

ALERT

30 AUGUST 2012

PPSR update issued by ITSA

Last Monday the Insolvency Trustee Service of Australia (**ITSA**) issued an update regarding the Personal Property Securities Register (**PPSR**). ITSA is a government agency which, among other functions, manages the online PPSR system.

Key aspects of the ITSA PPSR update are as follows:

- As you will recall from our past Alerts, the migration of the ASIC Register of Company Charges onto the PPSR encountered some difficulties. These difficulties included a failure of approximately 6,000 previously registered Company Charges to migrate onto the new PPSR, therefore resulting in those Charges being currently unregistered. ASIC released a list of those non-migrated Charges on its website, at www ASIC.gov.au. ASIC and ITSA have since sought to rectify this error, but some Charges remain unregistered on the PPSR.

ITSA's update confirmed that non-migrated Charges receive transitional protection until 31 January 2014. However, any pre-30 January 2012 Charges that did not properly migrate onto the PPSR **must** be registered on the PPSR **before 31 January 2014**. It is the responsibility of the secured party (ie the

Charge-holder) to ensure that this registration takes place. It is unlikely that ASIC or ITSA will take responsibility for any loss caused by a failure to ensure that your pre-30 January 2012 Charges are properly registered before 31 January 2014.

Secured parties who re-register certain non-migrated Charges may be eligible for payment by ITSA of \$45.45 plus GST (or \$50 including GST). The form to claim such payment must be submitted on or before 31 October 2012.

If you have any concerns as to whether Charges that you have been granted are properly registered on the PPSR, please contact us.

- Another difficulty experienced by ITSA in the migration of the ASIC Company Charges was that many migrated Charges linked on the PPSR to the grantor company's ABN rather than to its ACN. In June ITSA implemented a data fix that changed 885,238 registrations which had previously been linked to the grantor company's ABN to now be linked to that company's ACN.

This process caused 484 registrations to wrongly be linked to a grantor company's ARBN (rather than ACN). Most of these



grantor companies were foreign companies. ITSA is currently rectifying this error. In the meantime, any PPSR grantor searches by ARBN should include a second search, inserting the ARBN into the ACN field.

- ITSA has been working to remove from the PPSR registrations previously recorded on certain databases that were incorrectly migrated onto the PPSR, despite those registrations being discharged prior to 30 January 2012. The approximate numbers of affected registrations as released by ITSA are as follows:

- a. ASIC Register of Company Charges – 38,000 registrations;
- b. Qld REVS and Bills of Sale registers – 10,000 registrations;
- c. Tasmanian REVS – 2,000 registrations.

These registrations are said to have been successfully removed from the PPSR on 31 July 2012.

Notwithstanding the above steps, we recommend that you continue to carefully review both the registrations recorded against your business and registrations of any rights that you have taken in respect of other entities. It remains the responsibility of the businesses involved to ensure that their agreements are accurately reflected on the PPSR.

If you have any questions or concerns regarding registrations recorded against you, or registrations that you have recorded over another entity, please contact us.

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