASIC Enforcement Patterns*

Seminars

In 2003 the Centre hosted or was involved in the organisation of 5 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 'Virtual Shareholder Meetings', 'Shareholder Activism', 'Ownership and Control of ASX Listed Companies' and 'Continuous Disclosure'.

Full details of the 2003 seminar and conference program are included under the heading 'Seminars'.

Links with peak organisations

2003 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.

Corporate Law Bulletin

2003 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 Stock Exchange and leading national law firms and distributed in partnership with LAWLEX. The Bulletin is distributed widely within companies, regulators, law firms and government departments.

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. In 2003, the site added its 2,000th judgment to 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 corporations 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 two 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. Secondly, research reports of the Centre for Corporate Law are relied upon by law reform bodies.

Editorial positions

Members of the Centre continued in 2003 to occupy editorial positions with major corporate law publications including the *Company and Securities Law Journal*, the *Journal of Corporate Law Studies* and the *International and Comparative Corporate Law Journal*.

Supervision of graduate students' research

Members of the Centre for Corporate Law supervised in 2003 a large number of theses being undertaken by graduate students. Of the theses, 25 were PhD theses, 5 were SJD theses, and four were Master of Laws theses.

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

Staff developments

Professor Ian Ramsay spent most of 2003 as Dean of the University of Melbourne Law School while Professor Michael Crommelin was Visiting Professor at Georgetown University.

IFAC report presents international perspective on strengthening the financial reporting process

Rebuilding Public Confidence in Financial Reporting: An International Perspective, a report from an independent task force that was commissioned by the International Federation of Accountants (IFAC) and released on 6 August 2003, includes recommendations for strengthening corporate governance, improving audit effectiveness, and raising the standard of regulation of issuers. It also presents an international perspective on the challenges facing not only the accountancy profession, but also those involved in regulating a profession that has such a significant involvement in capital markets worldwide. Professor Ian Ramsay was a member of the task force.

Rebuilding Public Confidence in Financial Reporting was developed by a Task Force chaired by John Crow, former Governor of the Bank of Canada. It included individuals with backgrounds in commercial banking, international economics, academia and law, as well as accounting and auditing, from six countries: Australia, Canada, France, Japan, the United Kingdom, and the United States.

The report's recommendations are built on three basic assumptions:

- The credibility of financial reporting is both an issue in each country and an international issue, with action required at both levels.
- To improve credibility in financial reporting, action will be necessary at all points in the supply chain that delivers financial information.
- Integrity - both individual and institutional - is essential for building confidence in financial reporting, and, therefore, needs to be fostered.

Specific recommendations include the following:

- Effective corporate ethics codes need to be in place and actively monitored; such codes should be supported by training.
- Codes of conduct need to be put in place for other participants in the financial reporting process - such as investment analysts and lawyers - and their compliance should be monitored.
- Incentives to misstate financial information need to be reduced, and companies must refrain from forecasting profits with an unrealistic level of precision.
- Audit effectiveness needs to be raised, primarily through greater attention to audit quality control processes.

IFAC consists of 156 professional accountancy bodies in 114 countries representing more than 2 million accountants in public practice.

Members of the taskforce, in addition to Professor Ian Ramsay, were : *John Crow*, Chair (former Governor of the Bank of Canada, Chairperson of the Central Bank of Governors of the Group Ten countries and a Division Chief of the International Monetary Fund); *Christian Albin* (former Inspector General of Finance for the Republic of France, former Senior Executive Vice President of Corporate Finance for Banque Nationale de Paris and member of France's National Accounting Council); *Olivia Kirtley* (former Chair of the American Institute of Certified Public Accountants and a member of the Board of Directors and Audit Committee Chairperson for three companies traded on US Stock Exchanges); *Kosuke Nakahira* (former Japanese Vice-Minister of Finance for International Affairs and Controller of the Tokyo Stock Exchange, Vice-Chairman of the Institute for International Economic Studies and member of the Joint Committee on Remuneration of IMF/World Bank Executive Directors); *Guylaine Saucier* (Company Director, Chair of the Canadian Stock Exchange Committee relating to improvements in corporate governance and former Chair of the Canadian Institute of Chartered Accountants); and *Graham Ward* (Senior Partner in PriceWaterhouseCoopers, former President of the Institute of Chartered Accountants in England and Wales, member and former Deputy Chairman of the UK's Financial Reporting Council, member of the UK's Auditing Practices Board and former member of the UK's City Panel on Takeovers and Mergers).

The full report and complete list of recommendations can be accessed on IFAC's website at <http://www.ifac.org/credibility>. A database of relevant articles and speeches may also be accessed through this area of the website.

Report on disclosure of fees and charges in superannuation and other managed investments

In August 2003 the Australian Securities and Investments Commission released its *Good Practice Model of Fee Disclosure in Product Disclosure Statements of Investment Products*. In its media release ASIC noted that the development of its fee disclosure model was based on Professor Ian Ramsay's 2002 report titled *Disclosure of Fees and Charges in Managed Investments: Review of Current Australian Requirements and Options for Reform*, which was commissioned by ASIC.

The report contains:

- an overview of approaches to disclosure of fees and charges in a number of international jurisdictions as well as in Australia; and
- options for improving the quality and comparability of fees and charges disclosure, particularly in Product Disclosure Statements and periodic statements.

Peter Kell, ASIC's Executive Director, Consumer Protection, described Professor Ramsay's report as "a significant contribution to the current debate about how to take forward the disclosure of investment fees and charges within the Financial Services Reform Act framework".

The report is available at <http://www.asic.gov.au>

In another development, in December 2003 the Senate and the House of Representatives enacted the Financial Services Reform Amendment Act 2003 to require dollar disclosure of fees in disclosure documents for managed investments. As noted in the Parliamentary debates and also in the earlier report of the Senate Economics Legislation Committee on the Bill, the legislation draws upon a recommendation in Professor Ramsay's 2002 report to ASIC.

Report on auditors' independence

In November 2003 the Commonwealth Treasurer introduced into Federal Parliament the Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Bill 2003. This Bill enacts key recommendations contained in Professor Ian Ramsay's 2001 report to the Minister for Financial Services and Regulation titled *Independence of Australian Company Auditors: Review of Current Australian Requirements and Proposals for Reform*.

In relation to auditing, the proposals in the Bill set out to:

- Expand the role of the Financial Reporting Council to include public oversight of audit independence and audit standard setting in Australia. Auditing standards will also have the force of law on the same basis as accounting standards issued by the Australian Accounting Standards Board.
- Introduce into the Corporations Act a general requirement of auditor independence.

- Make audit partner rotation compulsory after 5 years.
- Amend the law to require disclosure in annual reports of fees for all categories of all non-audit services provided by an audit firm.
- Amend the law to require audit committees to certify that receipt of certain non-audit services did not compromise audit independence.
- Reform areas of auditor liability by allowing auditors to incorporate and seek agreement of the States to introduce proportionate liability.

Full details of the proposals are available at <http://www.treasury.gov.au>

Other developments relating to Professor Ramsay's report are:

- The Auditing and Assurance Standards Board has issued new guidance on auditor independence following recommendations in the report;
- The professional accounting bodies (CPA Australia and the Institute of Chartered Accountants) have updated their ethical rules on auditor independence following recommendations in the report;
- A number of prominent companies have disclosed in their annual reports that they have benchmarked their audit practices against the recommendations in the report (these companies include BHP Billiton, National Australia Bank, Westpac Banking Corporation and Macquarie Bank); and
- The report has been drawn upon in a number of international reports dealing with auditor independence or corporate governance (including reports published in the United Kingdom, the United States, South Africa and India).

Media coverage of Centre activities

The research activities of Centre members received significant coverage in the media in 2003. Full details of the media coverage are included under the heading 'The Centre as a Public Resource'.

Visitors to the Centre

Visitors to the Centre in 2003 included Professor Douglas Branson, University of Pittsburgh; Professor John Farrar, Bond University; Ms Sau Ngun Wong, Securities Commission of Malaysia; Associate Professor Hans Tjio, National University of Singapore; Dr Alan Dignam, University of London; Professor Rob McQueen, Victoria University of Technology; Ms Vanessa Mitchell, Victoria University of Technology; Professor Elizabeth Boros, Monash University; Professor Paul Mahoney, University of Virginia and Dr James Mayanja, University of Southern Queensland.

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 2003. They include the members of the Australian Advisory Board and, in particular, the Chair of the Australian Advisory Board, the Hon Mr Justice Hayne.

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.

Purposes and Objectives 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 Faculty of Law 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 graduate program and provide opportunities for their involvement in corporate law research projects.

International Advisory Board

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, University of Osnabruck, Germany
- Professor Brian Cheffins, Faculty of Law, University of Cambridge, England
- Professor John Coffee, School of Law, Columbia University, USA
- Professor Ronald Daniels, 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
- 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
- Professor Sang-Hyun Song, Dean, College of Law, Seoul National University, Korea
- Shane Tregillis, Assistant Managing Director, Securities and Futures Department, Financial Supervision Group, Monetary Authority of Singapore
- The Honourable Justice E Norman Veasey, 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 Mr Justice Hayne, High Court of Australia (Chair)
- Professor Robert Baxt, Partner, Arthur Robinson & Hedderwicks
- Jeremy Blackshaw, Partner, Minter Ellison
- Tom Bostock, Partner, Mallesons Stephen Jaques
- Mark Burger, Partner, Phillips Fox
- Richard Cockburn, Director, Corporate Finance, Australian Securities and Investments Commission
- Stephen Creese, Vice-President and General Counsel, Rio Tinto Limited
- Quentin Digby, Partner, Freehills
- Tony Greenwood, Partner, 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 Stock Exchange

- Catherine Walter, Director of National Australia Bank Limited, Australian Stock Exchange Limited, Mercury Asset Management Limited, SGIO Insurance Limited and Victorian Workcover Authority
- The Hon Justice Marilyn Warren, Supreme Court of Victoria
- Jon Webster, Consultant, Allens Arthur Robinson

The following academics were members of the Centre in 2003.

Dr Paul Ali

Paul Ali joined the Faculty of Law, University of Melbourne, as a Senior Lecturer in 2002. His principal areas of interest are financial markets law, investment management law and secured transactions law. Paul's doctoral thesis was published in 1999 by Clarendon Press, Oxford under the title *Marshalling of Securities: Equity and the Priority- Ranking of Secured Debt*. A second book titled *The Law of Secured Finance: An International Survey of Security Interests over Personal Property* was published by Oxford University Press, Oxford in 2002. In 2003, Paul co-authored the book *Corporate Governance and Investment Fiduciaries* with Associate Professor Geof Stapledon and Martin Gold. Paul has also published several articles on derivatives, securitisations and structured financial products. Paul also co-authored *Synthetic , Insurance and Hedge Fund Securitisations* with Jan Job de Vries Robbe. He was previously a senior associate in a leading Sydney law firm and has also worked in the securitisation group of a major United States bank.

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. 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, 6th ed, 2003) which is accompanied by a Teachers' Manual.

Ms Hellen Blue

Hellen Blue 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 Corporations Law in the Commerce Faculty. Hellen organises the seminar and conference program of the Centre for Corporate Law and Securities Regulation.

Ms 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 Robinsons & Hedderwicks in

Melbourne. She holds Honours degrees in Arts and Law from The University of Melbourne and a Master of Laws from Case Western Reserve University, Ohio USA, and is currently completing an SJD at The University of Melbourne.

She teaches Corporations Law at the undergraduate level in both the Law and Commerce faculties, and Regulation of Managed Investments as part of the Law School's graduate program. Her research interests include the law of managed funds, corporate and securities law and derivatives regulation. Pamela is Special Counsel with Allens Arthur Robinson and during 2003 was on leave from the University to work at Allens Arthur Robinson.

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 teaches Corporations Law at the undergraduate level in both the Law and Commerce Faculties.

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.

Jurgen was on leave in 2003 undertaking Doctoral studies at the University of Michigan.

Associate Professor Timothy Lindsey

Tim Lindsey is a graduate of The University of Melbourne Law School and has a doctorate in Indonesian Studies. 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*. Tim is a member of the Board of the Department of Foreign Affairs and Trade's Australia-Indonesia Institute.

Dr Christine Parker

Dr Parker is a Senior Lecturer 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 teaches subjects dealing with ethics and professional conduct in the legal profession as well as company law and a new graduate 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 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:

- Dean, Faculty of Law, The University of Melbourne
- Member of the Takeovers Panel (which is the main forum for resolving takeover disputes)
- 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
- Head of the Federal Government's inquiry on auditor independence
- Member of the Corporations and Markets Advisory Committee (which is the Federal Government's main corporate law reform advisory body)
- Member of the Federal Government's Implementation Consultative Committee for the Financial Services Reform Act
- Member of the Executive Committee of the Business Law Section of the Law Council of Australia
- Member of the Corporations Law Committee of the Australian Institute of Company Directors and the Companies Committee of the Law Council of Australia
- President of the Corporate Law Teachers Association
- Member of the International Federation of Accountants taskforce on rebuilding confidence in financial reporting
- Consultant to the Australian Securities and Investments Commission and author of the report for ASIC on disclosure of fees and charges in superannuation and other managed investments
- Member of the Australian Securities and Investments Commission's Corporate Governance Roundtable

- Consultant to the Australian Law Reform Commission for its managed investments project
- Member of the Australian Law Reform Commission's Advisory Committee for its civil and administrative penalties project
- Consultant to the Victorian Government on corporate law reform
- Distinguished Visiting Professor, Faculty of Law, The University of Toronto
- Distinguished Visiting Professor and Professorial Fellow, Faculty of Law, The University of Hong Kong.

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, 11th edition, 2003); *Experts' Reports in Corporate Transactions* (co-author, 2003); *Commercial Applications of Company Law* (co-author, 4th edition, 2003); *Key Developments in Corporate Law and Trusts Law: Essays in Honour of Professor Harold Ford* (editor, 2002); *Commercial Applications of Company Law in New Zealand* (co-author, 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).

Mrs Sally Sievers

Sally Sievers (BA, LLB (Melb); LLM (Monash) was previously a Senior Lecturer at the Faculty of Law at Monash University. Her main research interests are corporations 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* (6th ed, 2003). She is also the author of the chapter titled "Voluntary Associations" in Halsbury's Laws of Australia. Sally teaches Corporations Law in the LLB program and Corporate Law to students undertaking the Bachelor of Commerce degree. Sally is also a Barrister and Solicitor of the Supreme Court of Victoria and a member of the Corporations Law Committee of the Law Council of Australia.

Professor Malcolm Smith

Professor Smith joined The University of Melbourne Faculty of Law from the University of British Columbia, Canada, where he was Founding Director of the Japanese Legal Studies Program. He is a graduate of The University of

Melbourne Law School and Harvard Law School, and specialises in Japanese Law. He holds the Foundation Chair in Asian Law at The University of Melbourne. He researches and teaches in Japanese and has particular research interests in Japanese corporate, banking and finance law.

Professor Smith is a member of the board of the Australia-Japan Foundation, the Executive Board of the Australian Centre for International Commercial Arbitration, the International Trade Law and Business Committee of the Law Council of Australia, the International Legal Services Advisory Council and the Australian International Legal Exchange Committee established by the Commonwealth Attorney-General.

Associate Professor Geof Stapledon

Dr Geof Stapledon obtained undergraduate degrees in Economics and Law from the University of Adelaide before practising as a commercial solicitor with Finlaysons in Adelaide. He then spent three years at the University of Oxford, conducting doctoral research into the role of institutional investors in corporate governance in the UK and Australia. This research led to the publication in mid-1996 of Geof's book *Institutional Shareholders and Corporate Governance* (Oxford University Press). Geof joined the Faculty of Law at The University of Melbourne in 1995. Geof has a number of journal publications in the area of institutional investors and corporate governance, together with articles in the areas of directors' duties, shareholders' remedies, and auditors' liabilities. He is the Editor of the leading journal specialising in Australasian corporate and securities law: the *Company and Securities Law Journal*.

Geof spent 1997 on secondment with the law firm Minter Ellison in Sydney, advising on the demutualisation of the AMP Society. He is a Principal in the corporate governance advisory firm, Institutional Analysis.

Ms Susan Woodward

Susan Woodward is a graduate of The University of Melbourne (LLB (Hons)) and is a Barrister and Solicitor of the Supreme Court of Victoria. 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 University of Melbourne, Susan has taught Corporations Law in the law and commerce faculties for several years. Susan has co-authored (with Sievers and Bird) *Corporations Law – In Principle* (Lawbook Co, 6th ed, 2003) which is accompanied by a Teachers' Manual. Susan's main research interest is regulation of not-for-profit organisations

Research Associates

Mr Jarrod Lennie
Ms Crystal Lin
Ms Shelley Marshall
Mr Christopher Miller

A number of highly successful conferences and seminars were organised by the Centre during 2003. A list of previous seminars and conferences is contained in Appendix A.

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, 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

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

Links with Peak Organisations

The Centre has developed links with peak organisations with an interest in corporate and securities law. During 2003 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 (Pamela Hanrahan, Professor Ian Ramsay and Sally Sievers);
- The Corporations Law Committee of the Australian Institute of Company Directors (Professor Ian Ramsay);
- The Executive Committee of the Corporate Law Teachers Association (Professor Ian Ramsay);
- The International Federation of Accountants Taskforce on Rebuilding Public Confidence in Financial Reporting (Professor Ian Ramsay); and
- The Legislation Review Board of the Australian Accounting Research Foundation (Associate Professor Geof Stapledon).

Academic staff members have also been Course Directors for the Corporate Secretaries Course administered by the Institute of Corporate Secretaries.

During 2003 academic members of the Centre occupied editorial positions with a number of corporate law and other publications:

- *Australian Accounting Review* (Member of the Editorial Board: Professor Ian Ramsay)
- *Australian Corporations & Securities Law Reporter* (Consultant Editor: Professor Ian Ramsay)
- *Australia & New Zealand Journal of Law & Education* (Member of the Editorial Board: Professor Ian Ramsay)
- *Australian Journal of Asian Law* (Editor: Associate Professor Timothy Lindsey; Member of Editorial Committee: Professor Malcolm Smith)
- *Company and Securities Law Journal* (Editor: Dr Geof Stapledon; Member of the Editorial Board: Dr Paul Ali, Professor Ian Ramsay and Sally Sievers)
- *Corporate Law Bulletin* (Editor: Professor Ian Ramsay)
- *Doing Business in Asia* (Contributing Editor and Member of the Editorial Advisory Board: Associate Professor Tim Lindsey)
- *Employment Law in Asia* (Member of the Editorial Advisory Board: Associate Professor Tim Lindsey)
- *Governance* (Member of the Editorial Board: Dr Geof Stapledon)
- *International and Comparative Corporate Law Journal* (Member of the Editorial Board: Professor Ian Ramsay)
- *International Securities Regulation: Pacific Rim* (Consulting Editor: Professor Ian Ramsay)
- *Journal of Corporate Law Studies* (Member of the Editorial Board: Dr Geof Stapledon)
- *Melbourne University Law Review* (Faculty Advisor: Professor Ian Ramsay)

Books

Ali, P, Stapledon, G and Gold, M, *Corporate Governance and Investment Fiduciaries*, Thomson (2003)

Ali, P and de Vries Robbe, J J, *Synthetic, Insurance and Hedge Fund Securitisations*, Thomson (2003)

Austin, RP, Ford HAJ and Ramsay, IM, *Ford's Principles of Corporations Law*, Butterworths, 11th edition (2003)

Hanrahan, P, Ramsay, IM and Stapledon, G, *Commercial Applications of Company Law*, CCH Australia, 4th edition (2003)

McDonald, L, Moodie, G, Ramsay, IM and Webster, J, *Experts' Reports in Corporate Transactions*, Federation Press (2003)

Woodward, S, Bird, H and Sievers, S, *Corporations Law in Principle*, Lawbook Co, 6th edition (2003)

Research Reports

Bird, H, Chow, D, Lenne, J and Ramsay, IM, *ASIC Enforcement Patterns*, Centre for Corporate Law and Securities Regulation (2003)

Moodie, G and Ramsay, I, *Managed Investment Schemes: An Industry Report*, Centre for Corporate Law and Securities Regulation (2003)

Parker, C and Stepanenko, N, *Compliance and Enforcement Project: Preliminary Research Report*, Centre for Competition and Consumer Policy, Australian National University (2003)

Ramsay, IM, *Rebuilding Public Confidence in Financial Reporting: An International Perspective - Report to the International Federation of Accountants*, prepared as a Member of the International Taskforce on Rebuilding Public Confidence in Financial Reporting (2003)

Ramsay, IM, *Use of Prospectuses by Investors and Professional Advisors*, Centre for Corporate Law and Securities Regulation (2003)

Chapters in Books

Kurtz, J, 'Developing Countries and the Troubling Disparity between Bilateral, Regional and WTO Commitments: The Case of the New US-Vietnam Trade

Agreement' in Van der Borgh, K (ed), *Essays on the Future of the WTO: Finding a New Balance*, Cameron May, London 2003, 200 – 240

Parker, C and Braithwaite, J, 'Regulation' in Cane, P and Tushnet, M (eds), *Oxford Handbook of Legal Studies*, Oxford University Press, Oxford, 2003, 119-145

Journal Articles

Ali, P, 'Hedge Fund Investments and the Prudent Investor Rule' (2003) 17 *Tolley's Trust Law International* 74-89

Parker, CE, 'Regulator-Required Corporate Compliance Program Audit' (2003) 25 *Law & Policy* 221-244

Smith, MDH, 'Corporate Governance in Australia: Some Recent Developments' (2003) 24 *Forum of International Development Studies* 75-93

Stapledon, GP, 'Auditor Super Funds and Proxy Voting' (2003) 34 *JASSA – Journal of the Securities Institute of Australia*, 12-13

Woodward, S, 'Not-For-Profit Motivation in a for Profit Company Law Regime – National Baseline Data' (2003) 21 *Company and Securities Law Journal* 102-133 and reprinted in Volume 1, Issue 4, October 2003 *International Journal of Civil Society Law*

Woodward, S, 'Not-for-profit organisations – do they fit the company mould?' *Keeping Good Companies, Journal of the Institute of Chartered Company Secretaries*, June 2003, 278-283

Notes

Ali, P, 'Evolving Markets for Credit Derivatives' *International Finance & Treasury*, 30 May 2003, 1, 8-9 and 18-19

Ali, P and Gold, M, 'Hedge Funds shape up?' *Australian CPA*, July 2003, 40-42

Ali, P and Gold, M, 'Hedge Funds: Not all they're cracked up to be' *Money Management*, 6 February 2003, 24-25

Courville, S, Parker, C and Watchirs, H, 'Introduction: Auditing in regulatory perspective' *Law and Policy, Special Issue on Auditing in Regulatory Perspective*, 25(3), 2003, 179-184

Parker, C, 'The Three Essential Roles of a Corporate Compliance Officer' *White Collar Crime Fighter* 5(1), January 2003, 3-5

Woodward, S, 'Not-for-profits – getting the regulatory framework right' *Australian Philanthropy*, Summer 2003/04, Issue 53, 10

Conference Papers

Parker, C, 'A Critical Morality for Australian Lawyers and Law Students'. Paper presented at the Australian Association for Professional and Applied Ethics Conference, 2 - 4 October 2003, Victoria University, Melbourne

Parker, C, 'Regulator Required Compliance Program Audits'. Paper presented at the Auditing in Perspective: Regulatory Tool, Moribund Remedy or Democratic Champion Conference, 6 February 2003, Regulatory Institutions Network and National Institute for Government and Law, Australian National University, Canberra

Ramsay, IM, 'Rebuilding Public Confidence in Financial Reporting : The Role of Corporate Management and Governance'. Paper presented at the Institute of Certified Public Accountants of Singapore and the International Federation of Accountants Seminar, Singapore, 13 November 2003

Ramsay, IM, 'Corporate Governance Initiatives'. Paper presented as a commentary at the Committee for the Economic Development of Australian Corporate Governance Seminar, Sydney 31 August 2003

Ramsay, IM, 'Auditors Independence'. Paper presented at the Federal Court/Law Council of Australia Joint Corporations Law Seminar, Sydney, 29 March 2003

Ramsay, IM 'Disclosure of Fees and Charges in Superannuation and other Managed Investments'. Paper presented to the Investment and Financial Services Association Seminar, Sydney, 4 February 2003; and also presented to the Australian Securities and Investments Seminar, 30 January 2003

During 2003 the Centre published three research reports as part of its series in corporate law and securities regulation. The research reports are available on the website of the Centre for Corporate Law and Securities Regulation.

Managed Investments: An Industry Report **Grant Moodie and Ian Ramsay**

This research report is divided into three parts:

- Part 1: Structure and operation of the Australian managed investments industry;
- Part 2: The Australian regulatory regime in the context of international principles; and
- Part 3: Observations and conclusions.

Part 1 of the report sets out the size and scope of the managed investments industry in Australia, measured by both data from the Australian Securities and Investments Commission ('ASIC'), the Australian Bureau of Statistics ('ABS'), the Australian Stock Exchange ('ASX'), Axiss Australia and ASSIRT. The practical operation of the industry is assessed through an analysis of surveys completed by and interviews conducted with industry participants.

Part 2 of the report examines the operation of the Australian legislation, including the associated licensing regime, in light of international principles for the governance of collective investment schemes.

Part 3 contains concluding observations on the adequacy of the governance structures under Australian law.

The managed investments industry is regulated primarily by chapter 5C of the Corporations Act 2001 (Cth). This chapter was introduced into the law by the Managed Investments Act 1998 (Cth) ('MIA'), which commenced operation on 1 July 1998.

The MIA marked a radical shift in the policy of regulating collective investment schemes. Under the pre-MIA approach, schemes were operated by a management company and monitored by an external independent trustee. The trustee was under a statutory covenant to protect the interests of investors. The MIA abandoned this two-party system, principally on the basis that it created uncertainty as to which party was ultimately accountable to scheme investors. The MIA installed a regime under which there is a single responsible entity ('RE'). The legislative intention behind the 'single responsible entity' was to have one entity accountable to scheme investors.

In brief, the regulatory regime installed by the MIA includes the following features:

- All schemes which offer interests in themselves must be registered with ASIC (unless they fall within one of a limited number of exceptions).
- All registered schemes must be operated by a licensed public company (the ‘single responsible entity’), which is subject to statutory duties of care and diligence and to act in the best interests of investors.
- Each scheme must have a constitution, a compliance plan (which must deal adequately with conflict of interest scenarios and be audited by an independent auditor) and an external compliance committee (or, alternatively, a board at least half of which must be external directors), who must monitor the RE’s compliance with the law.

The principle focus of the report is an examination of the managed investments industry in Australia and the means by which it is regulated. The report examines in particular:

- the different size and types of schemes in Australia;
- the extent to which the Australian regulatory regime conforms with international principles for the regulation of collective schemes;
- the legislative intention and practical operation of compliance committees;
- the internalisation and centralisation of the compliance function;
- the degree to which scheme operators or responsible entities outsource their activities and responsibilities; and
- whether the governance and regulatory approach of the MIA represents an improvement to the pre-MIA regime.

Use of Prospectuses by Investors and Professional Advisers

Ian Ramsay

The research report contains the results of two surveys of recipients of prospectuses: investors and their professional advisers. The objective of the surveys was to obtain information on how prospectuses are used and obtain views on the utility of prospectuses.

The distribution of the surveys was as follows:

- 4,000 surveys were distributed to individual investors who are members of the Australian Shareholders Association with 891 returned (22.3%)
- 2,000 surveys were distributed to professional investment advisers with 171 returned (8.6%)

(a) Summary – Investor Survey

(i) Background information

- 891 responses were received.
- Respondents range from a student with \$2000 in managed funds, to a retiree with over \$15 million invested directly in shares and \$1 million in managed funds to benchmark his own investment decisions.
- 76% of respondents are aged over 55 years.

- 81% are male.
- 56% are retired and 27% are in a professional occupation.
- The range of annual household income is fairly evenly spread above \$30,000, with 24% having an income between \$50,000 and \$74,999 per annum.
- Respondents have a total of \$101,923,500 invested in shares through managed funds, and \$605,018,250 invested directly in shares.

(ii) Shares owned directly

- Half of the respondents own shares in less than 20 companies each, but all have diversified investments.
- The industry most heavily invested in is banking and finance, followed by resources and mining, then retail.
- 60% of respondents use a stock broker who provides an advisory service, but only 27% have a financial planner.
- The most popular source of information before making an investment decision is the newspaper, followed by prospectuses. However, when investors are asked about sources of information for their most recent investment decision, the prospectus falls to fourth position, after newspapers, investment magazines and brokers.
- 76% of respondents check share performance at least weekly (44% daily), mainly in newspapers or on the internet.
- 80% of respondents trade shares at least annually, the majority of those, at least quarterly.
- 82% receive an annual report for each company in which they own shares, and the majority spend less than 1 hour reading them. Those who do not receive or read annual reports regard them as too long, too detailed, containing out of date information and not an effective use of resources. Respondents who do read the reports are primarily interested in performance projections, followed by details about the executive team and management, and returns.
- Over half of the respondents spent between 30 minutes and an hour reading the prospectus for their most recent investment. Those who did not read it were deterred by its complexity. Those who did read it were primarily interested in performance projections, followed by details about the executive team and management, and returns.
- Respondents were ambivalent about their confidence in the content of prospectuses, and the importance of a prospectus in comparison with other sources of information in making an investment decision, ranking both in the mid range between not at all important, and extremely important.

(iii) Managed investment fund prospectuses

- 460 respondents completed this section. 23% have money in only one managed fund.
- 23% of respondents have money invested in an international equity fund, 22% invest in Australian industrial equity funds and 20% invest in Australian diversified equity. 14% invest in combined Australian and international industrial equity funds. 1% of respondents are not sure what type of fund they invest in. 11% invest in property trusts.

- The need for diversification scored highest when respondents were asked for their main reasons for investing in managed funds, followed closely by capital growth.
- 45% of respondents learnt about the funds in which they invested through the media. 40% learnt about them through their financial adviser and 14% through friends or family.
- All of the respondents who completed this section of the survey own shares directly as well as investing in managed funds. The primary reason for combining the two is diversification.
- 57% of respondents sought professional advice before investing in a managed fund, the majority from an investment adviser. After professional advice, prospectuses, newspapers and investment magazines are the most used sources of information about managed funds. For information about their most recent investment, most respondents cited newspapers and investment magazines, just ahead of advisers and prospectuses, as the main sources.
- Respondents were fairly evenly divided between yes and no when it came to knowing the asset allocation of their managed fund investments.
- Most respondents have never withdrawn money from their managed fund investments, or switched between managed funds.
- 94% receive the annual report of their managed fund, and most spend 30 minutes or less reading it, looking mainly for information about performance. Most of those who do not read it find it too long and boring.
- When respondents received the prospectus for their most recent managed funds investment, most spent 1 hour or less reading it. Of those who did not read it, most said it was because their investment decision was already made. Those who did read it were looking for information about performance, the executive team, the investment strategy and the asset allocation.
- Most respondents were ambivalent about the importance of the prospectus in making their investment decision.

(iv) General results on prospectuses

- Only 36% of respondents said that the prospectus gives them sufficient information to make an investment decision. 52% still feel the need to seek professional advice after reading the prospectus.
- 56% of respondents think that, as a general rule, prospectuses are not easy to understand. They have most difficulty with legal or technical jargon. They also find prospectuses too detailed and repetitive and also have difficulty with the section dealing with financial matters. 66% of respondents think that prospectuses are too long.
- 51% of respondents find prospectuses for shares easier to understand than those for managed funds. 39% find those for managed funds easier to understand, and 10% thought that there was no difference.
- 52% of respondents do not find it easy to find the information they want in a prospectus. Suggested improvements are to summarise key points, simplify and clarify the contents, use less jargon, and make the prospectus more concise.
- 81% of respondents would apply for shares if the government were to privatise a profitable business, although 181 of these respondents gave a qualified yes, depending on factors such as the price, type of business, or their investment

needs at the time. Most feel that the business would be more profitable after privatisation, particularly if it has a monopoly, and cite the success of previous similar floats. 115 respondents believe that the government always sells such businesses under value, for political gain. Along similar lines, the investment is seen as low risk because of confidence that the government would not risk political backlash by “selling a lemon”. Many respondents also express a desire to keep such businesses in the hands of Australians.

(b) Summary – Professional Adviser Survey

(i) Background information

- 171 responses were received.
- The majority (80%) of respondents considered themselves independent advisers as defined in ASIC Policy Statement 116.
- Client bases consist mainly of less well-informed investors, including a large number of retirees.
- Investment in shares is recommended primarily to spread risk, although investment through managed funds was the preferred option. Many advisers put clients into direct share investment only at the client’s request, and on the understanding that the client will monitor the investment. Investment in managed funds is perceived as providing more diversification, less risk and a better sector spread. Investment in managed funds is also recommended in order to utilise fund manager expertise.
- Most respondents work from dealer group recommended lists. Only 27% of respondents conduct their own research and analysis of companies.
- For those respondents who conduct their own research, the most important sources of information are analysts’ reports and prospectuses, followed by company annual reports, the internet and management presentations.

(ii) General results on prospectuses

- 85% of respondents found that clients have difficulty understanding prospectuses, finding them too long, too detailed, and too full of legal or technical jargon.
- Most responses indicated that clients don’t want to read, or can’t understand, a prospectus, and rely on their adviser to describe and interpret the investment.
- Clients have more questions about fees and charges than any other aspect of the prospectus.
- The majority of respondents stated that the role of the prospectus in the process of providing advice to clients is either “very little”, a legal formality, an application form, a sales tool, or at most, a backup to the adviser.
- 72% of respondents believe that clients do not fully understand risks associated with certain investments, at least until the adviser explains the risks.
- 83% believe that simpler prospectuses would be beneficial and 89% regard it as part of their role to explain prospectuses to investors. 73% believe that simpler prospectuses would make their task easier although 94% said that simpler prospectuses would not make their role less important.
- Most respondents to this question believe that it would be more cost effective to convey information currently contained in prospectuses through the internet,

although many also suggested “less gloss” and longer life for prospectuses. Other suggestions included separate documents for advisers and investors.

- 75% think that the level of disclosure on the part of companies and fund managers is sufficient to provide informed investment advice.

(iii) Share prospectuses

- 19 respondents did not complete this section, saying they are unlicensed to offer advice on direct share investments.
- Risk factors, the company’s dividend policy, the company’s liabilities and the company’s operations and business are seen as the most useful information in providing investment advice to clients.
- Prospectuses most successfully convey information on a company’s directors and management, its industry, its operations and business, and how to apply for shares.
- 65% of respondents do not believe that any topics can be omitted from a prospectus without affecting the quality of advice to clients, although there were a number of suggestions regarding format – in particular, that there should be a standard format so that investors can find and compare information quickly.
- Most respondents stated that share prospectuses held too much information. 80% of advisers said that the information contained in them is set out in a manner that makes it incomprehensible to clients. However, 79% said that the information is set out in a manner that makes it comprehensible to investment advisers.
- Suggestions to improve comprehension included summaries, less jargon, more graphics and standard formats.
- Overall, there is no essential information currently not being included in prospectuses. However, most respondents felt that prospectuses should include information on strategic goals, market share and product development and quality.

(iv) Managed investment fund prospectuses

- Clients most frequently ask about fees and charges relating to funds (31%) followed by performance history (18%), risk (13%) and what the funds invest in (12%) A total of 17% either ask if they need to read the prospectus, ask the adviser to interpret the prospectus or rely solely on the adviser’s recommendation.
- Only 2% of respondents said clients found share prospectuses easier to understand than those of managed funds, while 43% answered “neither”.
- Asset allocation, risk and tax implications are regarded as the most important topics in providing advice to clients. However, prospectuses are most successful at conveying information on past performance.
- 64% of respondents said that managed funds prospectuses provide all information required to provide advice to clients.
- Assessment of the appropriateness of the amount of information contained in prospectuses varied among respondents. Overall, they contained either too much (45%) or the right amount (45%), with only 10% of respondents believing that they had too little.
- Most of the problems of prospectus content related to the length and detail of the document, and its format.

ASIC Enforcement Patterns

Helen Bird, Davin Chow, Jarrod Lenne and Ian Ramsay

(a) Overview of research report

- This research report reports the findings of an empirical study of court-based enforcement activities undertaken by the Australian Securities and Investments Commission ("ASIC").
- This research builds on a 1999 empirical study by members of the Centre for Corporate Law and Securities of how ASIC used civil penalties as enforcement tools against company directors.
- The current research project has two aims:
 - To produce a detailed study of ASIC's enforcement activities and to identify patterns in those activities;
 - To determine whether ASIC enforcement activities are consistent with the findings of past sociological studies of legal regulation and enforcement. Sociological theories contend that the effectiveness of laws as forms of regulation depends on the process by which those laws are received, interpreted and responded to by the participants in the regulatory process. Those participants include ASIC, the Commonwealth Director of Public Prosecutions, and the pool of persons and companies influenced and controlled by company and financial services laws.

(b) Research Methodology

- The project involves an empirical study of ASIC court-based enforcement activities over the period January 1997 to December 1999.
- The dataset was generated in collaboration with ASIC, comprising information regarding all ASIC court-based enforcement activities during the sample period. Information was also obtained from the Commonwealth Director of Public Prosecutions ("DPP") detailing enforcement activities referred to the DPP by ASIC during the sample period. The amalgamation of data from various sources has enabled the creation of a unique dataset with a high degree of detail.

(c) Key findings of the study

- The empirical study analyses three aspects of ASIC court-based enforcement activities during the sample period:
 - The characteristics of the participants in the regulatory process, apart from ASIC and the DPP;
 - The types of enforcement activity undertaken by ASIC and the legislation applied in those activities; and
 - The outcomes of ASIC enforcement activities.

(i) Characteristics of regulatees

The study found that ASIC was more likely to pursue court-based enforcement:

- against individuals (rather than companies);
- against men (rather than women) aged between 41-50 years in their capacity as directors of companies working in the finance and insurance industry; and
- in relation to private companies rather than public companies and, in particular, private companies that were no longer a going concern.

(ii) Types of enforcement activity

The study found that ASIC was more likely to pursue penal enforcement in relation to:

- laws that were mandatory (rather than enabling) in nature;
- laws that were oriented towards social, rather than economic, regulation. In particular, the external administration and misconduct provisions of the Corporations Law, rather than the disclosure provisions; and
- laws with an ethical foundation that address conduct that is widely condemned because it exploits and defrauds shareholders and creditors.

(iii) Enforcement outcomes

The study found evidence of:

- the predominant use of penal enforcement activities by ASIC over civil enforcement activities;
- targeted enforcement by ASIC specifically in relation to external administrator assistance actions;
- the predominant use of a limited, severe set of penal sanctions (specifically fines and custodial sentences) despite the availability of a much wider range of sanctions;
- the predominant use of settlements by ASIC as outcomes for civil enforcement activities; and
- ASIC court-based enforcement activity being predominantly in the middle to higher bands of the pyramid of enforcement.

(iv) General conclusions

- The study highlights the predominant use of penal enforcement activities and sanctions within the dataset of ASIC court-based enforcement work.
- This finding reflects the traditional conception of the role of court enforcement in legal regulation as a "last resort" strategy.
- The study also highlights the reality that the majority of enforcement activities in the dataset concern breaches of mandatory, socially oriented or ethically-based laws by regulatees in circumstances where their behaviour is widely regarded as undesirable.
- What the study cannot do is comment on whether any of these trends are predominant in all ASIC enforcement work, or merely court-based enforcement

work, the subject of this study. A study of non-court based enforcement activities undertaken by ASIC is required before this would be possible.

Reviews of Books Authored by Centre for Corporate Law Members

Books authored or edited by members of the Centre for Corporate Law and Securities Regulation have received many positive reviews. Extracts from some of these reviews are noted below.

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...Now in its 11th edition, 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 depths 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)

“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

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 practices...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 Faculty of Law at The University of Melbourne has a very strong graduate program in corporate law and securities regulation. The 35 subjects offered are:

- Accounting for Commercial Lawyers
- Company Takeovers
- Comparative Companies Law in the Asia-Pacific Region
- Comparative Corporate Governance
- Comparative Income Tax
- Corporate Governance and the Duties of Directors*
- Corporate Insolvency and Reconstruction*
- Corporate Taxation*
- Electronic Commerce Law*
- Electronic Corporation, The
- Equity and Commerce*
- Financial Innovation and Regulation
- Financial Sector Regulation*
- International Financial Transactions: Law and Practice*
- Law of Secured Finance (formerly Securities for Corporate Lending)
- Licensing Financial Service Providers
- Managed Investments Law*
- Principles of Corporate Finance*
- Principles of Corporate Insolvency
- Principles of Corporate Law
- Regulation of Financial Markets
- Regulation of Securities Offerings*
- Regulatory Environment for Corporations
- Repackaging Financial Assets
- Risk Management and Compliance in the Financial Services Industry*
- Securities for Corporate Lending*
- Securitisation
- Shareholders' Remedies
- Stamp Duties
- Superannuation Law
- Taxation of Business and Investment Income B*
- Taxation of Controlled Foreign Companies, Foreign Investment Funds and Transferor Trusts*
- The Corporation as Criminal*
- The International Financial System: Law and Practice*
- United States Securities Regulation*

A list of all the Faculty of Law's graduate subjects offered in 2003 is contained in Appendix B.

At the undergraduate level, the following subjects are offered:

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

In addition, the Faculty 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; and Ms Cally Jordan of the World Bank and the Asian Development Bank.

* indicates taught in 2003

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 Stock Exchange and leading national law firms. In 2002 LAWLEX commenced publishing the Bulletin.

By the end of 2003, 76 issues of the Bulletin had been published

The monthly Bulletin includes the following:

- summaries of significant corporate law and corporate governance developments (both statutory amendments and recent court judgments);
- significant announcements made by the Australian Securities and Investments Commission (for example new ASIC Policy Statements and Practice Notes) and the Australian Stock Exchange;
- abstracts from the most recent issue of the Company and Securities Law Journal;
- titles of articles from other corporate law journals including overseas journals specialising in corporate law;
- announcements of corporate law conferences and seminars.

Readers of this Annual Report who are interested in seeing 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/bulletins>

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

<http://research.lawlex.com.au/cclsr>

Competitive Research Grants Obtained

This section identifies the competitive research grants that funded research by members of the Centre in 2003. A list of competitive research grants obtained in 1996-2002 is contained in Appendix C.

New Grants Obtained in 2003

Corporate Governance in the Australian Financial Markets

Type of Grant

Melbourne University Research Grant

Funds Received

\$14,000

Chief Investigators

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 Investigator

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.

Grants Obtained Prior to 2003 and Funding Research in 2003

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, conflictual work relationships and low trust between management and labour (the Anglo-American model) have been less

competitive than models based upon co-operative/high trust work relations (e.g. Germany and Japan). Governments in systems historically marked by 'conflictual' 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 a congruence between types of corporate governance systems and types of employment system?

Accountability and Corporate Governance in Non-Profit Companies

Type of Grant

Australian Research Council SPIRT (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.

This section identifies the supervision of graduate students undertaken by members of the Centre in 2003.

PhD

- Beaton-Wells, C: Simple in Theory, Not so in Proof: How Antitrust Markets are Established by Evidence in Federal Court Proceedings in Australia

Supervisor: Dr Geof Stapledon

- Butt, S: District Courts in Indonesia

Supervisor: Associate Professor Tim Lindsey

- Chairil, R: The Indonesian Mineral Regime: A Model for the Future. Learning from Other Countries in Implementing Regulatory Change

Supervisor: Associate Professor Tim Lindsey

- Chellew, J: Derivatives Law: Improving the Corporation Act's Derivative Definition

Supervisor: Professor Malcolm Smith

- Colmenares, N: International Jurisdiction and Amnesty

Supervisor: Associate Professor Tim Lindsey

- Darmono, B: Adat and Forestry Laws in a Plural System: A Study of Indonesian 'Legal Development'

Supervisor: Associate Professor Tim Lindsey

- Harijanti, S: The Role and Function of the National Ombudsman Commission in Creating Good Governance in Indonesia

Supervisor: Associate Professor Tim Lindsey

- Hassan, M H: The Syarian Court of Singapore – A Study of a Court of Law From the Civil and Islamic Perspective

Supervisor: Associate Professor Tim Lindsey

- Hatami, P: Are Islamic Principles Sufficient for a Stable Economy? Implications for Trade, Investment and Banking in Islamic Countries: Case Study of Iran and UAE

Supervisor: Associate Professor Tim Lindsey

- Holland, P: The OECD Convention on Bribery of Foreign Government Officials: The Impact on Australian Business in Asia

Supervisor: Associate Professor Tim Lindsey

- Indrayana, D: Constitutional Reform and Transition from Authoritarian Rule: the Indonesian Experience 1999 – 2002

Supervisor: Associate Professor Tim Lindsey

- Jung, S: Legal Aspects for OTC Derivatives: Reducing Uncertainty Through Legislative Reform

Supervisor: Professor Malcolm Smith

- Mihalopoulos, A: A Comparative Study of the Legal Institutions and Systems Within Which the Jewish and Greek Christian Communities Functioned in Salonica and Istanbul Under Ottoman Rule

Supervisor: Professor Malcolm Smith

- Nguyen, Q: ASEAN Free Trade Area: A Mechanism for Mutual Recognition and Enforcement of Judgments on Civil and Commercial Matters

Supervisor: Associate Professor Tim Lindsey

- Noakes, D: Reform to the Law of Corporate Groups to Protect Employees

Supervisor: Dr Geof Stapledon

- Parker, D: Lifting the Veil and Corporate Personality

Supervisor: Professor Ian Ramsay

- Reid, T: Commercial Law Reform in the LAW PDR

Supervisor: Professor Malcolm Smith

- Shi, C: Corporate Governance, its Theoretical Development and Issues of Chinese Corporate Governance

Supervisor: Associate Professor Tim Lindsey

- Steiner, K: Western Human Rights and Asian Values – Are the Differences Real?

Supervisor: Associate Professor Tim Lindsey

- Stepniak, D: Electronic Media Coverage of Court Proceedings: Australian Experiences in the Light of Overseas Developments

Supervisor: Professor Ian Ramsay

- Wallace, M: Freedom and Fairness in Contract Law

Supervisor: Dr C Parker

- Wardrop, E: Going Public: Representation of the Public Interest in the Insolvency of a Privatised Essential Service

Supervisor: Associate Professor Tim Lindsey

- Welsh, M: Civil and Administrative Penalties and the Corporations Act

Supervisor: Professor Ian Ramsay

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

Supervisor: Associate Professor Tim Lindsey

- Zhou, M: Antidumping in China, the West and the WTO

Supervisor: Professor Malcolm Smith

SJD

- De Jonge, A: Media and Market in China and Hong Kong

Supervisor: Professor Malcolm Smith

- Fraser, K: Choosing Wisely – Procedure in International Commercial Arbitration

Supervisor: Professor Malcolm Smith

- Hanrahan, P: An Analysis of Members' Rights and Remedies Against Managers of Public Unit Trusts

Supervisor: Professor Ian Ramsay

- Priskich, V: Legal Consequences of Insolvency of Group Corporations: A Review and Proposals for Reform

Supervisor: Dr Geof Stapledon

- Wilson, E: “That Fiery Hunt”: Indigenous Subsistence Whaling and the Geo-Governance Regime of International Marine Resources Management

Supervisor: Associate Professor Tim Lindsey

Master of Laws

- D’Andrea, A: Globalisation of the World’s Securities Market and Impact on Australia

Supervisor: Dr Geof Stapledon

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

Supervisor: Professor Ian Ramsay

- Bird, H: The Use of Enforceable Undertakings in the Corporations Act

Supervisor: Professor Ian Ramsay

- Ip, E: Global Corporate Governance: Developments in the Aftermath of Enron

Supervisor: Dr Paul Ali

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 2003 members of the Centre were responsible for drafting 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 2003 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 a number of interviews to newspaper, radio and television journalists.

Some of the newspaper articles published in 2003 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

'Use of Prospectuses by Investors and Professional Advisers' by Professor Ian Ramsay

- 'Investors relying more on media', The Sunday Telegraph, 28 December 2003, page 86
- 'Keep it simple', Business Review Weekly, 11 December 2003, page 71
- 'Corporate conduct in the firing line', The Age, Business section, 11 December 2003, page 1
- 'Rosy prospects planted thinly in dim prospectuses', The Australian, 9 December 2003, page 28
- 'Clients relying on advisers who outsource research', Money Management, 8 December 2003

- ‘Investors at a loss to decipher prospectuses: survey’, The Sydney Morning Herald, 8 December 2003, page 33
- ‘Prospectuses get a bad rap’, The Age, Business section, 6 December 2003, page 6

‘An Appraisal of Socially Responsible Investments and Implications for Trustees and Other Investment Fiduciaries’ by Dr Paul Ali

- ‘JASSA 2002 Editorial Awards’, Autumn 2003, page 22
- ‘Ethical Investment: Is Performance Everything?’, Australian Women's Money, Autumn 2003
- ‘Performance Anxiety’, Ethical Investor, March 2003

(ii) Media commentary on other research by Centre Members

Appointment of Professor Ian Ramsay by the Financial Planning Association to report on disclosure of fees by financial advisers

- ‘Standards are key for better future’, The Australian Financial Review, Special report section, 15 October 2003, page 2
- ‘Financial planners angle to haul in the rock-bottom feeders’, The Australian, 11 October 2003, page 39
- ‘Time to take hard look at soft dollar’, The Australian, 8 October 2003, page 34
- ‘FPA moves on soft dollar’, Super Review, 8 October 2003

Australian Securities and Investments Commission releases fee disclosure model based on Professor Ian Ramsay's report on disclosure of fees and charges in managed investments

- ‘Compliance and due diligence - the FSR impact’, Financial Services Newsletter, December 2003, page 92
- ‘IFSA quick to adopt PDS model’, Money Management, 12 November 2003
- ‘Time for financial planners to get tough on soft dollars’, The Age, 16 November 2003, page 8
- ‘Coming clean on investment fees’, The Australian, Wealth section, 1 October 2003, page 15, article written by Professor Ian Ramsay
- ‘ASIC's squeeze on bad apples’, The Australian, 26 August 2003, page 18
- New Zealand Radio National, The Your Money Program, 16 August 2003
- ‘ASIC releases fee disclosure model’, Across the Board, 12 August 2003, page 4
- ABC TV, The Inside Business Program, 10 August 2003
- ‘Template disclosure at a glance’, The Australian Financial Review, 9 August 2003, page 46
- ‘Beware of the fund feedbag’, The Australian, 9 August 2003, page 36
- Radio 2GB, The Drive Time Program, 6 August 2003
- ‘Row over fund fee disclosure’, The Australian Financial Review, 6 August 2003, page 1
- ‘Template to unravel true costs’, The Australian Financial Review, 6 August 2003, page 45

- ‘More needs to be done: Ramsay’, The Australian Financial Review, 6 August 2003, page 45
- Chanticleer Column, The Australian Financial Review, 6 August 2003, page 56
- ‘Fess’ up on fees, funds told’, The Australian, 31 July 2003, page 19
- ‘ASIC to clear industry fee fog’, Money Management, 31 July 2003

Release of report "Rebuilding Public Confidence in Financial Reporting" by the International Taskforce commissioned by the International Federation of Accountants (of which Professor Ian Ramsay was a member)

- ‘Ramsay’s way’, Australian CPA, November 2003, page 35
- ‘Professionals for today’s market’, Australian CPA, September 2003, page 3
- ‘Rebuilding confidence in financial reporting’, Australian CPA, September 2003, page 15
- ‘Spill a few beans: winning public confidence means lifting the veil on auditors’ business’, Business Review Weekly, 28 August 2003, page 70
- ‘Bark without bite’, Business Review Weekly, 28 August 2003, page 71
- ‘Raising standards’, The Australian Financial Review, 15 August 2003, page 53
- ‘Taskforce finds Australian financial reporting credible’, Across the Board, 12 August 2003, page 1
- ‘Report outlines means to improved reporting’, The Financial Times (London), 6 August 2003, page 26
- ‘A return to credibility: Following the Enron and WorldCom scandals, will it be possible to restore the lost global confidence in financial reports?’, The Financial Times (London), 7 August 2003, page 28
- ‘New faith needed in financial reporting: work on rebuilding confidence must be coordinated: study’, The National Post (Canada), Finance section, 6 August 2003, FP3
- ‘Lawyers, brokers must help restore confidence: responsibility goes beyond insiders: group’, The Gazette (Montreal, Canada), Business section, 7 August 2003, page B1
- ‘Corporate rebuilding needs all the players: committee cites need for higher standards to restore credibility of financial information’, The Vancouver Sun (Vancouver, Canada), Business section, 7 August 2003, page D3
- ‘Accountants told to clean up’, The Leader-Post (Canada), 7 August 2003, page B7
- ‘All players’ are needed to restore trust: report’, The Ottawa Citizen (Ottawa, Canada), 7 August 2003, Business section, page D1
- ‘Increase audit disclosure’, The Australian Financial Review, 7 August 2003, page 6
- ‘Banks urged to get tough on soft sums’, The Australian, 7 August 2003, page 20
- ‘Reviving the credibility of reports’, The Sydney Morning Herald, 7 August 2003, page 26
- ‘Governance code not seen as cure-all’, The Age, 7 August 2003, Business section, page B4
- ‘Extend reporting standards beyond accountants, stresses IFAC report’, Accountancy Age, 7 August 2003, page 4

Professor Ian Ramsay's report on disclosure of fees and charges in managed investments

- 'Surcharge offers little joy for top earners', The West Australian, 29 September 2003, page 37
- 'Superannuation: yawning indifference', The Age, Money section, 17 September 2003, page 3
- 'Farce and furious super show', The Australian, 13 September 2003, page 34
- 'Superannuation confusion costs investors thousands', The Australian, Wealth section, 27 August 2003, page T15
- 'Say what you mean, ASIC tells the funds', The Australian, Wealth Section, 18 June 2003, page 6
- 'Left in the dark', The Sydney Morning Herald, Money Manager Section, 14 May 2003, page 5
- 'Calculating fund costs', The Australian Financial Review, 12 April 2003, page 35
- 'Calculating the cost of your managed fund', The Gold Coast Bulletin, 7 April 2003, page 42
- 'Funds' fees add up', The Sunday Mail, 6 April 2003, page 95
- 'Fund calculator', Money Management, 3 April 2003
- 'True value choices', Personal Investor, April 2003, page 46
- 'A clearer view on fees', Personal Investor, March 2003, page 10
- 'Coonan won't give up on choice-of-fund bill', The Australian Financial Review, 24 February 2003, page 53
- 'Bad results make monster fees a scandal', The Sun Herald, 9 February 2003, Business section, page 4
- 'Playing fair with other people's money still has a long way to go', The Australian, 8 February 2003, page 39
- 'What we need is disclosure', The Australian, 5 February 2003, page 30
- 'APRA told to 'keep out' of debate', The Australian Financial Review, 5 February 2003, page 29

Research study on regulation of on-line equity mini-derivatives by Dr Paul Ali

- 'Punters spread their Sporting Interests', The Australian Financial Review, 12 March 2003

Research study on governance and non-profit companies by Sue Woodward

- 'Donors query executive pay', The Australian Financial Review, 5 May 2003, page 9
- ABC Radio National, The Morning Program, 4 March 2003
- 'Non-profits may get new rules', The Age, 28 February 2003, page B3

Research study on performance of Australian hedge funds by Dr Paul Ali

- 'Hedge to gain when the market's in pain', Sunday Telegraph, Personal Finance, 6 April 2003
- 'Hedge Funds, Portfolio Theory don't Mix', Investor Daily, 21 March 2003
- 'Regulator goes against Grain on Hedge Funds', Australian Financial Review, 6 March 2003
- 'APRA to eye Super Fund Investments', Australian Financial Review, 6 March 2003
- 'Funds not the answer', Sunday Telegraph, Personal Finance, 23 February 2003
- 'Hedge funds: not all that they're cracked up to be', Money Management, 6 February 2003

Auditors' independence inquiry by Professor Ian Ramsay - report to the Minister for Financial Services and Regulation

- 'Auditors' role stirs up debate', The Australian Financial Review, 29 December 2003, page 5
- 'Local developments in corporate governance for 2003', Across the Board, 16 December 2003, page 2
- 'Government moves on CLERP 9 proposals', Money Management, 5 December 2003
- 'The CLERP 9 Bill', Keeping Good Companies: Journal of Chartered Secretaries Australia, December 2003, page 674
- Chanticleer column, The Australian Financial Review, 26 November 2003, page 64
- 'Steering a path through the CLERP 9 maze', Lawyers Weekly, 21 November 2003, page 11
- 'CLERP 9 Bill on the table', CA Charter, November 2003, page 21
- 'Government releases exposure draft of CLERP 9', Across the Board, 14 October 2003, page 1
- Chanticleer column, The Australian Financial Review, 11 October 2003, page 72
- 'No accounting for emotion in this corporate law reformation', The Age, Business section, 9 October 2003, page 3
- 'So what's all the fuss about?', The Australian Financial Review, 9 October 2003, page 72
- 'Business anger over pay scrutiny', The Australian Financial Review, 9 October 2003, page 1
- 'Where auditing should head next', CPA Australia, March 2003, page 66
- 'Audit committees' remuneration: time for change', CPA Australia, March 2003, page 69
- 'Agenda 2003', CFO Magazine, February 2003
- 'CLERP 9 - where we stand', Charter, February 2003, page 40
- 'A rare insight into generic corporate defects', The Australian Financial Review, 17 January 2003, page 79

(iii) Centre members' comments in the media on current issues

Criminal charges brought in relation to the collapse of HIH Insurance

- ABC Radio Sydney, The Afternoon Program, 17 December 2003, interview with Professor Ian Ramsay

Soft dollar payments in the mortgage broking business

- 'Hotter times loom for loan deals, The Age, Business section, 15 December 2003, page 5, interview with Professor Ian Ramsay
- 'Loan broker incentives in spotlight', The Sydney Morning Herald, 13 December 2003, page 44

\$100,000 penalty imposed on Southcorp for breach of the continuous disclosure obligations

- 'Southcorp fined over disclosure', The Australian Financial Review, 28 November 2003, page 61, interview with Professor Ian Ramsay

Remuneration for the CEOs of the four large banks

- 'Sweet rewards in tough climate', The Sydney Morning Herald, 26 November 2003, page 19, interview with Professor Ian Ramsay; also in The Age, Business section, page 1

Proposal to pay whistleblowers in relation to white collar crime

- 'Pay urged for whistleblowers in corporate clean-ups', The Australian Financial Review, 18 November 2003, page 5, interview with Professor Ian Ramsay

Resignation of Trevor Kennedy from the boards of 7 companies, including Qantas, following ASIC investigation

- ABC TV, Evening News (Sydney), 18 November 2003, interview with Professor Ian Ramsay
- ABC Radio Sydney, The Morning Program, 18 November 2003, interview with Professor Ian Ramsay

Political donations by companies

- ABC Radio Wollongong, The Morning Program, 10 November 2003, interview with Professor Ian Ramsay

Executive's fringe benefits

- 'Perks under pressure', Business Review Weekly, 6 November 2003, page 14, interview with Professor Ian Ramsay

Directors holding multiple directorships

- ‘Reputations, risks and rewards’, The Age, Special report section, 5 November 2003, page 12, interview with Professor Ian Ramsay; also in the Sydney Morning Herald, 5 November 2003

Rebuilding confidence in financial reporting - the work of the International Federation of Accountants taskforce

- ‘Ramsay's way’, CPA Australia, November 2003, page 35, interview with Professor Ian Ramsay

ASIC investigation of share trading through Swiss bank accounts by Rene Rivkin

- ABC Radio National, The AM Program, 31 October 2003, interview with Professor Ian Ramsay

Proposal to allow ASIC to fine companies for breaches of continuous disclosure rules

- ‘Expert questions proposed ASIC powers’, The Australian Financial Review, 31 October 2003, page 21, interview with Professor Ian Ramsay

Lack of disclosure of fees in superannuation member statements

- SBS TV, The Insight Program, 30 October 2003, interview with Professor Ian Ramsay

Coles Myer changes remuneration of its CEO following shareholder pressure

- ‘Coles forced to retreat on cheap options’, The West Australian, 30 October 2003, page 35, interview with Professor Ian Ramsay

CEOs being offered consultancies by their companies following resignation

- ‘NAB, Westpac face consultancy backlash’, The Sydney Morning Herald, 29 October 2003, page 23, interview with Professor Ian Ramsay

The right of 100 shareholders to call an extraordinary meeting of shareholders

- ‘Ability to call meeting put in the balance’, The West Australian, 20 October 2003, page 34, interview with Professor Ian Ramsay; also ‘Goliath fights back’, The Sydney Morning Herald, Money section, 15 October 2003, page 3 and The Age, Money section, 15 October 2003, page 3

The Government's corporate law economic reform proposals

- ABC TV, The Midday News and Business Program, 5 December 2003, interview with Professor Ian Ramsay

- ABC Radio National, The PM Program, 5 December 2003, interview with Professor Ian Ramsay
- ‘Partners to be parted’, Business Review Weekly, 27 November 2003, page 68, interview with Professor Ian Ramsay
- ‘Ramsay welcomes the transparency and enhanced accountability in CLERP 9’, Across the Board, 28 October 2003, page 1, interview with Professor Ian Ramsay
- ‘No claps for CLERP’, Business Review Weekly, 30 October 2003, page 103, interview with Professor Ian Ramsay
- ABC Radio National, The Australia Talks Back Program, 13 October 2003, interview with Professor Ian Ramsay
- ABC Radio National, The PM Program, 8 October 2003, interview with Professor Ian Ramsay
- ‘Labor unveils CLERP wishlist’, The Age, Business section, 6 October 2003, page B2, interview with Professor Ian Ramsay; also ‘ALP targets two-hatted chairmen’, The Sydney Morning Herald, 6 October 2003, page 33

Executive remuneration

- ‘Leaders debate executive payments’, The Sydney Morning Herald, 13 October 2003, page 33, interview with Professor Ian Ramsay; also ‘Too much money for too little, or not enough?’, The Age, 11 October 2003, Business section, page 1

Government proposal to give shareholders a non-binding advisory vote on the remuneration of company directors and executives

- ‘Breathless in business’, The Australian Financial Review, 11 October 2003, page 23, interview with Professor Ian Ramsay
- ABC Radio National, The PM Program, 7 October 2003, interview with Professor Ian Ramsay
- ABC Radio National, The Business Report, 4 October 2003, interview with Professor Ian Ramsay
- ‘BCA's criticism of pay poll discounted’, The Sydney Morning Herald, 1 October 2003, page 23, interview with Professor Ian Ramsay

Increasing interest in corporate governance courses

- ‘Wild about governance’, The Australian Financial Review, Special report section, 2 October 2003, page 3, interview with Professor Ian Ramsay

The value of independent directors

- ‘The struggle for independence’, Management Today, September 2003, page 9, article written by Professor Ian Ramsay
- ‘Clashes in war of independence’, The Australian Financial Review, 20 June 2003, page 16, interview with Professor Ian Ramsay

Australian Stock Exchange Principles of Good Corporate Governance

- ‘New guidelines bound to rub’, The Australian Financial Review, Editorial, 2 September 2003, page 70, interview with Professor Ian Ramsay
- ‘Mixed reaction to ‘Prescriptive’ ASX guidelines’, Corporate Business Law Report, 4 April 2003, page 2, interview with Professor Ian Ramsay
- ‘Guidelines leave loophole for exec perks, adviser says’, The Age, 1 April 2003, page B1, interview with Professor Ian Ramsay; also in The Sydney Morning Herald, 1 April 2003, page 26
- ‘ASX guidelines released to market’, Across the Board, 1 April 2003, page 1, interview with Professor Ian Ramsay
- ABC TV, The Lateline Program, 31 March 2003, interview with Professor Ian Ramsay
- ‘ASX rules to rein in corporate cowboys’, The Age, 31 March 2003, page B1, interview with Professor Ian Ramsay; also in the West Australian, 31 March 2003, page 28

Whistleblowing in Australian companies

- ‘Blow me down!’, CA Charter, September 2003, page 38 interview with Professor Ian Ramsay

Penalties for breaches of the Trade Practices Act

- ‘Why doing time, not money, may deter corporate crimes’, The Age, Business section, 30 August 2003, page 3, interview with Professor Ian Ramsay

Disclosure of fees in superannuation and other managed investments

- ‘On the record’, Independent Financial Adviser, 18 August 2003, page 30, interview with Professor Ian Ramsay

Legal action against Commonwealth Bank for alleged negligent advice by financial advisers

- ‘CBA case may raise premiums’, The Australian Financial Review, 14 August 2003, page 3, interview with Professor Ian Ramsay

Resignation of Australian Securities and Investments Commission Chairman, David Knott

- ‘Choice of ASIC chief may be limited’, The Australian Financial Review, 13 August 2003, page 4, interview with Professor Ian Ramsay
- ABC TV, The Lateline Program, 12 August 2003, interview with Professor Ian Ramsay

Law Schools seeking support for alumni

- ‘Universities seek alumni support’, The Law Institute Journal, August 2003, page 27, interview with Professor Ian Ramsay

\$112 million settlement of former GIO shareholders legal action against AMP, GIO directors and others

- ‘Former GIO shareholders get \$112m’, The Age, 9 August 2003, page 12, interview with Professor Ian Ramsay; also ‘Shareholder Suits are Here to Stay, Companies Warned’, The Sydney Morning Herald, 9 August 2003, page 45

Speech by Professor Ian Ramsay to the Committee for Economic Development of Australia on corporate law reform

- ‘Later start for reform law’, The Australian Financial Review, 1 August 2003, page 10

The Government's corporate law reform program and Senator Ian Campbell's role

- ‘Campbell proves he's the man for the job’, The Australian Financial Review, 1 August 2003, page 11, interview with Professor Ian Ramsay

Use of schemes of arrangement to conduct takeovers

- ‘Call for ASIC to curb takeover schemes’, The Age, Business section, 24 July 2003, page B1, interview with Professor Ian Ramsay; also ‘BankWest takeover hits hurdle’, The West Australian, 24 July 2003, page 33

Disclosure by the fund manager AMP Henderson of how it votes on company resolutions

- ‘AMP fights big pay deals’, The Age, Business section, 16 July 2003, page B1, interview with Professor Ian Ramsay; also ‘Warning shot fired over exec pay deals’, The Sydney Morning Herald, 16 July 2003, page 19; ‘Manager turns up heat on pay deals’, The West Australian, 16 July 2003, page 55

Implications of the NSW Court of Appeal decision in Whitlam v ASIC

- ABC TV, The Business Breakfast Program, 17 July 2003, interview with Professor Ian Ramsay
- ‘ASA calls for Whitlam appeal’, The Australian Financial Review, 14 July 2003, page 7, interview with Professor Ian Ramsay

Rodney Adler committed to stand trial on charges of stock market manipulation

- ABC Radio National, The PM Program, 11 July 2003, interview with Professor Ian Ramsay

ACCC leniency policy to deal with cartels

- ABC Radio National, The AM Program, 28 June 2003, interview with Professor Ian Ramsay

Disclosure by Macquarie Bank of separation payments to its senior executives

- ‘Mac Bank opens up its golden parachutes’, The Age, Business section, 25 June 2003, page 1, interview with Professor Ian Ramsay

Insider trading

- Radio 3CR, 24 June 2003, interview with Professor Ian Ramsay
- ABC Radio National, The Law Report, 10 June 2003, interview with Professor Ian Ramsay
- ‘Criminal trades’, The Age, Money Manager Section, 9 June 2003, page 8, interview with Professor Ian Ramsay
- ‘Insider trading rife’, The Australian, 7 June 2003, page 33, interview with Professor Ian Ramsay
- ABC Radio Sydney, The Morning Program, 30 May 2003, interview with Professor Ian Ramsay
- ABC Radio National, The Business Report, 10 May 2003, interview with Professor Ian Ramsay
- SBS TV, The Business Show, 9 May 2003, interview with Professor Ian Ramsay
- ‘The inside track’, The Australian Financial Review, 9 May 2003, page 80, interview with Professor Ian Ramsay

Review of the law relating to major corporate restructurings

- ‘Big banks say no to Chapter 11’, The Australian Financial Review, 20 May 2003, page 60, interview with Professor Ian Ramsay
- ABC TV, The Inside Business Program, 27 April 2003, interview with Professor Ian Ramsay

Corporate governance

- ABC Radio National, The Breakfast Program, 19 May 2003, interview with Professor Ian Ramsay

Conviction of Rene Rivkin for insider trading

- ‘Brokered dreams’, The Australian, 3 May 2003, page 30, interview with Professor Ian Ramsay
- ‘Rivkin takes stock as jail looms’, The Daily Telegraph, 2 May 2003, page 23, interview with Professor Ian Ramsay
- ‘Defiant Rivkin still busy at work’, The Hobart Mercury, 2 May 2003, page 4, interview with Professor Ian Ramsay
- ABC TV, The 7.30 Report, 1 May 2003, interview with Professor Ian Ramsay

- Channel 7 TV (Sydney), The Evening News, 1 May 2003, interview with Professor Ian Ramsay
- ABC TV, The World at Noon Program, 1 May 2003, interview with Professor Ian Ramsay
- ABC TV, The Business Breakfast Program, 1 May 2003, interview with Professor Ian Ramsay
- ABC Radio National, The AM Program, 1 May 2003, interview with Professor Ian Ramsay
- Radio 3AK, The Morning Program, 1 May 2003, interview with Professor Ian Ramsay
- ABC Radio Sydney, The Morning Program, 1 May 2003, interview with Professor Ian Ramsay

Disclosure of political donations by companies

- ‘Whose donation is it?’, The Australian Financial Review, 2 May 2003, page 18, interview with Professor Ian Ramsay

Legal challenge to the MIM Holdings and Xstrata scheme of arrangement

- ‘Platinum asks court to put MIM bid on the market’, The Australian Financial Review, 1 May 2003, page 19, interview with Professor Ian Ramsay

Report of the Royal Commission into the collapse of the HIH group of companies

- ABC TV, The Business Breakfast Program, 1 May 2003, interview with Professor Ian Ramsay
- ‘Ramsay welcomes the findings as sensible’, Across the Board, 29 April 2003, page 4, interview with Professor Ian Ramsay
- ‘Restructure of APRA welcomed’, The Australian Financial Review, 22 April 2003, page 4, interview with Professor Ian Ramsay

Product recall ordered for Pan Pharmaceuticals products and investigation of alleged breach of continuous disclosure rules

- ‘Lawyers close in for the kill’, The Australian Financial Review, 1 May 2003, page 9, interview with Professor Ian Ramsay
- ABC TV, The Business Breakfast Program, 30 April 2003, interview with Professor Ian Ramsay
- ABC TV, The Lateline Program, 29 April 2003, interview with Professor Ian Ramsay

Need for active institutional shareholders

- ‘Treasurer's barb 'aimed at US practices'', The Australian Financial Review, 1 May 2003, interview with Associate Professor Geof Stapledon
- ‘Institutional shareholders must be active on corporate governance’, Across the Board, 25 March 2003, page 3, interview with Professor Ian Ramsay

The significance of corporate governance versus business strategy for business

- ‘The myth of governance’, Business Review Weekly, 17 April 2003, page 31, interview with Professor Ian Ramsay

Challenges for the big 4 accounting firms

- ‘Big Four, Big Worry’, Business Review Weekly, 10 April 2003, page 50, interview with Professor Ian Ramsay

Group of 100 guide to financial reporting

- ‘Financial reporting aims for international best practice’, Across the Board, 8 April 2003, page 5, interview with Professor Ian Ramsay

Governance and Soccer Australia

- SBS TV, The World Sports Program, 2 April 2003, interview with Professor Ian Ramsay

Disclosure of fees in master trusts

- ‘True value choices’, Personal Investor, April 2003, page 46, interview with Professor Ian Ramsay

Proposal to require superannuation trustees to vote their shares in listed companies and disclose how they vote

- ‘Super funds united will never be defeated’, The Sydney Morning Herald, 5 April 2003, page 79, interview with Professor Ian Ramsay
- ‘New voting law for funds claimed to be counter-productive’, The Sydney Morning Herald, 31 March 2003, page 31, interview with Professor Ian Ramsay; also in The Age, 31 March 2003, page B3 and the West Australian, 31 March 2003, page 33

Court decision on the legal duties of company chairmen

- ‘One.Tel decision creates storm of interest’, Corporate Business Law Report, 4 April 2003, page 5, interview with Professor Ian Ramsay
- ‘Chairman decision elevates importance of best practice guidelines’, Across the Board, 18 March 2003, page 3, interview with Professor Ian Ramsay
- ‘Chairmen face greater legal burden, court rules’, The Australian Financial Review, 25 February 2003, page 1, interview with Professor Ian Ramsay

Retirement benefits for non-executive directors

- ‘Companies persist with large payouts’, The Age, 11 March 2003, page B1, interview with Professor Ian Ramsay; also in The Sydney Morning Herald, 11 March 2003, page 25

Suggestion by fund manager that non-executive directors of listed companies who resign should be interviewed by ASIC or the Stock Exchange

- ‘Departing directors urged to speak out’, The Sydney Morning Herald, 10 March 2003, page 35, interview with Professor Ian Ramsay

Takeovers Panel

- ‘Takeovers Panel cut’, The Australian, 8 March 2003, page 31, noting the reappointment of Professor Ian Ramsay and others to the Takeovers Panel

Deficiencies in disclosure of executive remuneration

- ‘Costello hardens line on corporate payouts’, The Age, 6 March 2003, page B4, interview with Professor Ian Ramsay
- ABC Radio Melbourne, The Morning Program, 3 March 2003, interview with Professor Ian Ramsay
- ‘Thanks a million for a bad job’, The New Zealand Herald, 1 March 2003, interview with Professor Ian Ramsay
- ‘Golden handshakes exposed’, The Australian Financial Review, 28 February 2003, page 10, interview with Professor Ian Ramsay
- ‘Paying for the right to know’, The Age, 24 February 2003, page B3, interview with Professor Ian Ramsay; also in The Sydney Morning Herald, page 31

Analysts' independence

- ‘Beware advisers with tainted glasses’, Business Review Weekly, 6 March 2003, page 37, interview with Professor Ian Ramsay

Decision of AMP Chairman Stan Wallis not to take \$1.6 million in retirement benefits

- ABC Radio Sydney, The Morning Program, 5 March 2003, interview with Professor Ian Ramsay
- ABC Radio National, News Program, 5 March 2003, interview with Professor Ian Ramsay

ASIC legal action against Southcorp Ltd for alleged breach of continuous disclosure rules

- ABC TV, Evening News, 27 February 2003, interview with Professor Ian Ramsay

Audit committee members legal liabilities

- ‘Extra burden noted for audit directors’, The Australian Financial Review, 19 February 2003, page 7, interview with Professor Ian Ramsay

Speech by Professor Ian Ramsay to the Investment and Financial Services Association on disclosure of fees in superannuation and other management investments

- ‘Editorial’, Investor Weekly, 17 February 2003
- Sky TV, The Business Report, 5 February 2003
- ‘What we need is disclosure’, The Australian, 5 February 2003, page 30

HIH Royal Commission - submission of counsel assisting the Commission that there occurred multiple breaches of corporate law

- ‘The big question: will they get away with it?’, The Australian Financial Review, 18 January 2003, page 22, interview with Professor Ian Ramsay
- ‘It looks like a bonanza for legal teams’, The Australian Financial Review, 15 January 2003, page 12, interview with Professor Ian Ramsay
- Radio 3AK, The Drive Program, 14 January 2003, interview with Professor Ian Ramsay

Seminars held in 1994-2002

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’, Jeffery 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; Mr Mark Mentha, Partner, Korda Mentha & Colleagues; Ms Simone Bingham, Associate, Employment and Industrial Law Section, Maurice Blackburn Cashman; Mr 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 - Mr 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

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

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

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 Robinson & 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 Robinson & Hedderwicks, 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 and 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 1996)

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 Kluver, 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

2003 Faculty of Law Graduate Subjects

- Advanced Construction Claim
- Advanced Evidence
- Advanced Litigation (formerly Advanced Civil Procedure)
- Advanced Military Administrative Law
- Advanced Military Discipline Law
- Advanced Military Operations Law
- Advanced Restrictive Trade Practices
- Alternative Dispute Resolution
- Aspects of International and Comparative Labour Law
- Australian Environmental Law: Rights, Regulation and Sustainability
- Australian International Taxation
- Australian Legal Process and Legal Institutions
- Avoidance, Management and Resolution of Construction Disputes
- Broadcasting and Telecommunications Law
- Capital Gains Tax Problems in Practice
- Commercial Dispute Resolution in Asia
- Commercial Information and the Law
- Commercial Law in Asia
- Comparative Constitutional Law
- Competition Law and Intellectual Property
- Constitutional Equality, Justice and Identity
- Constitutional Rights
- Construction Contracts
- Construction Law: Overview of Construction
- Copyright Law (formerly Copyright and Designs)
- Corporate Governance and the Duties of Directors
- Corporate Insolvency and Reconstruction
- Corporate Taxation
- Courts and Judges
- Current Developments in Negligence Law
- Current Issues in Private International Law
- Current Issues in Tax Law and Administration
- Cybercrime
- Defamation Law
- Design and Construct: Specialised Construction Contracts
- Designs Law and Practice
- Discrimination and Dismissal Law
- Dispute Resolution in the Cyberspace Era
- e-Health Law
- Economic and Social Rights in International Law

- Electronic Commerce Law
- Employment Law
- Equity and Commerce (formerly Commercial Applications of Equity)
- Financial Sector Regulation
- Free Speech: Comparative Principles
- Fundamentals of the Common Law
- Goods and Services Tax Principles (formerly Goods and Services Tax)
- Health Care and Human Rights
- Human Rights Litigation and Advocacy
- Infrastructure Development in Australia and Overseas
- Insurance Litigation
- Intellectual Property in the Digital Age
- International and Comparative Patent Law
- International and Comparative Trade Mark Law
- International Business Law
- International Commercial Arbitration
- International Criminal Law (formerly Individual Accountability for Human Rights Violations/The Trial of War Crimes, Crimes Against Humanity and Genocide)
- International Environmental Law
- International Financial Transactions: Law and Practice
- International Human Rights Law
- International Humanitarian Law
- International Issues in Intellectual Property
- International Law and Children's Rights (formerly International Law on the Rights of the Child)
- International Sale of Goods
- International Trade Law
- Internationalisation of Domestic Law
- Internet Law
- Interpretation and Validity of Patent Specifications
- Judicial Sentencing
- Labour Relations Law
- Law and Economic Reform in Asia
- Law and Human Genetics
- Law Medicine and Ethics
- Law of Obligations
- Law of Peace Operations
- Law of Persons
- Law of Public Inquiries
- Licensing Law and Technology Transfer
- Managed Investments Law
- Managing Clients
- Market Power and Competition Law
- Mineral Exploration and Production Law
- Native Title Law and Practice
- Orientation and Research Methodology
- Overview of Intellectual Property

- Patent Law (Formerly Patents and Trade Secrets)
- Patent Practice
- Principles of Corporate Finance
- Principles of International Law
- Principles of Public Law
- Privacy Law (formerly Privacy, Publicity and the Law)
- Project Finance
- Publicity and Trials: Australia and the United States
- Recent Developments in Contract Remedies
- Regulation of Securities Offerings
- Research Methodology Sessions
- Researching Labour Law
- Rights and Liabilities in Construction (formerly Construction Claims)
- Risk Management and Compliance in the Financial Services Industry
- Securities for Corporate Lending
- Sports Marketing Law
- Sports Medicine Law
- State Constitutions (formerly Constitutional law and the States)
- Strategic Management in Legal Services
- Tax Administration
- Tax Litigation
- Taxation of Business and Investment Income A (formerly New Income Tax System)
- Taxation of Business and Investment Income B (formerly Taxation of Business and Investment Income)
- Taxation of Controlled Foreign Companies, Foreign Investment Funds and Transferor Trusts
- Taxation of Corporate Groups under Consolidation
- Taxation of Superannuation
- The Contribution of the ICJ to the Development of International Law
- The Corporation as Criminal
- The International Financial System: Law and Practice
- Trade Mark Practice
- Trade Marks and Unfair Competition
- Trade, Human Rights and Development
- United States Securities Regulation
- Women and War
- Workplace Health and Safety
- World Trade Organisation: the Dispute Settlement Procedures and Evolving Case law

Competitive Research Grants Obtained in 1996-2002

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, conflictual work relationships and low trust between management and labour (the Anglo-American model) have been less competitive than models based upon co-operative/high trust work relations (e.g. Germany and Japan). Governments in systems historically marked by 'conflictual' 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 a congruence between types of corporate governance systems and types of employment system?

Islamic Law in Contemporary Indonesia

Type of Grant

Australian Research Council Discovery Grant (formerly ARC Large Grants)

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 SPIRT (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 CASAC.

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.