



MASTERCLASS SERIES

Banking & Finance Law MASTERCLASS 2010

The ALB Masterclass Series is delighted to present the latest learning and networking event for banking and finance professionals. Register today for a high-value event focusing on the new legislative and judicial landscape of banking and finance law in the post-GFC recovery period.

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to 6 CPD
points!

PROGRAM HIGHLIGHTS

- Explore the **NEW LEGISLATIVE LANDSCAPE** for banking and finance
- Compare **REGULATORY CAPITAL REFORM** in Australia and abroad
- Understand what has changed in the **BANKING MARKET** post-GFC
- Gain insight into the opportunities and challenges of **ISLAMIC FINANCING**
- Navigate the new frontier of **SECURITIES** and make the **TRANSITION** to **COMPLY** with the **PERSONAL PROPERTY SECURITIES ACT**
- Examine recent trends and legal reforms in **INSOLVENCY AND RESTRUCTURING**
- **CASE STUDY:** Clarifying preference law in light of *McKern*

Masterclass runs 8:30am-5:00pm

Melbourne: Wednesday 20th October 2010
Rendezvous Hotel Melbourne,
328 Flinders St

Sydney: Wednesday 27 October 2010
Sydney Harbour Marriott Hotel
at Circular Quay, 30 Pitt St

YOUR MELBOURNE SPEAKER FACULTY



Simon Arduca
director – natural resources
ANZ Banking Group Ltd



Jeff Clark
partner
Mallesons Stephen Jaques



Marcus Davenport
partner
Clayton Utz



Gerard Kennedy
partner
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Michael Lhuede
partner
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David Porter
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Ian Walker
partner
Minter Ellison



Bruce Whittaker
partner
Blake Dawson

Rebecca Hope
senior lawyer, institutional legal group
ANZ Banking Group Ltd

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MASTERCLASS SERIES

Banking & Finance Law

MASTERCLASS 2010

Melbourne Agenda: Wednesday 20 October 2010

8:30am Registration opens

9:00am Welcome & opening remarks from the Chair

Stephen Moulton, partner, PricewaterhouseCoopers

9:10am Industry update – Banking & finance law in a post-GFC world

- Exploring the fundamental changes to Australian Corporations Law and banking and finance law practice flowing from judicial decisions, including:
 - > *Sons of Gwalia Ltd v Margaretic; ING Investment Management LLC v Margaretic* [2007] HCA 1;
 - > *Bofinger v Kingsway Group Limited* [2009] HCA 44
 - > *Re Octaviar Ltd (No 7)* [2009] QCA 282 (appeal heard in the High Court 21/22 June 2010, decision pending);
 - > *Goodridge v Macquarie Bank Ltd* [2010] FCA 67;
- Examining legislative responses to recent judicial trends, with a particular focus on the proposed legislative reversal of *Sons of Gwalia* to restore the security priorities position to that which was understood before it
- What happens if the High Court reverses the Court of Appeal (and supports McMurdo J at first instance) in *Re Octaviar*? How will the abolition of the ASIC register in May 2011 with the commencement of the Personal Property Securities Act 2009 affect the ability to correct "defective" charges?
- Understanding the new legislative landscape: an overview of how regulatory reform will change banking and finance law practice in the future

Marcus Davenport, partner, Clayton Utz

9:55am Global trends in banking & finance law: Regulatory capital reforms in Australia and abroad

- Comparing the reform responses of the major OECD jurisdictions to the GFC in relation to the Australian position, with a particular focus on recent US reforms
- Clarifying the changes to Australian capital requirements in the wake of international capital reforms such as Basel II & III
 - > What has APRA taken on board and what has it discarded from the international reforms?
 - > How will this affect the Australian capital market
- Examining the emerging debt capital market
 - > How does the Australian debt market and approach to debt-capital differ from that seen overseas?
 - > Is there a growing market in the Australian capital landscape for the kinds of secondary- and distressed-debt trading that are increasingly coming to prominence in jurisdictions such as the USA?
- Implications for borrowers and lenders in commercial bank financing

Bruce Taylor, partner, Baker & McKenzie

10:40am Refreshment & networking break

11:00am Panel discussion: Banking responses to the GFC

- What has changed for banks and the banking market in the post-GFC environment?
 - > Examining the ways in which banks and other lenders are seeking to protect themselves in the current climate of increased scrutiny and regulation
- Discussing the changed bargaining positions between borrowers and lenders in the post-GFC market - Has the pendulum stopped swinging away from borrowers/towards lenders?
- Have Material Adverse Change/Effect clauses been invoked?
- How can a mutually beneficial compromise be reached between key stakeholders under these changed market conditions?

Moderator: Jeff Clark, partner, Mallesons Stephen Jaques

Panellists: Rebecca Hope, senior lawyer, institutional legal group, ANZ Banking Group Ltd

Simon Arduca, director – natural resources, ANZ Banking Group Ltd

11:45am Islamic financing

- What is Islamic financing - A brief summary
- Understanding the opportunities and challenges posed by the opening of Islamic finance to the rest of the world.
- Why is Islamic financing so important to Australia?
- Clarifying the key practical considerations for structuring deals in compliance with Islamic law, including:
 - > Costs and benefits of Islamic financing
 - > How to structure profitable financing deals in a world without interest
 - > What are the documentation and other requirements of Islamic deals?

Gerard Kennedy, partner, Macpherson+Kelley

12:30pm Networking lunch for speakers & delegates

1:30pm The Personal Property Securities Act 2009 ("PPSA") – The new frontier of Australian securities

- How life will be different under the PPSA for financiers and companies
- Detailing the new process of registration and searches under the PPSA
- Providing advice to clients on the new rules

Bruce Whittaker, partner, Blake Dawson

2:15pm The PPSA in the lead-up to implementation: Making the transition

- Explaining the transitional arrangements that need to be made in order to comply with the PPSA
 - > How documents and processes will need to change
 - > What will be lost and what will replace it?
 - > I'm not a bank - do I need to worry about this? Yes.

KEY BENEFITS

- Hear the latest case law updates and legislative reforms
- Develop new strategies and innovative practices
- Increase your industry contacts through networking

- What to do with existing security interests
 - > How will they be transitioned into the new rules?
 - > What can go wrong?
- Structuring deals under the PPSA: Protecting industry and practitioners from the increased demands of the new legislation
 - > Practical tips on drafting, review and provision of legal advice under the PPSA
- Benefiting from the PPSA
 - > Exploring the potential for stakeholders to mutually gain from the new securities regime

Michael Lhuede, partner, Piper Alderman

3:00pm Refreshment break

3:15pm Examining recent trends in insolvency & restructuring law and law reform

- Considering the impact of current Australian Insolvency and Restructuring Law on directors' duties and stakeholders' rights, including:
 - > Clarifying continuous disclosure and fiduciary obligations
 - > *ASIC v Somerville* [2009] NSWSC 934 and knowing involvement in a breach of directors' duties
- Understanding the difference between Schemes of Arrangement (Part 5.1) and Deeds if Company Arrangement (part 5.3A) under the *Corporations Act 2000*
 - > Examining the impact of the decision of the Federal Court in *Opes Prime* on Schemes and the High Court in *Lehman Bros* on Deeds of Company Arrangement and what these decisions will mean for further insolvency restructurings using these mechanisms
- Dealing with insolvent trusts and managed investment schemes
 - > Clarifying the obligations of liquidators when winding up trusts and dealing with trust property as set out in *Apostolou v V.A. Corporation Aust Pty Ltd* [2010] FCA 64

Ian Walker, partner, Minter Ellison

4:00pm Preference law and the doctrine of ultimate effect – Case study: *McKern v Minister administering the Mining Act 1978 (WA)* [2010] VSCA 140

- Clarifying which payments to creditors from corporations being wound-up constitute granting an "unfair preference" to those creditors in contravention of section 588FA of the *Corporations Act*, including:
 - > Examining the two lines of authority on unfair preference, and how *McKern* has sought to resolve these
 - > Determining the "ultimate effect" of a transaction

David Porter, partner, Norton Rose

4:45pm Closing remarks from the Chair & conclusion of Masterclass

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