

Centre for Law, Markets and Regulation in association with Allen & Overy

Benchmark Governance and the Dynamics of Financial Regulation

Allen and Overy

Level 25, 85 Castlereagh Street

SYDNEY

Wednesday 19 November 0800-1230

The burgeoning investigation into the manipulation of key financial benchmarks, such as the London Interbank Offered Rate (Libor), has seen the imposition of an escalating range of fines by regulatory and law enforcement agencies. While primarily focused in the United Kingdom and the United States the misconduct spans the globe. It has also prompted the exit of a number of financial institutions from the setting of benchmark rates. This has posed a range of practical and conceptual problems. They apply at both national and global level. At a practical level, the credibility of the benchmarks, which are a public good, has been undermined, prompting an incremental but observable erosion of public confidence in market integrity. Secondly, the investigation of collusion has brought the arrival of competition regulators into the arcane world of financial regulation. Their focus on breaking up cartels changes the dynamics.

This workshop, staged at Allen & Overy in conjunction with the Centre for Law, Markets and Regulation, it assesses the conceptual coherence of attempts, driven by the United Kingdom, but with significant support from both the Financial Stability Board and the International Monetary Fund, to create ‘fair and effective’ markets by articulating a new vision of ‘inclusive capitalism.’

Fusing national and international imperatives in benchmark governance and reform, it includes keynote presentations from **Guy Debelle** of the Reserve Bank of Australia, **Cathie Armour** of the Australian Securities and Investments Commission and **David Lynch**, Chief Executive of the Australian Financial Markets Association along with **Peter McDonald**, head of the competition practice at Allen & Overy and leading academics, **Eric Talley** of the University of California at Berkeley and **Justin O’Brien**, Director of the Centre for Law, Markets and Regulation at the University of New South Wales.

The workshop is the fourth in a series funded by research provided by the Australian Research Council and the Centre for International Finance and Regulation. Previous workshops have been staged in Sydney (March), Harvard University in Cambridge (May) and Rio de Janeiro (September). Each workshop is designed to be interactive, with extensive time for questions from the floor. The collaboration will result in a book to be published next year.

Program

0800 Registration

0830 Mapping the Terrain: **Justin O’Brien**, *University of New South Wales*

0900 The FSB Agenda: **Guy Debelle**, *Reserve Bank of Australia*

0930 The Logic of Cartel Breaking: **Peter McDonald**, *Allen & Overy*

- 1000 Coffee
- 1020 Regulating Benchmarks: The Australian Experience: **Cathie Armour**, Commissioner, *Australian Securities and Investments Commission*
- 1050 The IOSCO Principles and the Challenge of Compliance: **David Lynch**, Executive Director, *Australian Financial Markets Association*
- 1120 Regulatory Design and the Power of Incentives: **Eric Talley**, *Boalt Law, University of California at Berkeley*
- 1150 Roundtable and Q&A: Eric Talley, Guy Debelle, David Lynch, Cathie Armour, Seumas Miller, George Gilligan, Peter McDonald
Convened by Professor Justin O'Brien
- 1230 Event closes

Speaker bios:

Cathie Armour commenced as an ASIC Commissioner on 3 June 2013. Cathie has 18 years experience in legal counsel leadership roles in international financial institutions. Most recently, she was General Counsel for Macquarie Capital and an Executive Director of Macquarie Group, advising on equity, debt and private capital markets, mergers and acquisitions and financial investment transactions. She has also held senior compliance and operational risk positions at Macquarie Capital and at JP Morgan in Australia. Before she joined ASIC, Cathie was also a member of the ASX Tribunal. Cathie previously worked in private legal practice for the forerunners of the firms King & Wood Mallesons and Allens in Sydney and for Milbank, Tweed, Hadley & McCloy in New York.

Dr Guy Debelle is the Assistant Governor (Financial Markets) at the Reserve Bank of Australia, a position he has held since March 2007. In that role, he has oversight of the Bank's operations in the domestic and global financial markets, including the management of Australia's foreign reserves. He briefs the Reserve Bank Board on developments in financial markets at the monthly Board meetings and participates as the Bank's representative in a number of global fora. Guy is the Chair of the BIS Markets Committee and is the Bank's representative on the BIS Committee on Global Financial Stability. Guy joined the Reserve Bank in 1994. He has also worked at the International Monetary Fund, Bank for International Settlements, Australian Treasury and as a visiting professor in economics at the Massachusetts Institute of Technology (MIT). He graduated from the University of Adelaide with an honours degree in economics, and gained his PhD in economics at MIT under Stanley Fischer and Rudi Dornbusch.

Dr George Gilligan researchs on governance; regulatory theory and practice, especially in relation to the financial services sector; climate change; white-collar crime; organised crime; and corruption. He has published extensively in these areas, conducted numerous field research projects examining the praxis of regulation and appeared as an expert witness before Commonwealth of Australia Senate and Joint Parliamentary Committees. George has been a Senior Research Fellow in UNSW's Centre for Law, Markets and Regulation since May 2012. Immediately before joining UNSW he was a Senior Research

Fellow at the Department of Business Law and Taxation at Monash University after initially commencing at Monash as a Logan Research Fellow in December 1998. Prior to working at Monash University George taught and researched at the University of Cambridge, Exeter University and Middlesex University in the UK; and La Trobe University and the University of Melbourne in Australia. George is based in Melbourne and also holds a Senior Research Fellow position with the Centre for Corporate Law and Securities Regulation in the Melbourne Law School at the University of Melbourne.

David Lynch is Executive Director of the Australian Financial Markets Association having previously held the position of currently AFMA's Head of Policy and Markets, leading a policy team that dealt with a wide range of regulatory and other issues of relevance to Australia's capital markets. David is an economist and has been with AFMA for 16 years, previously working in central banking and stockbroking research. AFMA is the leading industry association promoting efficiency, integrity and professionalism in Australia's financial markets and provides leadership in advancing the interests of all market participants.

Peter McDonald specialises in challenging competition law, consumer and regulatory issues at Allen & Overy. His expertise encompasses transactional advice, merger clearances, joint ventures and collaborations, access to infrastructure, and enforcement responses and defence. Peter has extensive experience in mining, energy and resources and a wide range of other sectors, and has advised leading organisations such as BHP Billiton, DuluxGroup, Air Asia Caltex, Graincorp, BUPA, EnergyAustralia, National Australia Bank, North West Shelf Venture, Chevron, Singapore Power, Orica and Woodside. Prior to joining the firm, Peter worked as a senior officer at the Australian Competition and Consumer Commission (ACCC), where he developed strong relationships with key economic regulators. He is a member of the Competition and Consumer Committee of the Law Council of Australia. He is also a non-governmental adviser to the International Competition Network of competition authorities.

Professor Seumas Miller is Professor of Philosophy at Charles Sturt University, and Senior Research Fellow, 3TU Centre for Ethics and Technology, Delft University of Technology (2009-) (joint position). He was Head of the School of Humanities and Social Sciences at Charles Sturt University 1994-1999 and Foundation Director of the Centre for Applied Philosophy and Public Ethics: An Australian Research Council funded Special Research Centre (2000-2007). His extensive publications include writings on social action and institutions, terrorism, business ethics and police ethics. He has also been awarded numerous competitive grants and consultancies. He has written extensively on Libor related matters and ethical implications.

Professor Justin O'Brien is an Australian Research Council Future Fellow, Professor of Law and Director of the Centre for Law, Markets and Regulation at the University of New South Wales. A specialist in regulatory dynamics, he is the author of a trilogy of works of regulatory responses to financial crises – *Wall Street on Trial* (2003), *Redesigning Financial Regulation: The Politics of Enforcement* (2007) and *Engineering a Financial Bloodbath* (2009). In addition he has edited or co-edited a series of books on regulation, including, most recently with George Gilligan, *Integrity, Responsibility and Accountability in Capital Markets: Regulating Culture* (2013). He has recently completed a biography of James Landis, the key architect of the Securities and Exchange Commission, *The Triumph Tragedy and Lost Legacy of James M Landis: A Life on Fire* (2014). He is currently a Visiting Fellow at the Edmond J Center for Ethics at Harvard

University.

Professor Eric Talley is the Rosalinde and Arthur Gilbert Foundation Professor of Law; Director, Berkeley Center for Law, Business, and the Economy at Boalt Law, University of California at Berkeley. He is a leading authority on corporate law, and law and economics. He joined the faculty in 2006. Talley was previously at University of Southern California Law School from 1995 to 2005. He held the Theodore and Ivadelle Johnson Chair in Law and Business in 2005, having become a full professor in 2000. He led two of the law school's respected research centers, and was director both at the USC Center in Law, Economics and Organization and the USC/Caltech Olin Center for the Study of Law and Rational Choice from 2002 to 2004. Talley has also taught both law and economics classes at Georgetown Law Center, the California Institute of Technology, the RAND Graduate School and Stanford University. Talley has served as senior economist at the RAND Corporation's Institute for Civil Justice, as director of the LRN-RAND Center for the Study of Corporate Ethics, Governance and Law, and as interim director of the RAND-Kauffman Foundation Center for the Study of Small Business Litigation and Regulation.