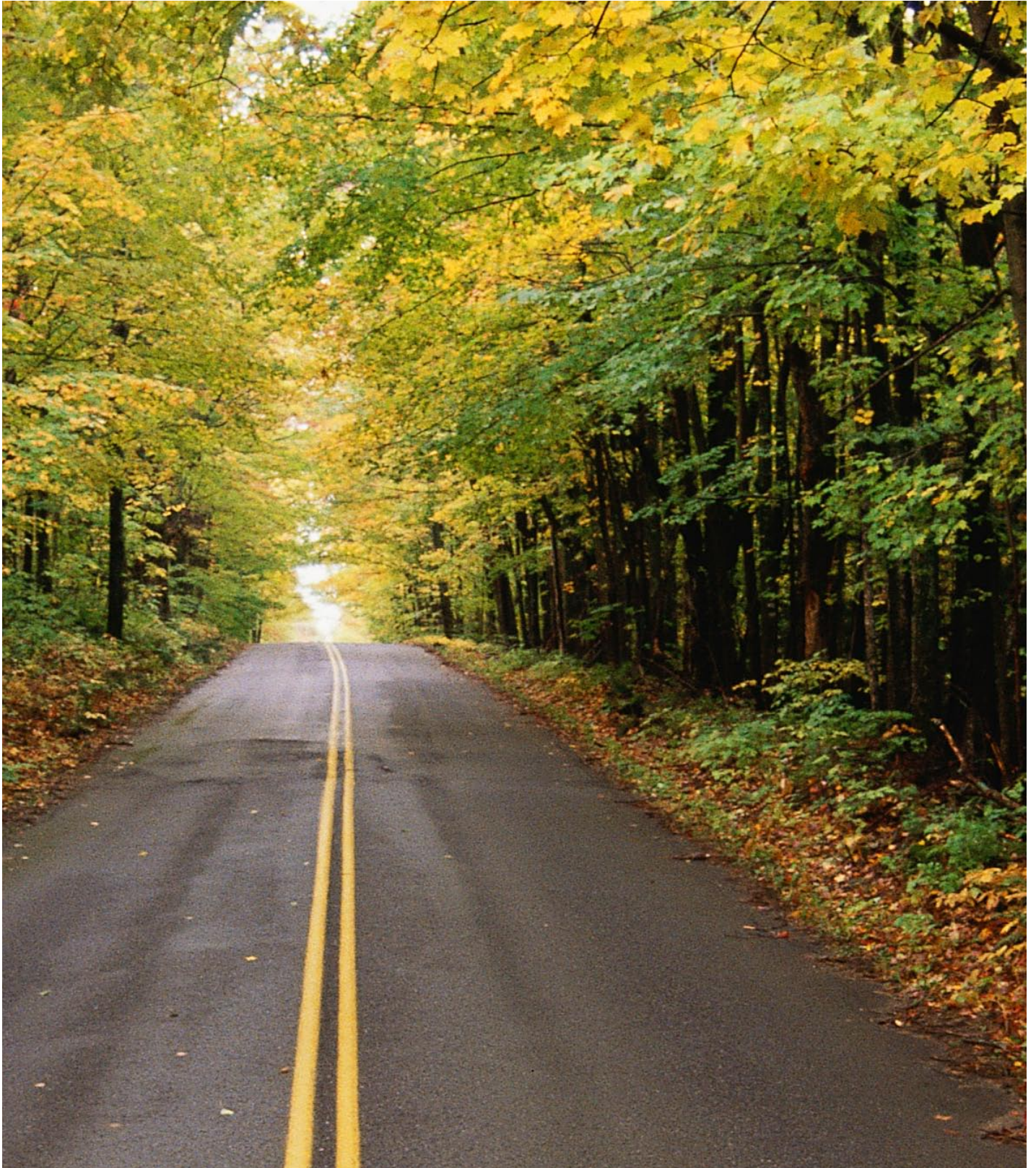


Financial Services Quarterly

AUTUMN 2007

Bell Gully





Welcome to the Autumn 2007 issue of *Financial Services Quarterly*, a review of current legal issues in the financial sector.

Each quarter, we summarise recent issues and preview upcoming developments under these headings:

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- **Priority of security interests in foreign registered vessels in New Zealand**
- **Support for regulation of financial services sector**
- **Credit card penalties to be investigated**

 Need more information?

For more information on any of the cases, articles and features in *Financial Services Quarterly*, please email rachel.gowing@bellgully.com or call on 64 9 916 8825.

Disclaimer: this publication is necessarily brief and general in nature. You should seek professional advice before taking any action in relation to the matters dealt with in this publication.

In the courts

Failure to register security interest did not affect guarantors' obligations

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Undue influence claim avoids summary judgment against mortgagor

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Priority of security interests in foreign registered vessels in New Zealand

A security interest over a vessel registered first in time on the Personal Property Securities Register failed to defeat a foreign registered security interest.

Guarantor's liability must be determined before the right to an indemnity arises

The High Court has determined that "*the general rule is that the right to an indemnity does not usually arise until the person entitled to be indemnified has been called upon to pay and his or her liability has been ascertained*".

Beware of crediting cheques to one entity when they are made payable to another

The UK High Court has decided that the onus of disproving bad faith and negligence in the context of crediting a cheque payment lies with the bank.

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Payment to associated company recovered by liquidator

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Lifting the veil on pooling orders under section 271 of the Companies Act 1993

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The private equity boom

An article discussing the boom of private equity funds due to the high level of takeover activity undertaken globally in 2006. It considers what private equity funds are, the risks, and international equities in 2007.

Legislation/In Parliament

Support for regulation of financial services sector

Two separate, but related, reviews of financial sector law are under way in New Zealand - the review of financial products and providers led by the Ministry of Economic Development, and the review of financial intermediaries led by the Financial Intermediaries Task Force.

Companies that no longer need to register financial statements may still need to have their financial statements audited

Amendments to the Financial Reporting Act have resulted in some companies no longer being required to register financial statements with the Companies Office. However, the Ministry of Economic Development has pointed out that such companies may still be required to appoint an auditor and have their financial statements audited in compliance with section 196(3) of the Companies Act 1993.

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Implementation of trans-Tasman mutual recognition of securities offerings

The Australian bill to implement the mutual recognition regime was introduced into the House of Representatives at the end of March.

New securities law website

The Securities Commission has set up a website to help people understand the impact of the new legislation expected to be introduced in the next few months.

Credit card penalties to be investigated

The Commerce Commission has announced its intention to investigate credit card penalty fees to ensure they are reasonable.

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This case was related to a well-known Court of Appeal case on priority of security interests under the Personal Property Securities Act. In that case², the interest of the owner and lessor of a horse was determined to rank behind that of a financier of the lessee of the horse because the owner failed to register its interest on the Personal Property Securities Register (PPSR) before the financier did. We reviewed the Court of Appeal case in the Spring 2005 issue of *Financial Services Quarterly*.

This case was brought by the owner and an associate financier against a number of individuals who guaranteed payment by the lessee.

The judge considered the following claims made by the guarantors:

Were the claimants under an equitable duty to protect the security held?

The judge determined that equity does recognise a duty owed by a creditor to guarantors to maintain security granted by the principal debtor and that this security must be maintained so that it is available to be applied in the reduction of the debt.

However, the judge concluded that the parties to a guarantee can contractually exclude the usual principles of suretyship, which absolve a guarantor's liability, if the creditor has released, or through positive actions or through neglect impaired, the securities.

Was there any failure to maintain security interests that the guarantors could rely on as discharging their liability?

Based on the facts of the Court of Appeal decision as to priority of the security interests, the judge found that there was no failure to maintain securities that actually prejudiced the guarantors in any way – they would have ranked behind no matter what.

Was it a term of any of the agreements that the owner and financier would take steps to protect their security interest?

The guarantors argued that the owner was in breach because it could not convey title under the agreements. However, the judge found that the owner could in fact convey title, but it would be subject to another security interest.

Was it a condition precedent or a term of the finance warranties that the security interest would be perfected?

The judge commented that conditions precedent must either be express or the guarantors must be able to show that the claimants knew that the guarantee was dependent on the taking and maintenance of security. In this case, the judge held that there was no express condition precedent to that effect, nor was there any evidence to support the contention that the claimants agreed to such a condition.

Accordingly, the guarantors were held to be liable under the guarantee.

¹ *New Zealand Bloodstock Leasing Ltd and Anor v Jenkins and Ors*, High Court, Auckland CIV-2004-404-5795, 19 April 2007

² *New Zealand Bloodstock Limited and Another v Waller and Agnew and Another* (CA269/04, 21 September 2005)

Undue influence claim avoids summary judgment against mortgagor

A creditor failed to obtain summary judgment against a mortgagor because the mortgagor successfully argued undue influence by her husband.

In this case¹, a husband and wife borrowed money from a creditor and gave a mortgage over their jointly owned property as security for the loan. At the same time, and without the wife's knowledge, the husband borrowed additional funds from the same creditor for his business. The business loan was secured in part by the mortgage.

The wife was advised by a solicitor, but that solicitor was unaware of the business loan because separate solicitors were engaged by her husband to act on the business transaction. The judge determined that this fact was a crucial aspect of the case, noting that the advice given to the wife was insufficient to properly inform her of the risks.

Further, the judge stated that it is arguable that the creditor had actual or constructive knowledge of the insufficiency because it was aware that the wife was being advised by separate solicitors from those who were advising her husband on the business transaction. If the creditor knew that the solicitors were unaware of crucial facts about the transaction and the risks, the creditor may not be able to rely on the solicitor's certificate provided to it.

The judge concluded that the threshold for the creditor's summary judgment was not achieved because of the evidence supporting a cause of action for undue influence, which could arguably be imputed to the creditor.

¹ *Rutherford v BNZ*, High Court Wellington, CIV-2006-485-1345, 5 February 2007

Priority of security interests in foreign registered vessels in New Zealand

A security interest over a vessel registered first in time on the Personal Property Securities Register (PPSR) failed to defeat a foreign registered security interest.

This case¹ concerned competing security interests in a vessel known as "Blaze", which was built and registered under the Ships Registration Act 1992 (SRA) in New Zealand and then taken to the United States and registered there. The Blaze subsequently returned to New Zealand, was sold several times and became the subject of competing interests:

- in relation to a mortgage given in favour of Keybank, which was validly registered in the United States and therefore perfected against third parties as far as United States law was concerned; and
- in relation to the purchase of the vessel by Mr Walters, who had registered a financing statement on the PPSR.

Keybank did register its interest on the PPSR, but it did so after Mr Walters' registration.

The judgment included discussion about the *Betty Ott*² case, a decision of the Court of Appeal that determined that a later New Zealand-registered debenture had priority over an earlier Australian-registered ships mortgage on the basis that the Australian-registered mortgage was to be treated under New Zealand law as an unregistered mortgage because it had not been entered in the New Zealand register. The effect of this decision was to deprive holders of registered ships mortgages of security in all jurisdictions other than the one in which the mortgage was registered. Parliament responded by passing section 70 of the SRA, which provides that where there is an issue as to priority of securities in respect of a ship registered under the law of a foreign country, securities registered in that foreign country have the same effect as if they were registered in New Zealand under the SRA.

The result was that, in this case, the United States registered mortgage was as good as a mortgage registered in New Zealand for the purposes of determining priority. So, in the absence of the Personal Property Securities Act (PPSA), Keybank's interest would take priority over Mr Walters' interest.

The issue was whether the PPSA applied because, if it did, then the purchaser would have taken the vessel free of Keybank's interest because that interest was not, at the time of sale, perfected by registration of a security interest.

The Blaze is less than 24 metres in length. Section 23 of the PPSA excludes from its application vessels over 24 metres in length, but it does not state that the SRA does not apply in respect of vessels less than 24 metres long. Under the SRA, it is optional to register vessels under 24 metres (unless they are going on an overseas voyage, in which case it is compulsory).

The court decided that, if a vessel under 24 metres is registered under the SRA, then the PPSA does not apply. The Blaze was registered in the United States, which was sufficient in terms of section 70 of the SRA, so Keybank's security interest had priority over Mr Walters' interest on the PPSR.

The court also noted that it would be chaotic if each of the owners and mortgagees of vessels under 24 metres would have to file their interest on the PPSR to protect their interests as soon as their vessels entered New Zealand waters.

¹ *Keybank National Association v The Ship "Blaze"*, High Court, Auckland, 9 February 2007

² [1992] 1 NZLR 655

Guarantor's liability must be determined before the right to an indemnity arises

The High Court has determined that "the general rule is that the right to an indemnity does not usually arise until the person entitled to be indemnified has been called upon to pay and his or her liability has been ascertained".

The claimant allegedly guaranteed rent payable by third parties to the defendant, who sought in excess of \$235,000 from the claimant.

In this case¹, the claimant was seeking judgment against the third parties on the basis of a deed of settlement he had entered into with them, pursuant to which they indemnified him from any liability under the guarantee.

While the judge stated that the right to an indemnity does not usually arise until the person entitled to be indemnified has been called upon to pay and his or her liability has been ascertained, it was conceded that a procedure *does* exist for a third party claim to be decided in advance of the principal proceedings. The purpose is to bind the third party to the main decision between it and the claimant – the rationale being that this can save both time and money in the long run for the defendant.

The judge went on, though, to distinguish between (on the one hand) procedures to bind a third party to contemplated principal proceedings and (on the other hand) a judgment against such a third party before the principal proceedings have in fact been decided.

The High Court declined to make a declaration as to the third parties' liability in this case since that would amount to the determination of a hypothetical question, and in this case there were no exceptional circumstances justifying such an approach.

¹ *Wiltshire Investments Limited v Halstead* High Court, CIV-2005-404-6473, 16 February 2007

Beware of crediting cheques to one entity when they are made payable to another

The UK High Court has decided that the onus of disproving bad faith and negligence in the context of crediting a cheque payment lies with the bank.

This case¹ involved a Cayman Islands company that sold long-term forward wine contracts. It got into trouble with the US regulatory authorities for unlawfully marketing and selling securities, and its banks stopped accepting payments from its customers.

As a result, its sole shareholder arranged for cheques received from the company's customers to be couriered to its UK sister company for presentation to its UK bank and that money was eventually paid away almost entirely.

The Cayman Islands company's liquidator successfully brought conversion proceedings against the bank in the UK.

In determining the bank's liability, the court rejected the bank's argument that the company's sole shareholder had the authority to reach agreement with its UK sister company (of which he was also the sole director) for it to accept the other company's cheques. The court found that the purpose of the transfer was fraudulent and therefore incapable of being authorised and, in any case, the transactions were not in the interests of the company or its creditors, and so the company was not bound by the transfers of the cheques.

The other issue was whether the bank could rely on the defence set out at section 4 of the UK Cheques Act 1957, which absolves from liability a bank acting in good faith and without negligence where the bank's customer in fact has no right to the cheque payment.

However, the court found that the bank fell well short of establishing the required standard of good faith and absence of negligence, noting that:

- there was no evidence of any employee of the bank exercising judgement in the matter;
- the payee name on the cheques did not match the account name – at best the names were ambiguous; and
- the only anticipated source of US dollars for the UK sister company would have been from its parent company (and not from customers).

The court emphasised that the onus of disproving bad faith and negligence was on the bank.

Note that New Zealand has a directly equivalent provision at section 5 of the Cheques Act 1960.

¹ *Architects of Wine Limited v Barclays Bank PLC* [2006] EWHC 1648

Two companies liquidated as one

The High Court has ordered that the liquidations of two related companies proceed together as if the companies were one under section 271(1)(b) of the Companies Act 1993.

In this case¹, both companies:

- had a common directorship and shareholding;
- were involved in the same business;
- operated as if they were one; and
- used each other's bank accounts interchangeably.

The judge determined that, because both companies had effectively operated as one, and because creditors seemed confused about which company they had transacted with, it would not be possible to divide the funds held by the liquidator between the companies.

Accordingly, an order was made that the liquidations of each company proceed together as if they were one company.

¹ *Naylor v Demic Construction Limited (in liquidation) and Anor* High Court PMN CIV-2006-454-949

Payment to associated company recovered by liquidator

The Court of Appeal refused an appeal against a summary judgment ordering recovery of an amount paid to an associated company by a company in liquidation.

In this case¹, a company that was placed in liquidation in June 2004 had paid \$200,000 to another company in May 2001. The liquidators sought to recover that amount on the basis that it breached section 298 of the Companies Act 1993 because it was paid to an associated company for no consideration within three years of the application for liquidation.

The Court of Appeal dismissed the appeal made by the recipient of the payment, agreeing with the following two main conclusions of the summary judgment.

There was no consideration for the payment

The directors and shareholders of the recipient company established a family trust, which borrowed \$200,000 from a bank. The company then on-lent the money to the company that subsequently went into liquidation, which paid the money to the associated company as a "procurement fee", pursuant to which the associated company's staff would move to the company that subsequently went into liquidation. The arrangement was intended to result in lower accident compensation premiums for staff.

The court decided that the company received no benefit for its payment to the associated company.

The two companies were effectively under the same "control"

The two directors of the first company were also directors of the second company. In addition, they were the shareholders of the company and, together with another person, owned the shares in the associated company.

The court had no difficulty determining that the two companies were under the same control for the purposes of section 298 of the Companies Act 1993.

¹ *Effective Fencing Ltd v Chapman and Anor* CA CA84/05, 16 February 2007

In the journals

Lifting the veil on pooling orders under section 271 of the Companies Act 1993

Gehan Gunasekara and Alan Toy, New Zealand Business Law Quarterly, March 2007, Volume 13

This article considers the issues raised by last year's decision in Mountfort v Tasman Pacific Airlines of NZ¹, and examines the manner in which the judicial discretion to lift the corporate veil was exercised in that case.

Notwithstanding the doctrine of separate legal personality, the "corporate veil" can be lifted and the assets of a company pooled with the assets of a related company in liquidation if there is evidence of conduct that disentitles the companies from relying on the doctrine.

A pooling order is a way for a court to look through the barriers between related companies where it is just and equitable to the creditors of a company in liquidation. Pooling orders are uncommon in New Zealand, but have the potential to affect the rights of a creditor in the event of the insolvency of a related company.

In *Mountfort*, the liquidator of a company applied for a pooling order under sections 271 and 272 of the Companies Act 1993 in respect of the company and its holding company.

The two companies operated as separate companies. However, one company provided servicing, maintenance and crew to the other company and relied on it for over 99 per cent of its income. The court also found that one of the companies directed the other to transfer \$650,000 to it (at a time when the first company was insolvent, according to its liquidator) and the transfer was later treated as a nil debt between the companies.

The judge concluded that a pooling order should be granted because:

- although the companies operated as separate and autonomous entities, one was dependent on the other and the insolvency of one made the other insolvent;
- one company removed funding that would have allowed the other company to survive, which put the other company's creditors at risk;
- one company provided the other company with a bad debt, which contributed to the other company's insolvency; and
- the companies had directors in common, who breached their duties by allowing one of the companies to grant credit to an insolvent holding company, and this blurred the separate identities of the companies.

The article comprehensively details the facts and decision of the case and discusses the relevant themes in company law and legislative provisions. The authors agree with the decision to grant the pooling order on the facts of the case. However, they believe that a number of aspects of the decision needed further scrutiny and called for comment.

Section 272 of the Companies Act 1993 sets out the guidelines for exercising pooling orders - in this case, the High Court was required to consider:

- the extent to which one company took part in the management of the other;
- the conduct of one company towards the creditors of the other;

¹ [2006] 1 NZLR 104 – covered in the [Winter 2005 issue of *Financial Services Quarterly*](#)

- the extent to which the circumstances that gave rise to the liquidation of one company were attributable to the actions of the other company; and
- such other matters as it thought fit.

The authors state that, with two notable exceptions, the judge did not carry out anything more than a superficial treatment of these statutory criteria for exercising the discretion and, although he concluded that they were satisfied, he relied on the catch-all "such other matters as the court thinks fit".

The judge decided that, when considering the extent to which the related company took part in the management of the other company, it was necessary to examine the economic relationship between them rather than the actual management decisions that were made. The authors believed that this approach was problematic as there was too much focus on substance rather than form.

The judge's elevation of the solvency requirement into one of fundamental principle equal to that of separate corporate identity enshrined in section 15 of the Companies Act was considered by the authors to be the most interesting and controversial aspect of the decision. The authors stated that this elevation "*represents an innovative approach in the interpretation of statutory provisions*" and "*demonstrates the potential use of statute as a source of 'principle' for developing the law rather than being merely a tabulated set of rules*".

In conclusion, the authors noted that the case:

- highlights the central role that the requirement to maintain solvency plays in New Zealand company law;
- makes a significant contribution to the jurisprudence on piercing the corporate veil and the liability of parent companies for the actions of their nominees directors; and
- shows the manner in which legislative provisions have been used as the source for new principles governing the operation of companies.

The private equity boom

Rozanna Wozniak, Chartered Accountants Journal, Volume 86 No. 2 March 2007

This article discusses the boom of private equity funds that arose out of the high level of takeover activity undertaken globally in 2006. It considers what private equity funds are, the risks and international equities in 2007.

The general conclusion reached by the author is that, although there is scope for further growth in global equity markets, it is expected to occur at a more modest pace than in 2006. The article also concludes that the result of a reduction in takeover activity, and subsequently the decline in private equity funds, would result only in a period of disruption and volatility to investors, rather than cause a major disruption to global share markets.

What are private equity funds?

Private equity funds obtain capital from investors, and combine this with new debt to undertake heavily leveraged buyouts, either on their own, or in partnership with other funds.

Where potential exists to enhance the efficiency of companies, both in terms of their operation and their financial structure, it is the future earnings potential that will determine the price that private equity funds are willing to pay to purchase a company.

Often, private equity funds will target companies that are "cash-rich" on the basis of a belief that low gearing and ample cash is a sign that a company has under-invested.

The risks

Investors are lured into private equity funds by high returns. However, high returns come with high risks.

The rapid growth of private equity funds has resulted in larger, more expensive and more leveraged buyouts. The focus has also shifted from private companies that need financing to fund growth or development towards larger publicly-listed companies. The primary aim of private equity managers can also be said to have changed from a long-term aim to now seeking to transform their acquisition as quickly as possible so that it can be on-sold or re-floated at a higher price.

These recent trends have raised concerns among regulators due to the risk of default of a private equity-backed company or a cluster of private equity-backed companies which would impact (at least over the short term) on the wider financial markets. Although the disruption might not be serious or sustained, it would cause a period of increased volatility.

International equities in 2007

The author contends that, if recent levels of merger and acquisition activity are sustained this year, global equity markets will enjoy yet another year of strong gains.

However, she also warns that, given recent trends in the private equity sector, there is an increasing need for a cautious approach by investors. The large returns that many private equity funds have generated in recent years will be difficult to repeat and will have increased risks attached to them.

Legislation/In Parliament

Support for regulation of financial services sector

Two separate, but related, reviews of financial sector law are underway in New Zealand, as we have discussed in previous issues of Financial Services Quarterly. They are the review of financial products and providers (RFPP) being led by the Ministry of Economic Development, and the review of financial intermediaries led by the Financial Intermediaries Task Force.

More than 135 organisations made submissions on the nine discussion documents comprising the RFPP, and some 140 submissions were made on the financial intermediaries discussion document. A list of submitters and copies of the submissions are being made available on the Ministry of Economic Development's website.

Summaries of submissions have been released by the Commerce Minister, who says that the clear thread running through them is for better regulation of the financial services sector.

Review of financial products and providers

The cornerstone concepts of the RFPP are:

- registration of all financial services providers;
- enhanced disclosure; and
- a co-regulatory model involving the Securities Commission and approved industry bodies.

These concepts were all broadly supported by the submissions.

However, the Minister reported that submissions on the proposals for a two-tier regulatory model for non-bank organisations (such as finance companies and credit unions) were more contentious – necessitating an evaluation of alternatives.

Review of financial intermediaries

The proposals for the regulation of intermediaries and the co-regulatory relationship between the Securities Commission and industry-approved bodies received general support.

However, some submissions highlighted concerns about the proposal to apply different obligations to different classes of intermediaries – particularly around issues of possible confusion and unnecessary compliance costs. The Minister has indicated that these issues will be considered further.

Implementation

Proposals on both reviews are being considered by Cabinet.

The introduction of legislation will follow – the priority being legislative amendments to financial advisers and services registration.

It is expected that legislation will be introduced in the following phases:

Phase 1 – 2007/2008

Introduction and passage of legislation around regulation of financial advisers, financial service providers registration, supervision of issuers and dispute resolution.

Phase 2 - 2008

Introduction of:

- trust deed requirements for debt issuers and collective investment schemes, including changes relating to non-bank deposit takers and mutuals;
- insurance regulation changes; and
- requirements for platforms, which are computerised services that act as financial adviser, custodian and administrator, and portfolio management services, which act as financial adviser and custodian for investors.

Bell Gully seminars

Once Cabinet has announced its policy for this proposed legislation (expected to be in the third quarter of this year), Bell Gully will begin a series of seminars in Auckland, Wellington and Sydney tracking the development of this significant new law. We expect that, after the initial seminar, there would be follow-up seminars every few months outlining the progress of the legislation and its implications for financial sector participants. If you are interested in attending our seminars, please email sarah.sinnott@bellgully.com to register your interest.

Summaries of the submissions are available at www.med.govt.nz.

Companies that no longer need to register financial statements may still need to have their financial statements audited

Amendments to the Financial Reporting Act have resulted in some companies no longer being required to register financial statements with the Companies Office. However, the Ministry of Economic Development has pointed out that such companies may still be required to appoint an auditor and have their financial statements audited in compliance with section 196(3) of the Companies Act 1993.

Sections 19 and 19A of the Financial Reporting Act 1993 introduced changes to requirements for registration of financial statements for some companies. However, section 196(3) of the Companies Act 1993 requires the following companies to appoint an auditor to audit their financial statements, regardless of whether they are required to register them in accordance with the Financial Reporting Act:

- any company that is a subsidiary of a non-New Zealand company;
- any company in which 25 per cent or more of the voting power at a meeting of the company is held by a subsidiary of a non-New Zealand company or a non-New Zealand resident; and
- any company that is an issuer within the meaning of section 4 of the Financial Reporting Act.

However, it should be noted that the audit requirements of section 196(3) of the Companies Act are currently under review.

Recent developments

Implementation of trans-Tasman mutual recognition of securities offerings

The Australian bill to implement the mutual recognition regime was introduced into the House of Representatives at the end of March.

The New Zealand and Australian governments signed an agreement last year for mutual recognition of securities offerings.

The aim of the regime is to remove unnecessary regulatory barriers to trans-Tasman securities offerings by allowing issuers to offer securities in both New Zealand and Australia using the offer documents of their home jurisdiction.

The Australian Bill, known as the *Corporations (NZ Closer Economic Relations) and Other Legislation Amendment Bill 2007*, is available on the [Australian Commonwealth Law website](#). It addresses:

- mutual recognition of securities offerings;
- reduced filing requirements for certain foreign companies carrying on business in Australia;
- information sharing between the Australian Competition and Consumer Commission and other agencies, bodies and persons; and
- the protection of certain information that is given to, or obtained by, the Commission.

The Bill also makes amendments to the Trade Practices Act 1974 following recommendations made by the Productivity Commission in its 2004 Research Report "*Australian and New Zealand Competition and Consumer Protection regimes*".

In New Zealand, the general framework for mutual recognition is contained in the Securities Act 1978. The draft regulations under that legislation to implement the regime were consulted on last year.

The regime can come into force as soon as New Zealand's draft regulations under the Securities Act and the Australian bill (together with any necessary regulations) have been passed.

New securities law website

The Securities Commission has set up a website to help people understand the impact of the new legislation expected to be introduced in the next few months (through the Securities Legislation Bill).

The website provides an overview of the principal areas of:

- insider trading;
- substantial security holder disclosure;
- market manipulation; and
- investment adviser disclosure requirements.

[Click here](http://www.newsecuritieslaw.govt.nz) to visit the website or visit: www.newsecuritieslaw.govt.nz.

Credit card penalties to be investigated

The Commerce Commission has announced its intention to investigate credit card penalty fees to ensure they are reasonable.

New Zealand banks charge a late-payment fee of between \$20 and \$25 per month and up to \$25 for exceeding a credit limit.

The Credit Contracts and Consumer Finance Act 2003 requires fees to be "reasonable". The Commerce Commission's director of fair trading has said that "*the general principle is that credit and default fees must not be unreasonable and must have reference to the creditor's costs or losses*".

A similar investigation by a British counterpart found that penalty charges on credit cards were illegal and many customers received compensation as a result.

Financier refunds \$49,000 following breach of CCCFA

A financier has refunded \$49,000 to consumers following receipt of a warning from the Commerce Commission for breaching the Credit Contracts and Consumer Finance Act 2003 (CCCFA).

Section 51 of the CCCFA provides that creditors may only charge interest and other fees that have accrued, or would ordinarily be payable, up to the time of full repayment.

In this case, the financier was charging consumers interest for the whole month in which early repayment was made, instead of just up until the date of repayment.

Companies Office reviews fees

The Companies Office has reviewed its fee structure, with a resulting change in some fees from July.

The changes include:

- The fee to incorporate a company over the internet will increase from \$50 to \$150 and a fee of \$250 will apply where paper incorporation documents are lodged.
- There will no longer be a fee to view documents on the Companies Register.
- The fee for re-registration of financing statements on the Personal Property Securities Register will be reduced from \$5 to \$3.
- The fee to file financial accounts will be increased from \$100 to \$250.

Landonline help simplified

Since 16 April, the help and options available by calling 0800 LANDONLINE have been simplified.

The new caller prompt structure is as follows:

Service	Option
E-dealing support	Press 1
E-survey and Territorial Authority support	Press 2
E-search report	Press 3
Landonline application, technology, Digital Certificates and becoming a customer	Press 4
Topographic services, hydrographic services, Geographic Board and place name requests	Press 5
Manual lodgement support	Press 6
Finance and all other enquiries	Press 7

You may wish to keep this table for reference.

Bell Gully news

Bell Gully named IFLR New Zealand Law Firm of the Year

Bell Gully has been internationally recognised by respected global publication *International Financial Law Review (IFLR)* as the top New Zealand Law Firm for 2006. It is the fourth year in a row and the fifth time in six years that Bell Gully has won the *IFLR* New Zealand Law Firm of the Year Award.

New partner and senior associates in Bell Gully's latest promotions

A partner and seven new senior associates have been appointed in the latest promotions at Bell Gully. They include Katie Carson in the financial services team.

For further details and more news visit: www.bellgully.com

Useful Web links

New Zealand government

- Consumer affairs [www.consumeraffairs.govt.nz]
- Inland Revenue Department [www.ird.govt.nz]
- Ministry of Economic Development [www.med.govt.nz]
- Ministry of Foreign Affairs and Trade [www.mfat.govt.nz]
- New Zealand Government [www.govt.nz]
- NZ Government E-Commerce Information [www.ecommerce.govt.nz]
- NZ Treasury [www.treasury.govt.nz]
- Office of the Clerk of the House of Representatives [www.clerk.parliament.govt.nz]
- Parliamentary Counsel Office [www.pco.parliament.govt.nz]

New Zealand financial agencies and organisations

- Commerce Commission [www.comcom.govt.nz]
- The Companies Office [www.companies.govt.nz]
- Export Credit Office [www.treasury.govt.nz/exportcreditoffice]
- NZ Law Commission [www.lawcom.govt.nz]
- Office of the Banking Ombudsman [www.bankombudsman.org.nz]
- Office of Insurance and Savings Ombudsman [www.iombudsman.org.nz]
- Office of the Privacy Commissioner [www.privacy.org.nz]
- Personal Property Securities Register [www.ppsr.govt.nz]
- Reserve Bank of New Zealand [www.rbnz.govt.nz]
- Securities Commission [www.sec-com.govt.nz]
- Takeovers Panel [www.takeovers.govt.nz]

New Zealand commercial sites

- CLANZ [www.clanz.org]
- Financial Services Federation [www.fsf.org.nz]
- Institute of Chartered Accountants [www.icanz.co.nz]
- NZ Bankers' Association [www.nzba.org.nz]
- NZ Business Roundtable [www.nzbr.org.nz]
- NZ Institute of Economic Research [www.nzier.org.nz]
- NZ Exchange [www.nzx.com]

Australian government sites

- Banking Ombudsman [www.abio.org.au]
- National Office for the Information Economy [www.ogo.gov.au]

Australian commercial sites

- Australian Financial Markets Association [www.afma.com.au]
- Australian Securities and Investment Commission [www.asic.gov.au]
- Australian Stock Exchange [www.asx.com.au]

International sites

- Bank for International Settlements [www.bis.org]
- Global Banking Law Database [www.gbld.org]
- International Monetary Fund [www.imf.org]
- International Swaps and Derivatives Association [www.isda.org]
- NASDAQ [www.nasdaq.com]
- New York Stock Exchange [www.nyse.com]
- United States Securities and Exchange Commission [www.sec.gov]
- World Bank [www.worldbank.org]