

ISSUE 15

SADIRECTOR



NEW MEMBER COCKTAIL PARTY
... PAGE 2

HOMESTART FINANCE
... PAGE 3

**EMPLOYERS VIEW OF
OUTPLACEMENT**
... PAGE 4

WA CONFERENCE
... PAGE 5

COOPERS SPONSORSHIP
... PAGE 6

NEW MEMBERS
... PAGE 7

LEGALLY SPEAKING
... PAGE 8

MAJOR ANNUAL SPONSORS



SOJOURN IN WA! COMPANY DIRECTORS CONFERENCE 2005

DETAILS ON PAGE 5

www.companydirectors.com.au



ABN 11 008 484 197

BACK TO BUSINESS - NEW MEMBER COCKTAIL PARTY

Proudly Sponsored By



We were delighted to meet our new members and catch up with our members and Company Director Course graduates at our Back to Business Cocktail party held on February 16th, 2005. The Cocktail party was a popular event with

just over 100 members and guests in attendance.

It was wonderful to also welcome back Sir Eric Neal AC, CVO to congratulate and present the Company Directors

Course graduates with their Diplomas.

For those of you who were unable to join us in February, we look forward to seeing you at our Spring Cocktail Reception in September, 2005.



Company Director Course Graduates

VOLUNTARY INDUSTRY CODES OF CONDUCT: A NEW AID FROM THE ACCC FOR INDUSTRY LEADERS

By Konrad Chmielewski (Australian Competition & Consumer Commission)

On the 7th March 2005 the Australian Competition and Consumer Commission launched its Guidelines to Develop Effective Voluntary Industry Codes of Conduct.

The ACCC's role with codes of conduct has developed over the years from providing guidance to industry associations to participating as an observer on code administration committees. That role includes granting authorisation for certain conduct on public benefit grounds and the administration of mandatory industry codes of conduct, for example the Franchising Code of Conduct.

The ACCC's Guidelines to Develop Effective Industry Codes of Conduct is an important part of the ACCC's overall strategy to encourage industry to develop and maintain effective tools to achieve compliance with the Trade Practices Act 1974.

What is a voluntary industry code of conduct?

A voluntary industry code of conduct sets out specific standards of conduct for an industry in relation to the manner in which it deals with its members as well as its customers. These standards are voluntarily agreed to by its signatories.

The ACCC Guidelines identify essential criteria in an effective voluntary industry code, including such factors as:

- Code administration
- Effective complaints handling
- In-house compliance systems
- Sanctions for non-compliance
- Monitoring, accountability and review

When are voluntary industry codes more likely to be effective?

Research conducted on behalf of the ACCC suggests that codes of conduct tend to be more effective when the self-regulatory body:

- Has widespread support of industry
- Comprises representatives of the key stakeholders, including consumers, consumer associations, the government and other community groups
- Operates an effective system of complaints handling.

Further, effective codes potentially deliver increased consumer protection and reduced regulatory burdens for business. To achieve this they must be well designed, effectively implemented and properly enforced. In contrast ineffective codes may place compliance burdens on businesses without any realisable benefits and potentially making signatories to the code less competitive.

The launch of these Guidelines by the ACCC follows extensive consultation with government bodies, legal, industry and consumer groups.

For a copy of the Guidelines visit the ACCC's website at www.accc.gov.au or contact the ACCC Infocentre at 1300 302 502.

HOMESTART'S WOMEN'S UNIT

The HomeStart Women's Unit was established in March 2004 in response to research which showed that almost half of HomeStart's total new business was comprised of lone women borrowers, with or without children.

The Women's Unit has been responsible for developing, facilitating and providing a range of services and initiatives for women. The Women's Unit connects with women on the issues that specifically relate to them by delivering free public seminars.

Judi Cheshire, Manager of the Women's Unit said the "For women by women" seminars, are ideal for women who are looking to buy a home, whether they are first time buyers or returning to the market. They provide practical and realistic information for women from many different personal and financial circumstances, including recently separated singles and parents who are recipients of settlement funds but may be on moderate incomes and those who have graduated from university and are earning high incomes but find it difficult to save a deposit.

HomeStart's Graduate Loan – a concept which has been developed to help keep knowledge in the State – has been particularly popular for women. The Graduate Loan is designed to provide a helping hand for graduates to get a home of their own. If you have a degree, diploma or higher qualification through a university, TAFE or other Registered Training Organisations you may be eligible to borrow up to 100% of a property's value or purchase price, whichever is less. And if you are eligible for the First Home Owners Grant you can put the \$7,000 towards the costs associated with purchase. It may be worth a visit to www.homestart.com.au as it is an excellent resource and has great calculators which can provide an indicative idea of what you can borrow and costs associated with home purchase.

Judi engages women who are professionals in their field, such as Lawyers, Conveyancers and Real Estate Agents, to speak at the seminars about:

- How to make an offer on a property for purchase and information about how to engage in the auction process versus private treaty process of buying



Judi Cheshire, Manager, HomeStart Women's Unit

- What is a conveyancer and how can they assist you as a purchaser
- Your legal rights in relation to property assets and relationship breakdowns

Judi delivers in depth information on the home lending process. The seminars aim to take the confusion out and provide confidence to women to enter or re-enter the home ownership market.

The Women's Unit puts together an online newsletter and if you would like to be updated about networking opportunities and information about home ownership aimed specifically at women you can get onto the list by contacting Judi at jcheshir@homestart.com.au

A State Government initiative, HomeStart Finance began operating in 1989 to help moderate income earners into home ownership. Since inception, HomeStart has helped 44,500 households into home ownership.

The next "For women by women" seminar will be held on:

Date: 24th May 2005
Time: 6pm to 8-30pm

To register for or to find out more about the Women's Unit seminars, visit HomeStart's website at www.homestart.com.au or call 8210 0500.

Eligibility criteria, terms and conditions apply. Fees and charges are payable

CAREER TRANSITION RESEARCH FINDINGS:

JOB SEEKERS CONFIRM EMPLOYERS' VIEW OF OUTPLACEMENT

Individual job seekers emphatically validated the benefits of outplacement consulting—confirming related research into employers' views on the same subject—according to the findings of a new Right survey.

Right Management Consultants recently completed its survey of 3,697 individuals—75% at management levels who are receiving career transition consulting at Right locations around the world. This research followed close on the heels of Right's global study in 2004 of 212 companies, which took the pulse of employers' attitudes toward providing career transition consulting services to departing employees.

The new study, which surveyed employees in North America, Europe, Asia-Pacific (including Australia), and South America, confirmed two primary findings of the employer study: 1) that the provision of outplacement has a clear, positive impact on the organisation's reputation among remaining employees and in the job market in general; and 2) that for ex-employees using outplacement services, individualised consulting is very highly valued, even with the rise in popularity and availability of Internet-based career-related resources.

Paul Smith, State Director for Right Management Consultants in South

Australia, says, "The value of receiving individualised consulting support from an experienced consultant couldn't be clearer, for navigating the networking process, making industry or functional career changes, or evaluating the self-employment options—nothing can replace it. But many aspects of the job search process can be very effectively automated, simplified and expedited by intelligent use of online resources." He continued, "In a way, the technology allows the candidate to take the decisions and the direction received in the consulting relationship and implement these in the most convenient, effective way, and on the individual's own schedule."

The Impact of Outplacement on Employment Branding.

The earlier study found that employers' top four reasons for providing outplacement consulting services to exiting employees related to managing perceptions of the organisation:

- | | |
|---|-----|
| 1. To demonstrate the company's commitment to remaining employees | 76% |
| 2. To sustain morale of retained employees | 74% |
| 3. To manage former employees' perception of the company | 73% |
| 4. To maintain the company's reputation in the community | 67% |

The findings of Right's new survey of individuals confirm the reasoning of these employers, showing that, when people are treated well during such a transition, they will naturally hold the organisation in higher regard and subsequently communicate these feelings to those with whom they come into contact.

Detailed analysis of the data from the new study is in process and is scheduled for release in the second quarter of 2005.

Please contact Paul Smith at Right Management Consultants, 618 8232 6077, for further details.

On behalf of the SA/NT Division President of the Australian Institute of Company Directors, members of Council and staff our thanks go to Paul Smith and the team at Right Management Consultants for their support over the past 3 years. Loyalty of this kind is a rare commodity and we trust that Right Management Consultants has benefited from this arrangement as much as the Australian Institute of Company Directors has.

Paul has been a regular attendee at AICD functions and the support of Right Management has assisted AICD in providing high quality speakers and educators to entertain and educate our members.

AN UPGRADE TO THE DIRECTORS REGISTER SOFTWARE IS ON THE HORIZON

The Directors Register was launched in August 2003, and with the large number of national and international members listed, it has grown in its success and popularity.

Due to the growth of the Register it has become necessary to upgrade and enhance the software to provide a more efficient and effective service. Members will be able to create and store their resumes which, with the new software, will be fully searchable. Therefore, resumes become very important documents and should include all relevant details.

In addition, reports can be provided to members on the number of times their profile has been submitted. Details of the searching organisations will not be provided however, members

will be notified by email if their profile has been sent out.

We are hoping to implement the new software in the next couple of months so watch this space.

For further information or to apply for the Directors Register please visit www.companydirectors.com.au/dregister. Once you have sent in your application to the AICD you will receive a username and password to access the internet based service which enables you to then upload your profile including your CV, photo and educational. Directors Register membership costs \$75 (+ GST) per year.



SOJOURN IN WA!

COMPANY DIRECTORS CONFERENCE 2005

The 'Outward Journey' begins in WA from the 11-14 May at the Company Directors Conference 2005.

In addition to the many exciting speakers participating in this year's event, we have now confirmed Mr Trevor Eastwood FAICD, Chairman, Wesfarmers Limited, who will speak in Forum E - Is the Corporate Regulation Killing the Company. With the increasing introduction of new legislation, can entrepreneurship survive in Australia, can the regulatory system encourage virtuous corporate behaviour and will it inhibit companies taking calculated risks to achieve above utility rates of return. Ms Catherine Walter FAICD, Director, ASX and Prof Bob Baxt FAICD, Partner, Freehills will also join Mr Eastwood in this stimulating session.

All of our seven concurrent forums provide serious thought provoking topics in interesting and unique locations. You better be on your best behaviour at Forum C, held at the WA Police Academy where Dr Don Stammer, Company Director & Chairman, ING Property Trusts, Mr Stephen Mayne, Crikey.com and The Hon Richard Court, former Premier of Western Australia will share their insights into whether people become alienated from the traditional morals that guide human relationships as they pursue the goal of the collective organisation. And how do we ensure that corporate objectives and societal morals and expectations are not mutually exclusive?

The final session of the conference will provide an opportunity to participate in a board meeting which will raise many of the questions, and issues you face or may face in your role as a director.

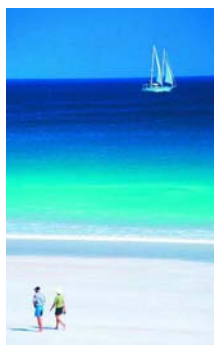
And to set the scene.....Gold'n Gas, a fictional Australian based, ASX listed, oil, water and gas exploration company conducts business in India, China and Australia. The board meeting will address several strategic issues. Board members will receive their board reports and the financials prior to the session. They will then have to deal with all the tricky issues to pull the company out of a hole left by the previous board. How do they deal with the turnaround and balance strategic development against compliance issues? For every decision they are about to make, you will have a vote. Can they do better? It's your call. So, why not sit

back, and watch some experts fight it out for you in and take home the useful tips and insights to successful business practices.

This very interactive session will no doubt leave you walking away inspired.

Mr Michael Pascoe, Sunday Sunrise Financial Editor, Channel 7 will moderate this session and the invited board members of Gold'n Gas include Mr Graham Bradley, Director, HSBC Bank Australia; Ms Linda Nicholls, Chairman, Australia Post; Mr Stephen Mayne, Crikey.com; Mr Alan Cameron, Deputy Chairman, Sydney Futures Exchange Corporation Limited; Dr Marvin J. Cetron, Founder and President, Forecasting International, USA; Mr John Akehurst, Former CEO, Woodside Petroleum Ltd; and Ms Catherine Walter, Director, ASX.

The conference also has a leisure component! Two pre-conference tours: experience the historic and cultural sights of Broome with a unique Pearling trip on one of Kailis Groups Pearling Vessels or



visit the beautiful and idyllic Margaret River region and indulge in some exquisite wines and foods from the area. What better way to see the sights of WA and meet your fellow conference delegates. These tours will be held 9-

11 May, so make sure you book this time in your diary!

Partners and guests of delegates are invited to join us on our specially designed partners program to be held on Thursday 12 and Friday 13 May 2005. Numbers are limited, so please book early to avoid disappointment. Thursday 12th May: A fascinating and exclusive tour around the SAS Training Facility, or alternative. Following the tour, you will be able to listen to a special guest speaker Mr Robert Redenbach. Robert has



lectured at the FBI Academy, taught unarmed combat to British and European special forces and, for the duration of Nelson Mandela's Presidency, Rob wrote and implemented the official defensive tactics program of the South African Presidential Protection Unit. Proceeding this, you will have a sumptuous lunch at the Indiana Tea House, located on Cottesloe Beach with views over the Indian Ocean. Sit back and relax, be gently entertained and after lunch, take a stroll on the beautiful Cottesloe Beach. Friday 13th May: You will cruise the Swan River to Mosman Bay, where you will have lunch at The Oyster Bar Meads. Situated on the stunning Swan River, you will be treated to breathtaking river views from every table as well as having the opportunity to admire the resident pelicans. Finish the day with a relaxed presentation by Jessica Adams, Australia's foremost astrologer. Jessica contributes to Vogue and Sunday Life, is a successful novelist who has sold more than a half a million books and has raised \$900,000 for the charity War Child. Return by boat to the Barrack Street Jetty.

Remember to take advantage of the Early Bird Registration to ensure you will not miss out on

registration, not only will you pay the reduced early bird price, you could be the lucky winner of a bottle of Penfolds Grange. So this offer ends on Wednesday 30 March 2005. (Note: our 2004 conference was fully subscribed by the close of the Early Bird offer.)

www.companydirectors.com.au/conference



COOPERS TO SPONSOR 2007 WORLD POLICE AND FIRE GAMES

Coopers Brewery is staying on the right side of the law, having announced it will be a major sponsor of the World Police and Fire Games to be held in Adelaide in 2007.

Adelaide's position as host of the games was officially announced by South Australia's Tourism Minister, Ms Jane Lomax-Smith in March.

In the lead up to the 2007 Games, Coopers will embark on a comprehensive promotional program throughout Canada and the United States immediately following the 2005 Games in Quebec.

Coopers Chairman and Marketing Director, Mr Glenn Cooper, said the sponsorship would give Coopers a valuable opportunity to raise its international profile and bring further

recognition to South Australia as a world class tourist location.

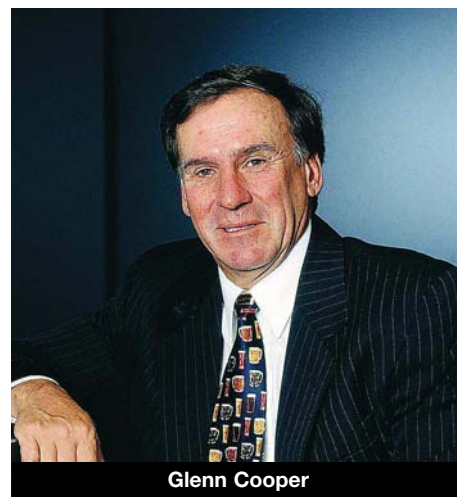
"Coopers is proud to be South Australian owned and operated and we are looking forward to promoting our products, our State and the World Police and Fire Games," he said.

"Our mandate is to market Adelaide to the world, and keep the profits in South Australia.

"The promotional program will focus on both our beer products and our home brew kits."

In addition, Coopers has been given naming rights for the 2007 World Police and Fire Games Party Village, which will be built by the River Torrens.

"Nothing has been finalised yet, but we



Glenn Cooper

are eagerly anticipating unveiling the official name of the village, which will be something along the lines of the Coopers Ale House on the Torrens or the Coopers Adelaide Ale House," Mr Cooper said.

"It will give us great pride to see our name in lights along the River.

"However, more importantly, the village will be a great place for South Australians and international guests to mingle together and celebrate one of the world's great sporting events."

SA & NT DIVISION

DIARY DATES 2005

APRIL - 2005

Powerful Questions Every Director Must Ask

Date: Tuesday 12th April 2005
Venue: Hyatt Regency Adelaide
Time: 8.00am to 1.00pm
Tutor: Christo Norden-Powers, Spandah Pty Ltd

The Role of the Director and the Board - Directors Essentials

Date: Wednesday 13th April 2005
Venue: Hyatt Regency Adelaide
Time: 9.00am - 12.30pm

Introduction to Board Meetings and Governance - Directors Essentials

Date: Wednesday 13th April 2005
Venue: Hyatt Regency Adelaide
Time: 1.00pm - 4.30pm

NT - Issues in Not-for-Profit Governance - Directors Essentials

Date: Wednesday 20th April 2005
Venue: Saville Park Suites, Darwin
Time: 1.00pm to 7.00pm
Tutor: Lindsay Holmes FAICD

MAY - 2005

Introduction to the Strategic Role of the Director - Directors Essentials

Date: Thursday 5th May 2005
Venue: Hyatt Regency Adelaide
Time: 9.00am - 12.30pm

SA Non Residential Company Director Course

Date: Monday 9th - Friday 13th May 2005
Venue: Hyatt Regency Adelaide
Time: 9.00am - 4.00pm daily

Board Director & CEO Assessment

Date: Tuesday 10th May 2005
Venue: Stamford Plaza
Time: 8.30am - 4.30pm
Tutor: Gavin Nicholson FAICD, Competitive Dynamics Pty Ltd

Issues for Director Owners - Directors Essentials

Date: Tuesday 24th May 2005
Venue: Hyatt Regency Adelaide
Time: 9.00am - 12.30pm

Speed Reading

Date: Thursday 26th May 2005
Venue: Hyatt Regency Adelaide
Time: 9.00am - 5.30pm
Tutor: Kay Davidson, T.H.E Training Group International

JUNE - 2005

Introduction to Financial Statements for Directors - Directors Essentials

Date: Wednesday 8th June 2005
Venue: Hyatt Regency Adelaide
Time: 5.30pm - 9.00pm

Assessing Company Performance for Directors - Directors Essentials

Date: Thursday 9th June 2005
Venue: Hyatt Regency Adelaide
Time: 5.30pm - 9.00pm

AUGUST - 2005

Issues in Not For Profit Governance - Directors Essentials

Date: Wednesday 3rd August 2005
Venue: Hyatt Regency Adelaide
Time: 5.30pm - 9.00pm

Directors As Leaders - Directors Essentials

Date: Wednesday 31st August 2005
Venue: Hyatt Regency Adelaide
Time: 9.00am - 12.30pm

For further information on the above events, please contact Rosanna McDonald on (08) 8211 8001 or rmcdonald@companydirectors.com.au

NEW MEMBERS

January / December 2005

Mr Doug Adamson,
Investment Manager, Playford
Capital

Mr Harry Bradford,
Executive Director, BAE Systems
Australia

Ms Alexandra Cannon,
Human Resources Manager,
Coca-Cola Amatil

Mr Stephen Connor,
Director, Connor Holmes Pty Ltd

Mr Peter Cousins,
Partner, Agri Data Systems Pty Ltd

Mr David Crotti,
Director, San Remo Macaroni Co
Pty Ltd

Mr John Dalcollo,
Managing Director, Panurgem Pty
Ltd

Ms Beth Davidson-Park,
General Manager City Services,
City of Onkaparinga

Mr Rob Dawes,
National Manager Animal
Production, Elders Ltd

Miss Carla Dias,
Contracts Manager,
Telecommunications Service
Group (DAIS)

Mr Brian Farmer,
Chief Executive, Forestry SA

Mr Brian Gabriels,
Director of Community Services,
Southside Care Inc

Ms Diana Gardner,
Director, Aztech Computer
Systems

Ms Lena Grant,
Managing Solicitor, Crown
Solicitor's Office

Mr Zane Gray,
Commanding Officer, Royal
Australian Airforce

Mr Kent Grey,
Partner, Minter Ellison

Mr Tino Guglielmo,
Managing Director, Stuart
Petroleum Ltd

Mr Tim Harper,
Managing Director, Pioneer Water
Tanks

Mr Jon Holbrook,
Executive Officer, Electricity
Industry Superannuation Scheme

Ms Kate Ireland,
Board of Directors Secretary,
ACHA

Mr John James,
Chief Executive Officer, Port
Adelaide Football Club

Mr Anthony Kittel,
Managing Director/CEO, REDARC
Electronics

Mr Andrew Lane,
Chief Financial Officer, Balco Ltd

Mr Hugo LeMessurier,
General Manager, Vet
Biotechnology Ltd

Dr Drazen Lesicar,
Partner, Lesicar Perrin

Mr Andrew Makin,
Director - Information
Architectures, BAE Systems
Australia

Dr Rachel McFadyen,
Chief Executive Officer, CRC for
Australian Weed Management

Ms Maureen McKinnie,
Planned Giving Manager, Mission
Australia

Ms Trudi Meakins,
Executive Director Transport
Planning, Department of Transport
and Urban Planning

Mr Trevor Menz,
Chairman, WebTemplate Australia
Pty Ltd

Ms Christel Mex,
Marketing Director, Department of
the Premier and Cabinet

Ms Carolyn Mitchell,
Managing Partner, Cowell Clarke

Mr Paul Moore,
Vice President Development
Projects & Technical Services,
Santos Ltd

Mr Brian Mudge,
Director/Secretary, Gawler Mitre 10

Dr Bruce Mugford,
Chief Executive Officer, Sturt
Fleurieu General Practice
Education & Training

Mr Tony Myers,
Chief Executive Officer, Real Estate
Institute of South Australia

Mr James Nightingale,
General Manager, Charles Darwin
University Sport

Mr Graham Oades,
Director, Oades Nominees Pty Ltd

Mr Adam O'Brien,
Technical Underwriter, IAG Ltd

Mr Mark Pitcher,
Chief Financial Officer, Shaw
Group

Mr Tony Rankine,
Director, Police Credit Union Ltd

Ms Shivani Reiter,
Director, Real Business Consulting

Ms Julieann Riedstra,
Director, Department of Education
& Children Services

Mr Philip Rundle,
Managing Director, CB Richard
Ellis

Mr Malcolm Sargent,
Director, Sargent Trading Pty Ltd

**The Honourable Chris
Schacht,**
President, Australian Volleyball
Federation

Mr Mark Skanes,
National Manager Engineering,
Origin Energy Asset Management

Ms Penny Smith,
Manager/Owner, Smith Family
Trust

Ms Manon Strachan,
State Manager, AAPT Ltd

Mr Stephen Thompson,
Business Development Director,
Bio Innovation SA

Mr Joe Thorp,
Managing Director, Lancer Pacific
Pty Ltd

Mr Dale Turner,
Managing Director, Medialibrary
Pty Ltd

Ms Sue Upton,
General Manager Community
Services, Helping Hand Aged Care

Mr Nigel Vinecombe,
Group Managing Director,
Collotype Labels Pty Ltd

Mr Stuart Warwick,
Manager IT Services, CPS Credit
Union (SA) Ltd

Mrs Liz Waters,
Principal Research Biochemist,
The Australian Wine Research
Institute

ARE YOU A DIRECTOR, ASPIRING DIRECTOR OR SENIOR MANAGER?

Are you a Member of AICD?

YES: refer this to a friend or
colleague.

NO: you should consider
membership

Here are five good reasons to
join over 18,000 members
Australia wide...

1. Director-specific information

Stay fully informed with your
copy of the Company Director
Journal and by using the
AICD's publication services and
resource centre.

2. Education and profes- sional development

Improve your knowledge and
skills with the AICD's education
and professional development
program.

3. Functions and Events

Develop valuable business
networks by attending
luncheons, briefings and
events.

4. Representation and Recognition

Have your interests represented
to government, policymakers
and regulatory bodies. Achieve
recognition through the use of
the AICD's respected post-
nominals.

5. Career development

Find new board positions
through Directors Register.

*To receive your membership
information pack contact:*

*Pam Mobius on 08 8211 8001
or*

*For easy access to additional
information visit our website
www.companydirectors.com.au*

Ongoing liability for business vendors

Vendors of businesses and directors of vendor companies should be aware that there may be ongoing liability following assignment of any lease.

Many sales of businesses include the assignment of an existing lease by the vendor to the purchaser.

If the lease of business premises is a lease regulated by the *Retail and Commercial Leases Act (SA) 1995* ("**Act**") then the liability to the landlord of both the vendor and any guarantor of the vendor may, in the absence of any contrary agreement, be determined by the Act.

Section 45A of the Act provides that despite any provision of a lease, if a lease that is to continue as an ongoing business is assigned then the vendor and any guarantor will not be subject to any obligation under the lease on or after the "relevant date" provided that:

- the vendor provides a disclosure statement to the purchaser before the lessor's consent to the proposed assignment is requested; and
- the vendor provides a disclosure statement to the landlord at the time the request for consent is made.

Assuming there are no other more favourable release arrangements agreed under the lease terms, if the required process is followed the liability of the vendor and any guarantor of the vendor will end on the "relevant date" being the first to occur of:

- the second anniversary of the date on which the lease was assigned;
- the date upon which the lease expires; or
- if the lease is renewed or extended after assignment, the date on which the renewal or extension commences.

When considering any assignment of a lease regulated by the Act as a part of a sale of an ongoing business the residual liability of the vendor (and the directors of the vendor company) must be considered before approaching the lessor for consent.

These considerations initially include determining:

- whether the Act applies to the leased business premises; and
- what the terms of the existing lease provide in relation to liability post assignment.

Failure to consider these and other issues may mean that the benefit of the Act (assuming the lease terms are less favourable than the Act) will not be available to a vendor and liability for the vendor and its directors may continue for the term of the lease (including renewal terms).

It is recommended that you seek advice on these matters before contemplating any proposed similar transactions.

For more information contact Lachlan Andrews in Kelly & Co.'s Property & Financial Services Division on Tel: (08) 8205 0840 or Email: landrews@kellyco.com.au.



Lachlan Andrews
Partner

Regulatory Shake up for Finance and Mortgage Brokers

Despite the rapid growth in the finance and mortgage broker industry, a number of states including South Australia do not have any legislation which specifically regulates the conduct of finance and mortgage brokers.

The deficiencies in the regulation of finance brokers have been highlighted by a Regulatory Impact Statement Discussion Paper issued by the Ministerial Council on Consumer Affairs.

The Discussion Paper describes a number of case studies where finance brokers have been involved in fraudulent and misleading conduct.

There is also considerable discussion on conflict of interest issues, the lack of disclosure of commissions being paid by third parties, the use of interest only loans and the representations given by finance brokers as to the financial benefits associated with debt reduction schemes.

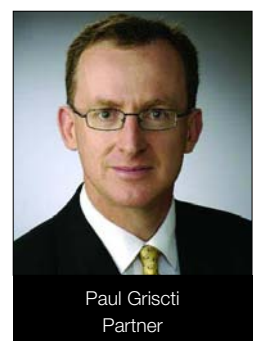
The Discussion Paper suggests a regulatory scheme for finance brokers and managers to apply in each State.

Some of the proposals being considered as part of the scheme are as follows:

- ensuring the legislation covers all credit (not just consumer credit) subject to some big business exemptions;
- define "brokers" widely to include a person acting, or purporting to act, as an intermediary to obtain credit for a person in return for a commission or financial benefit to the intermediary;
- introduce a licensing scheme for brokers, similar to that adopted by ASIC for financial service advisers;
- require brokers to enter into a written contract with a consumer before commencing finance broking and for that contract to contain details of the broker's access to credit providers as well as details of the credit required by the consumer;
- require brokers to give a statement of reasons setting out why the credit product recommended by the broker is the most appropriate product for the consumer's circumstances;
- impose an obligation on the broker to compensate the consumer for any loss suffered from the broker's actions;
- in certain circumstances, give a consumer a new right to seek an order from a Court to stay enforcement proceedings where they have a claim against a finance broker;
- require brokers to hold professional indemnity insurance; and to be a member of an alternative dispute resolution scheme approved by ASIC.

The Discussion Paper has raised a number of issues that are likely to be the subject of much discussion in the industry. In particular, whether this level of Government intervention is necessary or whether a more robust self-regulatory regime or the adoption of mandatory codes of conduct will be sufficient to meet the Government's objectives.

For more information contact Paul Griscti in Kelly & Co.'s Property & Financial Services Division on Tel: (08) 8205 0868 or Email: pgriscti@kellyco.com.au.



Paul Griscti
Partner