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Client alert

PERSONAL PROPERTY SECURITIES

Are you prepared for the end of the transitional period?

The Personal Property Securities Act (PPSA) came into effect on 30 January 2012 and completely overhauled the law relating to security interests in personal property in Australia.

From the commencement of the PPSA, questions of title, ownership and possession of property largely became irrelevant when assessing the validity and effectiveness of security over personal property. Now, the overriding consideration is the registering of a security interest and generally, this is achieved by registration on the PPS Register – the national 'noticeboard' of security interests.

The PPSA applies to all security interests created after 30 January 2012 but also recognises the existence and priority of security interests which arose prior to the PPSA's commencement. The majority of these pre-PPSA security interests, known as 'transitional security interests', or TSI's, were previously registered on one of a number of registers (such as ASIC's Register of Charges) which were 'migrated' to the PPS Register at its date of commencement. The validity and priority of these security interests continue to be protected under the PPSA.

Certain TSI's including some leases and hiring arrangements, retention of title agreements and other arrangements such as consignments and bailment of goods could not be registered on any pre-existing register. These TSI's were temporarily covered under the PPSA until the end of a 24 month transitional period.

This transitional period expires at midnight on 31 January 2014.

It is vital that holders of TSI's who have been relying on the transitional rules take steps to register their security interests before the end of the transitional period.

You may lose priority over a subsequently created security or in some cases may effectively be extinguished by the transfer of the property or the insolvency of the grantor.

Most holders of TSI's can register their security interests on the PPS Register – registration of a TSI does not attract a fee, but it is important to ensure that the registration contains the correct details – or the registration may be ineffective and the security interest will not be valid.

Don't delay – take action to protect your security interests before the end of the transition period.