

Annual Report 2015



*Centre for Corporate Law
and Securities Regulation*

MELBOURNE LAW SCHOOL

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Professor Ian Ramsay

2015 was a very successful year for the Centre for Corporate Law and Securities Regulation. Members of the Centre continued to undertake important research projects and the Centre conducted an active conference and seminar program dealing with a range of topical matters relevant to academics and practitioners.

Review of the Centre for Corporate Law and Securities Regulation

The Centre for Corporate Law and Securities Regulation was formally reviewed by the University of Melbourne's Review Committee in 2015. The membership of the Review Committee was Professor Andrew Mitchell, Professor of Law, Melbourne Law School (Chair), Professor Paul Redmond, Sir Gerard Brennan Professor, Centre for Corporate Governance, Faculty of Law, University of Technology Sydney and Ms Marie McDonald, Non-executive Company Director and former partner, Ashurst.

In its December 2015 Report, the Review Committee concluded that:

- the purposes and objectives of the Centre have been met; and
- the Centre is continuing to provide a unique and productive role in the University.

The Review Committee also noted in its Report that the Centre:

- “is recognised, nationally and internationally, as one of the leading centres in its field. It attracts numerous visitors from many parts of the world, and its members receive invitations to participate in conferences, seminars and meetings outside Australia.”
- “The Centre has an outstanding research record. Publications in the period 2010 – 2014 included 35 books, 47 chapters in edited books, 36 research report and research papers, and over 100 journal articles and notes.”
- “Members of the Centre have also achieved extraordinary success in obtaining competitive research grants. Since the establishment of the Centre in 1995, members have won 25 Australian Research Council grants exceeding \$5 million, plus substantial research funding from many other sources.”
- “The research conducted by the Centre is regarded as externally focused, relevant, timely and responsive to changes in conditions. As such, many of these projects have contributed significantly to law reform in Australia and overseas.”
- “The Review Committee strongly commends the Centre upon its outstanding research performance, particularly its delivery of innovative and relevant research projects relating to corporate law and securities regulation. The Centre has

sustained this strong performance across the 19 years since its establishment, and has strengthened it since the last review of the Centre in 2010.”

- Members of the Centre “are involved in teaching innovative subjects, which are delivered through contemporary teaching methods such as experiential learning. These subjects are attractive to today’s high calibre students who are seeking quality educational experiences. In addition, members of the Centre provide expert advice to the Law School on matters of curriculum and pedagogy, and draw upon their research in subject design and delivery. This allocation of functions has worked well, and the members of the Centre have exercised invaluable academic leadership in all aspects of the relevant award programs.”
- “The Review Committee also acknowledges the substantial contribution made by the Centre to teaching and learning of corporate law and securities regulation in all award programs administered by Melbourne Law School.”
- “Since its last review in 2010, the Centre’s achievements in engagement with other law schools, the legal profession, business, government and the wider community have also been extraordinary. These achievements include 6 major national and international conferences, and 57 seminars, workshops and roundtables, involving hundreds of speakers from academia, the legal profession, business and government. The Centre has maintained significant links with a very extensive range of professional and government organisations.”
- “The Centre’s website constitutes an invaluable resource for academics, lawyers, business and government.”
- Members of the Centre “provide extensive media commentary on corporate law and financial regulation matters. Between 2010-2014, this commentary comprised of more than 350 interviews and other contributions to the electronic and print media. This is, indeed, an exceptional record of achievement, providing great reputational benefits to the Centre, the Law School, and the University of Melbourne. The Centre’s performance also demonstrates a significant contribution to the development of corporate law in Australia and internationally. The Review Committee strongly commends the Centre upon its outstanding performance.”
- The Centre “provides outstanding academic leadership in research, teaching and learning, and engagement in the field of corporate law and securities regulation. It promotes interdisciplinary research and engagement in this important field. It provides an effective vehicle for coordination and encouragement of the work of an exceptionally talented group of scholars. A recurring theme in the Review Committee’s interviews was that the Centre provides an extremely collegial and supportive environment. It builds productive links with other universities, the legal profession, business, government and the wider community. It continues to strengthen the University’s international standing. Its role within the University is unique and highly productive.”

Research

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

In 2015, the following books were published by Centre members:

- Austin, A, and Ramsay, I, *Ford, Austin and Ramsay's Principles of Corporations Law*, LexisNexis Australia (16th ed, 2015)
- Hanrahan, P, Ramsay, I, and Stapledon, G, *Commercial Applications of Company Law*, CCH Australia (16th ed, 2015)
- Hanrahan, P, Ramsay, I, Stapledon, G, Walker, G, and Pekmezovic, A, *Commercial Applications of Company Law in New Zealand*, CCH New Zealand (5th ed, 2015)
- Hanrahan, P, Ramsay, I, Stapledon, G, Yeo, V, and Lee, J, *Commercial Applications of Company Law in Singapore*, CCH Asia (5th ed, 2015)
- Harris, J, Gronow, M and Anderson, H, *Insolvency Law: Commentary and Materials*, Thomson Reuters, Australia (2015)

In addition, 2015 saw Centre members publish 35 journal articles and 7 research reports or papers.

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

Members of the Centre were successful in obtaining a new grant in 2015:

- Director's Conflicts: Multiple Directorships and Corporate Opportunities

In 2015, members of the Centre continued research funded by grants obtained in earlier years:

- An Analysis of Penalties under ASIC Administered Legislation
- Safeguarding the Financial Well-Being of Australians by Improving Financial Literacy: Implications for Consumer Protection Laws
- Australian Personal Insolvency Laws in the Context of Changing Demographics and Increasing Financial Stress
- Phoenix Activity: Regulating Fraudulent Use of the Corporate Form
- The Legal and Social Dimensions of Financial Hardship in Australia: Implications for Legal, Regulatory and Policy Frameworks
- Financial Regulation in Asia – A New Model for Regional Cooperation
- Financial Literacy and Innovation in Superannuation Product Disclosure: Improving the Retirement Savings of Australians
- Assessing the Governance of Institutional Investors when Investing in Complex Financial Products

- Financial Products and Short-form Disclosure Documents – Challenges and Trends
- Success and Failure in Stock Exchange Consolidations: Implications for Markets and their Regulation
- Financial System Regulation – Is Australia’s ‘Twin Peaks’ Approach a Model for China and Asia?
- A Comparative Analysis of the Reform of Personal Property Security Law in Australia and the United Kingdom
- Disciplining Insolvency Practitioners in Australia and Singapore: Legal and Policy Trends

Further details of research grants are included in this report under the heading ‘**Competitive Research Grants**’.

Another important aspect of the Centre’s research program is its research report and research paper series in corporate law and securities regulation. The research reports and research papers are available on the [Centre's website](#).

Seminars and conferences

In 2015 the Centre hosted or participated in the organisation of 16 seminars and conferences.

A continuing initiative for the Centre in 2015 was an invitation from the Supreme Court of Victoria for the Centre to co-host with the Court the seventh Supreme Court Commercial Law Conference. The conference was very successful with approximately 140 people attending.

Other seminars dealt with topics including financial regulation in Asia, directors’ duties, private equity and hedge funds, shareholder protection in takeovers and schemes of arrangement, and current issues in takeovers regulation.

An important initiative was the organisation, by the Centre for Corporate Law and Securities Regulation, of the annual Corporate Law Teachers Association Conference that was held at Melbourne Law School from 1 – 3 February 2015.

The keynote speaker was Professor Robert Thompson from Georgetown University, who spoke on the topic “Primacy and Corporate Governance: Shareholders, Directors, CEOs, Employees, Creditors - and Courts.” The conference also involved a plenary session on corporate law with judges of the Federal Court of Australia and the Supreme Court of Victoria, a plenary session on empirical research in corporate law and corporate governance led by a panel of academics, and the presentation of more than 70 papers. More than 100 academics attended the conference and came from countries including China, the Czech Republic, Germany, Hong Kong, India, Japan, New Zealand, Singapore, South Africa, Taiwan, Vietnam, the United Kingdom and the United States.

Full details of the 2015 seminars are included in this report under the heading ‘**Seminars and Conferences**’.

Links with peak organisations

2015 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 Corporate Law Teachers Association. This includes participation in writing submissions regarding law reform proposals on behalf of several of these peak organisations. Further details are included in this report under the heading ‘**Links with Peak Organisations**’.

Corporate Law Bulletin

2015 saw the continued development of the Corporate Law Bulletin. The monthly electronic Bulletin is published with the support of the Australian Securities and Investments Commission, the Australian Securities Exchange and leading national law firms and distributed in partnership with SAI Global. The Bulletin is distributed widely within companies, regulators, law firms and government departments.

By the end of 2015, 220 issues of the Bulletin had been published.

The Bulletin has been supported and promoted by organisations such as the Corporate Lawyers Association, the Commercial Law Association, the Law Council of Australia, the Australian Institute of Company Directors, and the Governance Institute of Australia. 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 an important research tool for academics and practitioners. In 2015, the website was extensively upgraded to improve user experience and accessibility on mobile devices.

Particular features of the website are:

- **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;
- **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;
- Financial news; and
- **History of Australian corporate law** (this section of the website provides information regarding the history of Australian corporate law including links to historical documents).

Contributions to law reform

Members of the Centre for Corporate Law make contributions to law reform in several 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 Law Council of Australia. Second, research reports of the Centre for Corporate Law are relied upon by law reform bodies.

Editorial positions

Members of the Centre continued in 2015 to occupy editorial positions with major corporate law publications including the *Company and Securities Law Journal*, the *Journal of Corporate Law Studies* and the *Corporate Law Bulletin*.

A full list of editorial positions held by members of the Centre is included in this report under the heading '**Editorial Positions**'.

Supervision of graduate students' research

During 2015, members of the Centre for Corporate Law supervised 9 PhD theses being undertaken by graduate students.

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

Media coverage of Centre activities

The research activities of Centre members received significant coverage in the media in 2015. Members of the Centre gave approximately 50 reported interviews to the media in 2015. Further details of the media coverage are included in this report under the heading '**The Centre as a Public Resource**'.

Visitors to the Centre

Visitors to the Centre in 2015 included:

- Professor Douglas Arner
- Professor Stephen Graw
- Professor Jasper Kim
- Professor Bryan Mercurio
- Dr Felix Mezzanotte
- Professor Jennifer Payne
- Mr Timothy Spangler
- Mr Jan Job de Vries Robbe
- Prof Reinout Vriesendorp

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.

Acknowledgments

Many people deserve thanks for their contribution to the work of the Centre during 2015. In particular, they include the members of the Australian and International Advisory Boards who have provided valuable advice in relation to particular matters and who have continued to assist 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;
- provide advice to the Law School on the teaching of corporate law and securities regulation subjects within the Melbourne Law School at the University of Melbourne and develop and promote innovative curriculum, teaching methods and teaching materials in this field;
- host seminars and conferences to disseminate the results of research undertaken under the auspices of the Centre or in other programs associated with the Centre;
- develop and promote links with academics in other Australian universities and in other countries who specialise in corporate law and securities regulation;
- establish and promote links with similar bodies, internationally and nationally, and provide a focal point in Australia for scholars in corporate law and securities regulation;
- promote close links with peak organisations involved in corporate law and securities regulation;
- promote close links with those members of the legal profession who work in corporate law and securities regulation; and
- attract students of the highest calibre to the Law School's programs and provide opportunities for their involvement in corporate law research projects.

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, JW Goethe University, Frankfurt, Germany
- Professor Brian Cheffins, Faculty of Law, University of Cambridge, England
- Professor John Coffee, School of Law, Columbia University, USA
- Professor Ronald Daniels, President, John Hopkins University, USA (former Provost and Professor of Law, University of Pennsylvania, USA and former Dean, Faculty of Law, University of Toronto, Canada)
- Professor Deborah DeMott, School of Law, Duke University, USA
- Professor Say Goo, Faculty of Law, University of Hong Kong
- Professor Hideki Kanda, Faculty of Law, University of Tokyo, Japan
- Associate Professor CK Low, Chinese University of Hong Kong
- Professor Jennifer Payne, University of Oxford, United Kingdom
- Professor Roberta Romano, Yale Law School, USA

- The Honourable E Norman Veasey, Former Chief Justice, Supreme Court of Delaware, USA
- Professor Susan Watson, University of Auckland, New Zealand
- Professor Eddy Wymeersch, Director, Financial Law Institute, University of Ghent, Belgium

Australian Advisory Board

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

- The Hon Mr Kenneth Hayne AC, Former Justice of the High Court of Australia (Chair)
- Elspeth Arnold, Partner, Ashurst Australia
- Robert Baxt AO, Partner, Herbert Smith Freehills
- Jeremy Blackshaw, Partner, Minter Ellison
- Priscilla Bryans, Partner, Herbert Smith Freehills
- Mark Burger, Partner, DLA Piper
- Tony Greenwood, Consultant, Ashurst Australia
- Michael Hoyle, Director, Macquarie Corporate Finance
- Rodd Levy, Partner, Herbert Smith Freehills
- Simon Morris, Partner, Corrs Chambers Westgarth
- Joseph Muraca, Partner, King & Wood Mallesons
- Diana Nicholson, Partner, King & Wood Mallesons
- Wendy Rae, Partner, Allens
- Shane Tregillis, Financial Service Ombudsman
- Andrew Walker, Partner, Clayton Utz
- Catherine Walter, Company Director
- The Hon Justice Marilyn Warren, AC, Chief Justice, Supreme Court of Victoria
- Jon Webster, Partner, Allens

Academic Members and Associates of the Centre

Academic members

Members of the Centre in 2015 were:

Associate Professor Paul Ali
Professor Helen Anderson
Dr George Gilligan
Andrew Godwin
Associate Professor Pamela Hanrahan
Professor John Howe
Associate Professor Cally Jordan
Dr Rosemary Langford
Professor Timothy Lindsey
Professor Ann O'Connell
Professor Ian Ramsay (Director)
Mr Julian Sempill
Stacy Steele

Associates of the Centre

Associates of the Centre in 2015 were:

Dr Geof Stapledon
Susan Woodward

Research fellows and research assistants

Research fellows and research assistants in 2015 were:

Dr Malcolm Anderson
Evgenia Bourova
Vivien Chen
Cosima McRae
Lucinda O'Brien
Hannah Withers

Full details of academic members and associates of the Centre are available on the [Centre's website](#).

Seminars and Conferences

The Centre for Corporate Law hosted or participated in organising a number of highly successful conferences and seminars during 2015.

- **Melbourne Law School/Centre for Corporate Law and Securities Regulation and the Commercial Bar Association Seminar: Unconscionable Conduct - Immoral, Antisocial or Anticompetitive?**
(17 November 2015)
Speakers: Dr Jeannie Paterson (Melbourne Law School) and Matthew Lees (Arnold Bloch Leibler)
160 registrations
- **Melbourne Law School/Centre for Corporate Law and Securities Regulation and the Commercial Bar Association Seminar: Recent Developments in Trusts**
(10 November 2015)
Speakers: Professor Michael Bryan (Melbourne Law School) and Justice Stephen McLeish (Court of Appeal, Supreme Court of Victoria)
- 80 registrations
- **Conference - Finance in Asia: Regulating Regional Markets**
(6 November 2015)
Speakers: Andrew Mitchell, Douglas Arner, Andrew Walter, Jikon Lai, Ramon Pacheco Pardo, Michael Taylor, Chien-chung Lin, Zhao Yang, Shen Wei, Wan Wai Yee, Bruce Aronson, Kevin Davis, Andrew Godwin, Christopher Chen Chao-hung.
- **The Monitoring Role of Institutional Owners: Evidence from Shareholders' Voting on Connected Transaction Proposals in Hong Kong**
(15 October 2015)
Speaker: Dr Felix Mezzanotte, Hong Kong Polytechnic University
- 22 registrations
- **Super and Not So Super - Empirical Research Findings on Australia's Superannuation Guarantee**
(7 October 2015)
Speakers: Professor Paul Secunda (Marquette University Law School), commentary by Mr Michael Chaaya (Corrs Chambers Westgarth)
- 58 registrations
- **The Supreme Court of Victoria 2015 Commercial Law Conference**
(7 September 2015)
Speakers: Justice James Edelman, Federal Court of Australia; Wendy Harris QC, Barrister; Dr Pamela Hanrahan, Melbourne Law School; Paul Anastassiou QC; Belinda Thompson, Partner, Allens; the Hon Justice Ross Robson
- 140 registrations

- **Current Issues in Takeovers Regulation**
 (11 August 2015)
 Speakers: Allan Bulman and Alan Shaw (Takeovers Panel), Michelle Jablko (Greenhill & Co.) and Rodd Levy (Herbert Smith Freehills)
 - 93 registrations
- **The Wolf at the Door: The Impact of Hedge Fund Activism on Corporate Governance**
 (4 August 2015)
 Speaker: Professor John Coffee, Columbia Law School
 - 102 registrations
- **Private Equity and Venture Capital Funds in Australia: Fees Disclosure and Related Issues**
 (4 August 2015)
 Speakers: Timothy Spangler (Sidley Austin LLP), Ged Fitzpatrick (ASIC), Austin Bell (Johnson Winter & Slattery), Symon Vegter (Advent Private Capital) and Yasser El-Ansary (AVCAL)
 - 93 registrations
- **Shareholder Protection in Takeover Offers and Schemes of Arrangement**
 (28 July 2015)
 Speaker: Professor Jennifer Payne (University of Oxford)
 - 95 registrations
- **Melbourne Law School/Centre for Corporate Law and Securities Regulation and the Commercial Bar Association Seminar: Proportionate Liability in Australia – the Decision of the High Court in Selig v Wealthsure Pty Ltd**
 (22 July 2015)
 Speakers: Andrew Godwin (Melbourne Law School), Fred Hawke (Partner, Clayton Utz) and Samantha Marks QC
 - 150 registrations
- **Re-designing ASEAN Trade in Services: Liberalization through Integration (with familiar characteristics)**
 (7 July 2015)
 Speaker: Professor Bryan Mercurio (Faculty of Law, The Chinese University of Hong Kong)
 - 20 registrations
- **Melbourne Law School/Centre for Corporate Law and Securities Regulation and the Commercial Bar Association Seminar: Challenges Posed by Directors' Duties**
 (3 June 2015)
 Speakers: Dr Rosemary Langford, Melbourne Law School, Catherine Walter AM, Company Director and Jon Webster, Allens
 - 150 registrations

- **2015 Harold Ford Memorial Lecture**
"Trusts and Statutes" presented by Chief Justice French AC
(20 May 2015)
- 370 registrations
- **The Asian Infrastructure Investment Bank: Outlook and Implications**
(20 May 2015)
Speaker: Professor Douglas Arner, University of Hong Kong
- 88 registrations
- **Corporate Law Teachers Association Conference**
(1 – 3 February 2015)
The 2015 Corporate Law Teachers Association Conference was organized by the Centre for Corporate Law and Securities Regulation. The keynote speaker was Professor Robert Thompson from Georgetown University, who spoke on the topic “Primacy and Corporate Governance: Shareholders, Directors, CEOs, Employees, Creditors - and Courts.” The conference also involved a plenary session on corporate law with judges of the Federal Court of Australia and the Supreme Court of Victoria, a plenary session on empirical research in corporate law and corporate governance led by a panel of academics, and the presentation of more than 70 papers. More than 100 academics attended the conference and came from countries including China, the Czech Republic, Germany, Hong Kong, India, Japan, New Zealand, Singapore, South Africa, Taiwan, Vietnam, the United Kingdom and the United States.

Full details of the seminars and conferences in 2015 are available on the [Centre's website](#).

Links with Peak Organisations

The Centre has developed links with peak organisations with an interest in corporate and securities law. During 2015, academic members of the Centre were members of:

- Australasian Law Teachers' Association Executive Committee (Professor Helen Anderson)
- Capital Markets Advisory Group of the Securities Commission of Malaysia (Professor Ian Ramsay)
- Corporations Law Committee of the Business Law Section of the Law Council of Australia (Associate Professor Pamela Hanrahan, Associate Professor Cally Jordan and Professor Ian Ramsay)
- Corporate Law Teachers Association, Executive Committee (Professor Helen Anderson)
- Insolvency and Reconstruction Committee of the Business Law Section of the Law Council of Australia (Professor Helen Anderson)

- International Financial Experts Panel of the P.R.I.M.E. Finance Foundation, The Hague (Associate Professor Cally Jordan)
- Panel of Foreign Arbitrators, Shanghai International Arbitration Centre (Mr Andrew Godwin)

Editorial Positions

During 2015 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 Business Law Review* (Section Editor: Associate Professor Paul Ali)
- *Australian Journal of Asian Law* (Editor: Professor Timothy Lindsey)
- *Capital Markets Law Journal* (Member of the Editorial Board: Associate Professor Paul Ali)
- *The Company Lawyer* (Consulting Editor: Dr George Gilligan)
- *Company and Securities Law Journal* (Editor: Associate Professor Paul Ali; Section Editor: Dr Rosemary Langford; Member of the Editorial Board: Professor Ian Ramsay)
- *Corporate Law Bulletin* (Editor: Professor Ian Ramsay)
- *Doing Business in Asia* (Contributing Editor and Member of the Editorial Advisory Board: Professor Tim Lindsey)
- *Governance, Risk and Compliance Newsfeed* (Editorial Advisor: Professor Ian Ramsay)
- *International Journal of Disclosure and Governance* (Member of the Executive Editorial Committee: Dr George Gilligan)
- *International Journal of Law & Education* (Member of the Editorial Board: Professor Ian Ramsay)
- *International Securities Regulation: Pacific Rim* (Consulting Editor: Professor Ian Ramsay)
- *Journal of Financial Crime* (Member of the Editorial Advisory Board: Dr George Gilligan)
- *Journal of Law and Financial Management* (Member of the Editorial Board: Professor Ian Ramsay)

- *Journal of Money Laundering Control* (Member of the Editorial Advisory Board: Dr George Gilligan)
- *Journal of Sustainable Finance and Investment* (Associate Editor: Associate Professor Paul Ali)
- *Macquarie Law Journal* (Member of the Editorial Board: Professor Ian Ramsay)
- *Northern Ireland Legal Quarterly* (Member of the Editorial Advisory Board: Dr George Gilligan)
- *Singapore Academy of Law Journal* (Member of the International Editorial Board: Professor Ian Ramsay)
- *University of Western Sydney Law Review* (Member of the Editorial Advisory Board: Professor Ian Ramsay)

Research

Books

Austin, A, and Ramsay, I, *Ford, Austin and Ramsay's Principles of Corporations Law*, LexisNexis Australia (16th ed, 2015)

Hanrahan, P, Ramsay, I, and Stapledon, G, *Commercial Applications of Company Law*, CCH Australia (16th ed, 2015)

Hanrahan, P, Ramsay, I, Stapledon, G, Walker, G, and Pekmezovic, A, *Commercial Applications of Company Law in New Zealand*, CCH New Zealand (5th ed, 2015)

Hanrahan, P, Ramsay, I, Stapledon, G, Yeo, V, and Lee, J, *Commercial Applications of Company Law in Singapore*, CCH Asia (5th ed, 2015)

Harris, J, Gronow, M and Anderson, H, *Insolvency Law: Commentary and Materials*, Thomson Reuters, Australia (2015)

Chapter in book

Godwin, A, 'Surveying the Twin Peaks of Australia's Financial System' in S McCracken and S Griffiths (eds), *Making Banking and Finance Law: A Snapshot*, Ross Parsons Centre for Commercial, Corporate and Taxation Law, Sydney University Press, Australia (2015), 11-25

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Ali, P, Anderson, M, Clark, M, Ramsay, I and Shekhar, C, 'No Thought for Tomorrow: Young Australian Adults' Knowledge, Behaviour and Attitudes about Superannuation' (2015) 9 *Law and Financial Markets Review* 90-105

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Ali, P, O'Brien, L and Ramsay, I, 'A Quick Fix? Credit Repair in Australia' (2015) 43 *Australian Business Law Review* 179-205

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Godwin, A, 'Barriers to Practice by Foreign Lawyers in Asia – Exploring the Role of Lawyers in Society' (2015) 22(3) *International Journal of the Legal Profession* 299-322

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Godwin, A and Schmulow, A, 'The Financial Sector Regulation Bill in South Africa, Second Draft: Lessons from Australia' (2015) 132 *The South African Law Journal* 756-768

Godwin, A, 'Teaching Transactional Law - A Case Study from Australia with Reference to the US Experience' (2015) 16 *Transactions: The Tennessee Journal of Business Law* 343-372

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Ramsay, I, 'Increased Corporate Governance Powers of Shareholders and Regulators and the Role of the Corporate Regulator in Enforcing Duties by Corporate Directors and Managers' (2015) 26 *European Business Law Review* 49-73

Ramsay, I, 'Takeovers Dispute Resolution in Australia and the United States - Takeovers Panel or Courts?' (2015) 33 *Company and Securities Law Journal* 341-345

Steele, S, 'Elderly Offenders in Japan and the Saiban'in Seido (Lay Judge System): Reflections Through a Visit to the Tokyo District Court' (2015) 35 *Japanese Studies* 223-243

Steele, S, 'Proposal to Reform the Japanese Saiban'in Seido (Lay Judge System) to Exclude Drug-related Cases: Context and Complexities from the Chiba District Court' (2015) 16 *Australian Journal of Asian Law* 1-19

Steele, S, 'Book Review: Ikuo Amano, The Origins of Japanese Credentialism (Kyōiku to Senbatsu no Shakaishi)' (2015) 35 *Japanese Studies* 375-377

Research reports and research papers

Ali, P, Bourova, E and Ramsay, I, *Financial Hardship: Insights from a Survey of Financial Counsellors*, Centre for Corporate Law and Securities Regulation, University of Melbourne Law School (2015)

Ali, P, O'Brien, L and Ramsay, I, *Federal Circuit Court Financial Counselling Project Evaluation*, Federal Court of Australia, Federal Circuit Court of Australia, Consumer Action Law Centre and Centre for Corporate Law and Securities Regulation, University of Melbourne Law School (2015)

Ali, P, O'Brien, L and Ramsay, I, *Perspectives of Financial Counsellors and Consumer Solicitors on Personal Insolvency*, Centre for Corporate Law and Securities Regulation, University of Melbourne Law School (2015)

Anderson, H, O'Connell, A, Ramsay, I, Welsh, M and Withers, H, *Quantifying Phoenix Activity: Incidence, Cost, Enforcement*, Centre for Corporate Law and Securities Regulation, University of Melbourne Law School (2015)

Bird, H and Gilligan, G, *Financial Services Misconduct and the Corporations Act 2001* (Working Paper No 073/2015), Centre for International Finance and Regulation (2015)

Chapman, A, Howe, J and Ainsworth, S, *Organisational Policies and Australian Employment Law: A Preliminary Study of Interaction* (Working Paper No 53), Centre for Employment and Labour Relations Law, University of Melbourne Law School (2015)

Gilligan, G, Ali, P, Godwin, A, Hedges, J and Ramsay, I, *An Analysis of Penalties under ASIC Administered Legislation: Scoping the Issues* (Working Paper No 071/2015), Centre for International Finance and Regulation (2015)

Teaching

Melbourne Law School has a very strong master's program in corporate and finance law. The subjects offered in 2015 were:

- Accounting for Commercial Lawyers
- Australian Consumer Law
- Banking and Secured Finance
- Commercial Applications of Equity
- Commercial Law: Issues and Policies
- Company Takeovers
- Comparative Corporate Tax
- Contract Interpretation
- Corporate Governance and Directors' Duties
- Corporate Tax A (Shareholders, Debt and Equity)
- Corporate Tax B (Consolidation and Losses)
- Criminal Law: Business and Organisations
- Debt Capital Markets
- Financial Services Law
- Hedge Funds and Private Equity Funds
- International Corporate Insolvency
- International Financial System: Law and Practice
- International Financial Transactions: Law and Practice
- Liability Insurance Law
- Project Finance
- Regulation of Securities Markets
- Regulatory Policy and Practice
- Shareholders' Rights and Remedies
- Taxation of Business and Investment Income
- Taxation of Small and Medium Enterprises

A feature of the master's program in corporate law is the use of international lecturers. These included in 2015:

- Professor Douglas Arner, University of Hong Kong, Hong Kong (International Financial System: Law and Practice)
- Dr Peter Harris, University of Cambridge, United Kingdom (Comparative Corporate Tax)
- Professor David McLauchlan, Victoria University of Wellington, New Zealand, (Contract Interpretation)
- Mr Timothy Spangler, Kaye Scholer, United States (Hedge Funds and Private Equity Funds)

- Mr William Swadling, University of Oxford, United Kingdom (Commercial Applications of Equity)
- Mr Jan Job de Vries Robbe, Dutch Development Bank FMO, The Netherlands (Debt Capital Markets)
- Prof Reinout Vriesendorp, Tilburg University, The Netherlands (International Corporate Insolvency)
- Prof Sarah Worthington, University of Cambridge, United Kingdom (Commercial law: Issues and Policies)
- Prof Karen Yeung, King's College London, United Kingdom (Regulatory Policy and Practice)

Corporate Law Bulletin

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

By the end of 2015, 220 issues of the Bulletin had been published.

The monthly Bulletin includes the following:

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

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

<http://law.unimelb.edu.au/centres/cclsr/resources/corporate-law-bulletin>

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

<http://www.saiglobal.com>

Competitive Research Grants

This section identifies the competitive research grants that were obtained by members of the Centre in 2015, or that were obtained earlier than 2015 but continued to fund research in 2015. A complete list of all research grants obtained is available on the Centre's website.

New Grant Obtained in 2015

Director's Conflicts: Multiple Directorships and Corporate Opportunities

Type of grant

University of Melbourne Early Career Researcher Grant

Funds allocated

\$19,320

Chief Investigator

Dr Rosemary Teele Langford

Project summary

Directors' conflicts of interest constitute a fundamentally important governance issue both nationally and internationally. As the complexity of commercial transactions and of commercial life in general increases, the application of the conflicts duty has necessarily become more complicated. At the same time there is a constant tension between ensuring accountability and encouraging high quality candidates. Two particular contexts in which the application of the conflicts duty to directors is problematic and uncertain concern multiple directorships (where directors sit on the board of more than one company) and the pursuit in personal capacity of corporate opportunities (opportunities which arise as a result of a director's position or which are relevant to the company's business). Questions persist as to the wisdom of allowing directors to sit on the boards of multiple companies, particularly when those companies compete with each other. Questions also remain as to how removed an opportunity must be from a director's position and the company's line of business before it can be freely pursued. These issues transcend international boundaries and face regulators in many jurisdictions.

This project, which forms part of a broader comparative research agenda on directors' duties, has as its focus the duty of directors to avoid conflicts of interest. The project involves empirical analysis of the frequency of directors holding more than one directorship in both Australia and England. It then seeks to provide guidance in relation to regulation of such multiple directorships and also in relation to the pursuit of corporate opportunities by directors – when can directors take up opportunities arising from their position or relevant to the company's line of business? The ultimate aim of the project is to propose solutions to the conundrums posed by these issues in order to provide clarity and certainty, which are vital in the corporate arena. The results of the project will be of significant interest to academics,

practitioners, directors and regulators both in Australia and England, but also in other common law jurisdictions such as Hong Kong, Singapore and Canada where these issues arise.

Grants Obtained Earlier than 2015 but Continuing to Fund Research in 2015

An Analysis of Penalties under ASIC Administered Legislation

Type of grant

Centre for International Finance and Regulation

Funds allocated

\$389,084

Chief Investigators

Professor Ian Ramsay, Dr George Gilligan and Mr Andrew Godwin (Melbourne Law School)

Project Summary

A significant policy debate is unfolding regarding the penalties imposed by courts and other bodies under legislation administered by key economic regulators such as ASIC. The ASIC Penalties Project will conduct a holistic review of such penalties over a 10 year period from 2005 to 2014, to assess whether adequate penalties are available to ASIC and set at an appropriate level. The project will also consider whether the penalties are effectively administered and how ASIC's penalties regime could be improved. By combining available documentary evidence with surveys and semi-structured interviews, the ASIC Penalties Project will build a penalties database and develop a series of research papers that analyse the theoretical and policy based rationales for the imposition of penalties. These initiatives can inform not only policy development and operational practice regarding ASIC, but also can be informative for other Australian regulators, regulated communities, the judiciary, law enforcement agencies, industry, media, academe and the broader public.

Safeguarding the Financial Well-Being of Australians by Improving Financial Literacy: Implications for Consumer Protection Laws

Type of Grant

Australian Research Council Discovery Grant

Funds Received

\$276,000

Chief Investigators

Professor Ian Ramsay and Associate Professor Paul Ali (Melbourne Law School)

Project Summary

The project will contribute to a broader understanding of the role of financial literacy and consumer behaviour in Australia, and its relationship with Australia's financial services and consumer protection laws. The project aims are consistent with contributing to the Australian Financial Literacy Strategy goals of 'increasing economic participation and social inclusion, driving competition and market efficiency in the financial services sector, and potentially reducing regulatory intervention.' The project is the first in-depth study of the relationship between financial literacy and Australia's financial services and consumer protection laws.

Australian Personal Insolvency Laws in the Context of Changing Demographics and Increasing Financial Stress

Type of Grant

Australian Research Council Linkage Grant

Funds Received

\$425,465

Chief Investigators

Associate Professor Paul Ali and Professor Ian Ramsay (Melbourne Law School), Dr Kathy Landvogt (Good Shepherd Youth & Family Service), Mr Gerard Brody (Consumer Action Law Centre) and Ms Fiona Guthrie (Financial Counselling Australia Incorporated)

Project Summary

Australian households are experiencing rising levels of financial stress, manifested most visibly in personal debt default, negotiated compromises with creditors, and bankruptcy. No longer confined to lower income Australians, financial stress is an increasing problem for middle income Australians as well. This project entails an in-depth study of the relationship between financial stress and Australian personal insolvency laws in order to evaluate the effectiveness of these laws in practice. Surveys of financial counsellors, consumer solicitors, consumer advocates and their clients will reveal how Australians respond to financial stress within the legal framework, allowing for a detailed evaluation of that framework.

Phoenix Activity: Regulating Fraudulent Use of the Corporate Form

Type of Grant

Australian Research Council Discovery Grant

Funds Received

\$403,000

Chief Investigators

Professor Helen Anderson, Professor Ann O’Connell and Professor Ian Ramsay (Melbourne Law School) and Dr Michelle Welsh (Monash University)

Project Summary

Fraudulent phoenix activity is of great concern to Australian policymakers. It occurs where there is the deliberate liquidation of a company to avoid paying debts but the business continues through another company, and in corporate groups through the liquidation of undercapitalised subsidiaries and transfer of business to other companies in the group. This behaviour causes huge losses in taxation revenue and large financial losses for employees and unsecured creditors. To strengthen Australia’s economic fabric, this project aims to determine the optimal method of dealing with fraudulent phoenix activity through a thorough examination of all of its aspects in Australia and by a comparative analysis of international responses.

The Legal and Social Dimensions of Financial Hardship in Australia: Implications for Legal, Regulatory and Policy Frameworks

Type of Grant

Australian Research Council Discovery Grant

Funds Received

\$396,000

Chief Investigators

Associate Professor Paul Ali and Professor Ian Ramsay (Melbourne Law School)

Project Summary

Financial hardship – the reduced ability to meet monetary obligations because of loss of employment, illness or disaster – is an increasing problem for both low-income and middle-income Australians. This project is the first in-depth study of the practical operation of Australia’s financial hardship laws, which are designed to protect Australians suffering financial hardship. Surveys and interviews will be undertaken of persons suffering

financial hardship, those who advise them and staff of financial dispute resolution schemes. The project outcomes will include improvements to dispute resolution involving financial hardship and consumer advisory services, and potential law reform proposals.

Financial Regulation in Asia – A New Model for Regional Cooperation

Type of Grant

Melbourne School of Government Research Cluster Grant

Funds Received

\$213,917

Chief Investigators

Mr Andrew Godwin (Melbourne Law School), Professor Andrew Mitchell (Melbourne Law School), Professor Ian Ramsay (Melbourne Law School), Professor Kevin Davis (Faculty of Business and Economics, University of Melbourne), Dr Jikon Lai (Faculty of Arts, University of Melbourne), and Professor Andrew Walter (Faculty of Arts, University of Melbourne)

External Collaborators

Professor Douglas Arner (Faculty of Law, University of Hong Kong), Mr Datuk Seri Panglima Andrew Sheng (Fung Global Institute), Professor Wataru Takahashi (Faculty of Economics, Osaka University), and Professor Ken Waller (Faculty of Finance & Economics, Australian APEC Study Centre, RMIT)

Project Summary

This project will study the development of Asian financial regulations from a variety of perspectives such as finance, law, politics and international relations. The study will focus on the unique circumstances present in Asia as well as identifying the risks and the value that regional cooperation and integration can play in the development of international regulatory rules.

Financial Literacy and Innovation in Superannuation Product Disclosure: Improving the Retirement Savings of Australians

Type of Grant

Centre for International Finance and Regulation Grant

Funds Received

\$39,953

Chief Investigators

Associate Professor Paul Ali and Professor Ian Ramsay (Melbourne Law School) and Dr Chander Shekhar (Faculty of Business and Economics, University of Melbourne)

Project Summary

Superannuation is the central pillar of Australia's unique retirement savings system. Current estimates predict that only 35% of Australians will be adequately provided for in retirement. Factors including an aging population, increased life-expectancies and higher costs of living and the inadequacy of many superannuation balances suggest strongly the need for working Australians to actively manage their superannuation investments from earlier in their working lives. This project responds to these issues by focussing on the potential for regulatory innovations in superannuation consumer information to change consumer behaviour. Specifically, the study surveys 25-35 year old superannuation consumers to understand the interaction with superannuation information. Drawing on behavioural economics the study will provide regulators, the superannuation industry and consumer bodies with key insights about how superannuation information can assist consumers in their retirement savings planning. The project will offer new insights about current behaviours and attitudes with the potential to improve retirement savings outcomes.

Assessing the Governance of Institutional Investors when Investing in Complex Financial Products

Type of Grant

Centre for International Finance and Regulation Grant

Funds Received

\$19,744

Chief Investigators

Associate Professor Paul Ali and Professor Ian Ramsay (Melbourne Law School)

Project Summary

Institutional investment in Australia is both highly innovative and complex. The global financial crisis and the large losses that have flowed from investments in complex financial products have focused attention on the sellers of those products. However, less attention has been paid to the institutional investors who invest in complex financial products and the role of the external parties that provide investment-related services to institutional investors. This project will be the first in-depth study of the legal structure of Australian institutional investment, in the context of investments in complex financial products, the legal relationships between the participants in the selection of those investments and the legal duties that arise out of those relationships. This project will also examine the legal

protections available to institutional investors and their own investors, when investing in complex financial products, and whether regulatory reform is required.

Financial Products and Short-form Disclosure Documents – Challenges and Trends

Type of Grant

Centre for International Finance and Regulation Grant

Funds Received

\$28,139

Chief Investigators

Mr Andrew Godwin and Professor Ian Ramsay (Melbourne Law School)

Project Summary

Recent years have seen a global trend towards the adoption of uniform rules governing disclosure in relation to retail financial products. This trend has been reflected in the adoption of plain language techniques, the move towards short-form disclosure documents, and efforts to increase the quality of financial advice and financial literacy on the part of retail investors.

This project will analyse the challenges and trends in relation to short-form disclosure documents from a comparative perspective. The research will consider the effectiveness of short-form disclosure documents, particularly in terms of increasing risk awareness, the interface between short-form disclosure documents and other measures (e.g. plain language techniques and investor education) and whether there is a case for global or regional harmonisation. Developments in the following markets will be examined for this purpose: Australia, New Zealand, the United Kingdom, Hong Kong and Singapore.

Success and Failure in Stock Exchange Consolidations: Implications for Markets and their Regulation

Type of Grant

Centre for International Finance and Regulation Grant

Funds Received

\$89,971

Chief Investigators

Associate Professor Cally Jordan (Melbourne Law School) and Professor Stephane Rousseau (University of Montreal)

Project Summary

Stock exchanges engaged in a frenzy of consolidation efforts recently, some successful, others not. In 2011 alone, several high profile mergers, Singapore and Sydney, NYSE Euronext and Deutsche Borse, London and Toronto, met with regulatory, political and industry opposition. In one sense, the exchanges are only catching up with the technological realities of international markets. Traditional market institutions have been undergoing change and restructuring for decades. Consolidation began at national levels in response to competitive pressures, and then spread to the creation of regional and supra-regional institutions in an effort to achieve strategic and operational advantages. This project examines the process of stock exchange consolidations, and the alternatives, from a regulatory and market perspective and examines the reasons for success or failure. There are lessons to be learned from both the successes and the failures, with implications for the future direction of regulatory change and the market institutions themselves.

Financial System Regulation – Is Australia’s ‘Twin Peaks’ Approach a Model for China and Asia?

Type of Grant

Centre for International Finance and Regulation Grant

Funds Received

\$57,548

Chief Investigators

Mr Andrew Godwin and Professor Ian Ramsay (Melbourne Law School) and Professor Li Guo (Peking University Law School)

Project Summary

The Global Financial Crisis and its fallout have tested the integrity and resilience of regulatory frameworks in respect of financial services and have led to significant reforms to those frameworks around the world. As financial institutions and the financial markets in China become more integrated and sophisticated, it is likely that China will need to re-consider its approach to financial regulation and review developments in other markets. Inevitably, its attention will turn to the models and reforms introduced in markets such as the United Kingdom and the United States. In this research project, the chief investigators propose to consider the extent to which Australia's ‘twin peaks’ approach to financial services regulation provides a model for reform in China. Although the primary focus is on China, the findings will also consider the extent to which the ‘twin peaks’ model is relevant to other emerging markets in Asia.

A Comparative Analysis of the Reform of Personal Property Security Law in Australia and the United Kingdom

Type of Grant

Oxford University Law School – Melbourne Law School Research Partnerships Grant

Funds Received

\$17,500 and £10,000

Chief Investigators

Associate Professor Paul Ali and Professor Ian Ramsay (Melbourne Law School) and Professor Louise Gullifer (University of Oxford)

Project Summary

The law of personal property security deals broadly with the issue of how lenders and other providers of corporate and consumer credit can protect their claims against borrowers by taking security over the personal property held by borrowers. Personal property securities reduce the risks associated with providing credit and should therefore contribute to the increased availability of credit. Balanced against this, however, are the legal complexities confronted by lenders when taking security over personal property. This area of law has been the subject of several proposals for reform in both the UK and Australia. This project aims to assess the divergent approaches towards the regulation of personal property securities in the two jurisdictions, with a view to seeing what benefits an Australian Personal Property Securities Act 2009 - type reform could have for the UK and also what pitfalls are likely in any such reform process. This assessment will involve a comparative analysis of selected corporate and consumer financing transactions, an empirical survey of possible difficulties in respect of small-to-medium enterprise financing in the UK and an empirical survey of how the Australian reforms are operating in practice.

Disciplining Insolvency Practitioners in Australia and Singapore: Legal and Policy Trends

Type of grant

NUS Law - MLS Research Partnerships

Funds received

\$20,000

Chief Investigators

Professor Ian Ramsay and Ms Stacey Steele (Melbourne Law School) and Assistant Professor Meng Seng Wee (National University of Singapore Law)

Project summary

This research partnership will investigate legal and policy trends in disciplining corporate insolvency practitioners in Australia and Singapore. Both jurisdictions have common origins in their respective corporations laws, and both have recently undertaken reviews of the regulation of practitioners in recognition of the significant role they play in the resolution of corporate insolvencies. The research will focus on models of disciplinary frameworks and the outcomes that could be achieved through reform; the effect that the introduction of clear and robust qualification standards, disciplinary procedures and disqualification standards could have on the profession; and the role of various institutions in discipline.

Supervision of Graduate Students' Research

This section identifies the supervision of graduate students undertaken by members of the Centre in 2015.

PhD theses in progress

- Armson, Emma: 'The Australian Takeovers Panel: An effective forum for dispute resolution?'
Supervisors: Associate Professor Paul Ali and Professor Ian Ramsay
- Chan, Faye: 'Law and the ethnic Chinese in Indonesia: State regulation of Peranakan women, 1930 – 2004'
Supervisor: Professor Tim Lindsey
- Dewi, Apsari, 'Barriers in international legal cooperation in criminal matters between Indonesia and Australia'
Supervisor: Professor Tim Lindsey and Professor Jeremy Gans
- Hardy, Tess: 'Friend or foe? The regulatory enrolment of non-state actors in the enforcement of minimum employment standards'
Supervisors: Associate Professor Sean Cooney and Professor John Howe
- Legg, Michael: 'Public and private enforcement of securities laws in Australia'
Supervisors: Associate Professor Helen Anderson and Professor Ian Ramsay
- Newman, Andrew: 'Temporary migrant labour schemes in the Australian and Canadian agricultural sectors from a rights based perspective'
Supervisor: Professor John Howe
- Rulliadi, Dudi: 'Indonesian public-private partnerships (PPPs): A legal study on private sector participation in infrastructure development in the post 'new-order' era'
Supervisor: Professor Tim Lindsay
- Tranfaglia, Maria Azzurra, 'Regulation of agency work in Europe and in Australia'
Supervisor: Professor John Howe

- Triana, Windy, 'Schooling judges: The education of religious court judges in Indonesia'
Supervisor: Professor Tim Lindsey and Dr Farrah Ahmed

The Centre as a Public Resource

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

Members of the Centre participated in preparing a number of submissions relating to corporate law reform either in a personal capacity or on behalf of organisations such as the Law Council of Australia.

Requests for information

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

Media

During the course of 2015 members of the Centre gave approximately 50 reported interviews to newspaper, radio and television journalists. A list of these interviews is available on the [Centre's website](#).