

The Legal Aspects of Bank Insolvency

**A Comparative Analysis
of Western Europe, the
United States and Canada**

Eva H.G. Hüpkes



Regulating The Financial Services Sector Studies In Comparative Corporate And Financial Law Volume 6

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Dalhuisen on Transnational and Comparative Commercial, Financial and Trade Law Volume 6 Jan H

Dalhuisen, 2022-06-16 a wide ranging historically and comparatively very deep and comprehensive commentary but which is also very contemporary and forward looking on many or most of the issues relevant in modern transnational commercial contract and financial transactions International and Comparative Law Quarterly Volume 6 of this new edition deals with financial regulation of banks and banking activities and products It critically reviews micro prudential regulation the need for macro prudential supervision and an independent macro prudential supervisor the role of resolution authorities the operation of the shadow banking system and the extraterritorial reach and international recognition of financial regulation The volume considers in particular the fallout from the 2008 financial crisis and the subsequent regulatory responses in the US and Europe The complete set in this magisterial work is made up of 6 volumes Used independently each volume allows the reader to delve into a particular topic Alternatively all volumes can be read together for a comprehensive overview of transnational comparative commercial financial and trade law

Global Governance and the Quest for Justice - Volume III

Peter Odell, Chris Willett, 2008-11-24 This book one in the four volume set Global Governance and the Quest for Justice focuses on themes of citizen organisation and empowerment set in the context of globalising legal processes Chapter One sets the scene Chapters Two Three and Four focus on various challenges that globalisation poses for private law How does substantive contract and tort doctrine that has been developed mainly for use within national legal systems adapt to more globalised dealings and wrongdoings Should the source of regulation be private international law harmonised national law international accords or some combination Chapters Five Six and Seven focus on issues relating to access to justice as a mode of empowerment and its impact on the functioning of civil society These chapters highlight a variety of procedural professional and institutional challenges for access to justice in a globalised world Chapter Eight considers how we are to reconcile the competing visions of the basis on which essential services are to be provided In a global marketplace is there any room for local values or for values other than those of free market thinking Finally Chapter Nine focuses on the question of democracy in a globalised world If civil society is to retain its political vitality how are citizens to remain engaged and enfranchised as a new global politico legal order takes shape

The European Banking Regulation Handbook, Volume I Christos V.

Gortsos, 2023-06-10 In two volumes this book covers in a comprehensive internally balanced systematic and detailed way the field of European Union EU banking law and regulation In three parts Volume I offers a brief introduction to the role of banks in the contemporary financial system and the theory of banking regulation a thorough analysis of international financial standards which are contained in the sources of public international banking law and of public international financial law in general a detailed presentation of the gradual evolution and the sources of EU banking law as well as a precise analysis of the law making process and the key institutional aspects of this branch of EU economic law The standards and rules adopted

and the institutions created in the aftermath of the 2007 2009 global financial crisis and the subsequent euro area fiscal crisis as well as during the current pandemic crisis are discussed as appropriate A detailed analysis of the substantive aspects of EU banking law will follow in Volume II

The Regulation of Financial Planning in Australia Angelique Nadia Sweetman McInnes, 2019-08-20 This book investigates the legitimacy of the current Australian Financial Services Licensee Authorised Representative AFSL AR licensing model as specified in the Commonwealth Corporations Act 2001 The book rectifies the deficiency in scholarly attention to this matter by developing a new conceptualised framework for the financial planning discipline It takes into account theories in agency legislation legitimacy and the independent individual regulatory regimes in other professions thereafter integrating this framework with the financial planning theory to examine the legitimacy or what was found to be the illegitimacy of licensing advisers via multiple third party conflicted commercially oriented licensees This book makes a very useful reference to understanding financial planning licencing model in Australia

The Foundations and Future of Financial Regulation Mads Andenas, Iris H-Y Chiu, 2013-11-20 Financial regulation has entered into a new era as many foundational economic theories and policies supporting the existing infrastructure have been and are being questioned following the financial crisis Goodhart et al s seminal monograph Financial Regulation Why How and Where Now Routledge 1998 took stock of the extent of financial innovation and the maturity of the financial services industry at that time and mapped out a new regulatory roadmap This book offers a timely exploration of the Why How and Where Now of financial regulation in the aftermath of the crisis in order to map out the future trajectory of financial regulation in an age where financial stability is being emphasised as a key regulatory objective The book is split into four sections the objectives and regulatory landscape of financial regulation the regulatory regime for investor protection the regulatory regime for financial institutional safety and soundness and macro prudential regulation The discussion ranges from theoretical and policy perspectives to comprehensive and critical consideration of financial regulation in the specifics The focus of the book is on the substantive regulation of the UK and the EU as critical examination is made of the unravelling and the future of financial regulation with comparative insights offered where relevant especially from the US Running throughout the book is consideration of the relationship between financial regulation financial stability and the responsibility of various actors in governance This book offers an important contribution to continuing reflections on the role of financial regulation market discipline and corporate responsibility in the financial sector and upon the roles of regulatory authorities markets and firms in ensuring the financial health and security of all in the future

Reinsurance Regulation: A Contemporary and Comparative Study Wallace Wang, 2003-01-01 We seem to be living at a time when insurance is strained to the breaking point From hurricanes and earthquakes to terrorist attacks and threats of nuclear devastation enormous risks to life and property and accompanying liabilities proliferate on an unprecedented scale Insurer insolvency is not yet common but it is not unusual either And at the root of such failures often lies the compound failure of uncollectable reinsurance This

important book proposes that a significant part of the emerging insurance crisis results from inadequate regulation of reinsurance. In a detailed and cogent analysis of what an effective regulatory regime for reinsurance must entail, the author examines such factors as the following: direct supervision of reinsurers versus supervision of reinsurance policies; models from developed countries (US, UK, EU) and international organisations (Organization for Economic Cooperation and Development, International Association of Insurance Supervisors); the importance of taking legal and economic differences into account while applying models; the problem of local protectionism, especially in developing countries; the dismantling of trade barriers in the reinsurance industry; global harmonization of reinsurance regulation; the role of reinsurance intermediaries; finite risk reinsurance; insurance-linked securities. The author's concluding chapter presents an essential legal infrastructure that allows for efficiency, security and individual market characteristics. Professor Wang then applies this framework to the Taiwanese insurance market, demonstrating convincingly how his proposed regime can solve specific problems while respecting Taiwan's distinct market environment. As a meticulously considered appraisal of and solution to a world problem that is growing quickly and uncontrollably, *Reinsurance Regulation* will be of immense value to lawyers, professors, academics and officials who deal with any facet of economic law.

Looking for New Paths in Comparative and International Law

Dalvinder Singh, Cristina Elena Popa Tache, Cătălin-Silviu Săraru, 2021-09-10. This volume contains the scientific papers presented at the Conference on Comparative and International Law that was held on 25 June 2021 online on Zoom. This is an international conference. The conference is organized every year by the Society of Juridical and Administrative Sciences together with the Faculty of Law of the Bucharest University of Economic Studies. More information about the conference can be found on the official website www.comparativelawconference.eu. The scientific studies included in this volume are grouped into two chapters: Inspirational analyses in comparative law; Seeking the brilliance of international law. This volume is aimed at practitioners, researchers, students and PhD candidates in juridical sciences who are interested in recent developments and prospects for development in the field of comparative and international law. Competitive Equity in the Financial Services Industry, United States. Congress. Senate. Committee on Banking, Housing, and Urban Affairs, 1984.

Capital Failure, Nicholas Morris, David Vines, 2014-08-07. Adam Smith's invisible hand relied on the self-interest of individuals to produce good outcomes. Economists' belief in efficient markets took this idea further by assuming that all individuals are selfish. This belief underpinned financial deregulation and the theories on incentives and performance which supported it. However, although Adam Smith argued that although individuals may be self-interested, he argued that they also have other motivations, including a desire for the approbation of others. This book argues that the trust-intensive nature of financial services makes it essential to cultivate such other motivations, and it provides proposals on how this might be done. Trustworthiness in the financial services industry was eroded by deregulation and by the changes to industry structure which followed. Incentive structures encouraged managers to disguise risky products as yielding high

returns and regulation failed to curb this risk taking rent seeking behaviour The book makes a number of proposals for reforms of governance and of legal and regulatory arrangements to address these issues The proposals seek to harness values and norms that would reinforce other regarding behaviour so that the firms and individuals in the financial services act in a more trustworthy manner Four requirements are identified which together might secure more strongly trustworthy behaviour the definition of obligations the identification of responsibilities the creation of mechanisms which encourage trustworthiness and the holding to account of those involved in an appropriate manner Financial reforms at present lack sufficient focus on these requirements and the book proposes a range of further actions for specific parts of the financial industry

The Structure of Financial Regulation David Mayes, Geoffrey E. Wood, 2007-01-18 This book examines the area of financial regulation in the banking sector Editors Mayes and Wood bring together such academics as Charles Goodhart Charles Calomiris and Kern Alexander whose expertise shines through this volume to provide a reference tool for researchers students and bankers themselves which will prove invaluable

Routledge Handbook of Social and Sustainable Finance Othmar M. Lehner, 2016-06-23 Routledge Handbook of Social and Sustainable Finance brings together an international cast of leading authorities to map out and display the disparate voices traditions and professional communities engaged in social finance activity With a clear societal or environmental mission foundations individual and group investors as well as public bodies around the world have become increasingly eager to finance and support innovative forms of doing business Together founders and established businesses alike are embracing new sustainable business models with a distinct stakeholder approach to tackle social or environmental problems in what they see as a failed economic system in crisis As a result the topic of social and sustainable finance is at the forefront of financial economic thought This Handbook is divided up into three parts The first The Landscape of Social and Sustainable Finance and Investments comprises of chapters from a multitude of perspectives in an effort to grasp the entirety of the landscape The second Challenges Suggestions Critiques and Debates focuses on areas ranging from sociological underpinnings to critical takes on markets and the identification of specialized business models Amongst ethical considerations topics include the scaling of impact an analysis of sustainability as risk prevention and comparative analyses of various methods of justification and measurement In the third and final section Markets and Institutions contributions range from various perspectives on sustainable banking to environmental marketplaces and finally on to practical cases and country specific observations This volume is essential reading for both academics and students in economics and finance It is also of interest to those who study environmental economics microeconomics and banking

The Oxford Handbook of European Union Law Anthony Arnall, Damian Chalmers, 2015-07-23 Since its formation the European Union has expanded beyond all expectations and this expansion seems set to continue as more countries seek accession and the scope of EU law expands touching more and more aspects of its citizens lives The EU has never been stronger and yet it now appears to be reaching a crisis point beset on all sides by

conflict and challenges to its legitimacy Nationalist sentiment is on the rise and the Eurozone crisis has had a deep and lasting impact EU law always controversial continues to perplex not least because it remains difficult to analyse What is the EU An international organization or a federation Should its legal concepts be measured against national standards or another norm The Oxford Handbook of European Union Law illuminates the richness and complexity of the debates surrounding the law and policies of the EU Comprising eight sections it examines how we are to conceptualize EU law the architecture of EU law making and administering EU law the economic constitution and the citizen regulation of the market place economic monetary and fiscal union the Area of Freedom Security and Justice and what lies beyond the regulatory state Each chapter summarizes analyses and reflects on the state of play in a given area and suggests how it is likely to develop in the foreseeable future Written by an international team of leading commentators this Oxford Handbook creates a vivid and provocative tapestry of the key issues shaping the laws of the European Union

Corporate Structure and Banking Resolution Marcelo J. Sheppard Gelsi, 2024-06-06 This book provides a legal analysis of the regulation of bank based financial conglomerates from a structural commercial and regulatory perspective It includes a comparative analysis of the regulation of bank based financial conglomerates from the standpoint of the three jurisdictions that established a distinct regulatory model i e Germany the UK and the US At the same time it analyses which banking resolution strategy is most appropriate for different models taking into account four factors applicable to bank insolvency The book further examines the types of capital structure associated with each model and in particular how BBFCs have influenced industry developments in Germany the United Kingdom the United States and the EU While there are several books that focus on the regulation of banks insurance companies and securities firms this book will include the first analysis of BBFC from a structural commercial and resolution standpoint analysing not only the three major jurisdictions but three different BBFC models and will be of particular interest to students researchers and professors of banking and financial institutions

Law and Regulation of Mobile Payment Systems Joy Malala, 2017-11-28 Over the last ten years mobile payment systems have revolutionised banking in some countries in Africa In Kenya the introduction of M Pesa a new financial services model has transformed the banking and financial services industry Giving the unbanked majority access to the financial services market it has attracted over 18 million subscribers which is remarkable given that fewer than 4 million people in Kenya have bank accounts This book addresses the legal and regulatory issues arising out of the introduction of M Pesa in Kenya and its drive towards financial inclusion It considers the interaction between regulation and technological innovation with a particular focus on the regulatory tools institutional arrangements and government decisional processes through the examination as a whole of its regulatory capacity This is done with a view to understanding the regulatory capacity of Kenya in addressing the vulnerabilities presented by technological innovation in the financial industry for consumers after financial inclusion It also examines the way that mobile payments have been regulated by criticising the piecemeal approach that the Central Bank of

Kenya has taken in addressing the legal and regulatory issues presented by mobile payments The book argues there are significant gaps in the regulatory regime of mobile banking in Kenya *The Politics of the Financial Services Revolution* M. Moran,1990-11-15 The financial services revolution has transformed what was once a backwater into a glamorous and dangerous part of modern economies Intense competition and ferocious struggles for advantage in world markets are the signs of revolutionary change Michael Moran s book breaks new ground by examining the politics of that revolution Moran compares the struggles between private interests and public agencies in three great world financial centres New York London and Tokyo **The Governance of Macroprudential Policy** Tracy C Maguze,2024-01-11 This book critically examines the theoretical foundations and legal framework for macroprudential policy its tools and governance in the UK the US and the EU It goes deeper into a normative discussion of the legitimacy of macroprudential policy in these jurisdictions where the mandate for maintaining financial stability has been delegated to independent authorities The Global Financial Crisis of 2007 2008 reopened debates regarding legitimacy of the independent regulatory state given its democratic deficit The response to a perceived legitimacy gap has been to increase political oversight in financial policymaking and regulation The book posits that the real problem is not a lack of democracy but rather a lack of social justice Across the globe there is growing dissatisfaction with a financial system and regulatory process that appear depersonalised and perpetuate inequalities Citizens are calling for more socially just systems of governance and the future success of financial policymakers and regulators will hinge on this Given the marked distributional effects that have been noted in some macroprudential policy tools the book questions whether macroprudential policy should be solely based on highly rationalised and strongly quantitative reasons By proposing that macroprudential policymakers should have a social justice mandate alongside their financial stability mandate as well as legal mechanisms for operationalising the added authority the book contributes to the growing discourse on the role of social justice in public policy **AMERICAN JOURNAL OF ISLAMIC SOCIAL SCIENCES 27:1** Imad-ad-Dean Ahmad, Marcia Hermansen, Mehmet Asutay, Haifaa Jawad, Ahmad Yousif ,2010-11-02 The American Journal of Islamic Social Sciences AJISS is a double blind peer reviewed and interdisciplinary journal that publishes a wide variety of scholarly research on all facets of Islam and the Muslim world anthropology economics history philosophy and meta physics politics psychology religious law and traditional Islam Submissions are subject to a blind peer review process **The Japanese Financial System in Comparative Perspective** ,1982 *The Legal History of the European Banking Union* Pedro Gustavo Teixeira,2020-12-24 How was the Banking Union the most advanced legal and institutional integration in the single market created How does European law impact European integration To answer these questions this book provides a sweeping account of the evolution of European law It identifies five integration periods of the single financial market intertwined with the development of global finance from its origins through its expansion and crisis to the Banking Union Each period is defined by innovations to deepen integration such as the single passport for financial services soft

governance and comitology agencies or a single rulebook Providing a far reaching explanation of the legal and institutional rationality of the European Banking Union this book demonstrates that the Banking Union is not an accident of history or simply the product of the existential crisis of the Monetary Union It has deep roots in the evolutionary process of European law and its drive towards supranational integration Financial Services, Financial Crisis and General European Contract Law Stefan Grundmann, Ye?im M. Atamer, 2011-01-01 Speculation is rife on the origins of the worldwide financial crisis of 2008 with a preponderance focusing on alleged shortcomings in corporate governance This book offers a distinct yet complementary perspective that the most useful path to follow if we want to understand what happened and forestall its happening again is through an analysis of contract relationships specifically banking contracts entered into in the financial services sector considered under the rubric of contract law rather than company law Because banking is the area of European contract law which is most thoroughly developed banking contracts can be seen as paradigmatic of typical assumptions and shortcomings often examined in the more general debate on contract law And indeed the very thoroughness of European banking contract law makes it a promising ground on which to build effective preventive measures In this book thirteen noted scholars recognizing that modern contract law must take into account global markets and risks consider banking contracts within networks and within mass transactions Always attending to the long term relationships that characterize financial services contracts they focus on such cross sector issues as the following rule setting and the question of who should best regulate and at which level networks of contracts as the backbone of a market economy the complex interplay between market regulation and traditional contract law avoiding erroneous assumptions about the future development of prices the passing on of the risk via securitization rating relationships affected by conflicts of interests remuneration problems core duties of information and advice in an agency relationship in services fiduciary duties of loyalty and care types of clients and level of protection differentiation in information available on various markets and the question of enforcement

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