

ALERT

23 NOVEMBER 2011

Update: *Personal Property Securities Act 2009 (PPSA)* – Registration commencement date and defects in registration of migrated security interests

The Attorney-General made a Determination on 21 November that the registration commencement time of the Personal Property Securities Register (**PPS Register**) is to be 30 January 2012. As of 21 November 2011, the Registrar to the PPS Register will begin to migrate existing registered security interests in personal property (eg, registered ASIC company charges).

Accordingly, the two year transitional period for registration of security interests that were previously unregistrable (eg title to goods sold on credit) is to end on 30 January 2014. Security interests not registered within the two year window are deemed to be unperfected and clients' rights could be prejudiced. Clients who have not contacted us already to update their trading terms, having regard to the PPSA, should do so as soon as possible.

The Attorney-General also made a Determination regarding defects in the registration of any migrated security interests. In relation to transitional security interests, if there is any defect in the financing statement registered by the Registrar that would otherwise deem registration ineffective, these registrations are deemed to be effective, provided that:

- these security interests were registered on a transitional register;
- the registration was effective immediately before data was given to the Registrar;
- the registration was authorised by the law under which the transitional register was maintained; and
- the data given to the Registrar was in the approved form and accepted by the Registrar.

The *Personal Property Securities Amendment (Registration Commencement) Bill 2011*, which allows for contingency measures regarding the commencement date of the PPSA, is still being considered by the Senate and is due to be considered again on 24 November.

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