

Corporate Borrowing: Law and Practice

Fifth Edition

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PREFACE

Part of the appeal (or, some would say, frustration) of the law of borrowings is that it embraces so many different areas of law: contract, trusts, company law, security, insolvency, tax, financial services regulation, and so forth. This book is not intended to be an exhaustive study of each of those areas but aims to bring together the elements of them that are relevant to understanding the law of corporate borrowings.

This is an unashamedly *legal* book (as can immediately be seen from the number of footnotes and case references). However, it is also intended for the interested layman, and in particular covers not just the law but also market practice, linking the two together as far as possible.

The book has been completely updated from the fourth edition. The biggest developments are the 2012 amendments to the Prospectus Directive and the introduction of CRD IV and the Capital Requirements Regulation, but other notable changes include the new regime for registration of charges, the implementation of the final provisions of the Companies Act 2006, FATCA and its impact on the TEFRA regime, the *Assenagon* and *Azevedo* decisions in the context of variation of rights, *Pitt v Holt* in relation to trustees' decision-making processes and the *Fons* decision in the context of debentures. I have also added new sections on commercial considerations for the choice between debt and equity, differences between loan agreements and debt securities, the treatment of subordinated debt in the debtor's winding up, and liability for misleading offering documents. I have also added more detail on global bonds and clearing systems, as well as updating throughout to reflect case-law and changes in market practice.

I am grateful to many of my friends and colleagues at Allen & Overy who have helped me in preparing this new edition, particularly Amanda Thomas, Jennifer Cresswell and Franz Ranero. I am also very grateful to Linda Pillow and Liz Boorman, who patiently typed up the amendments, and my wife, for her advice and encouragement throughout. That said, any errors or omissions are entirely my responsibility.

Unless otherwise clear from the context, I am writing about English law and English companies. I have endeavoured to state the law and practice as at 1 January 2016.

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