

## **Transcript for Personal Property Securities (PPS) presentation – part two**

### The PPS Act

The PPS Act was passed in 2009 and comes into effect at the register commencement time. This reform is part of a much larger set of micro economic reforms being overseen by COAG, the Council of Australian Governments. Once the PPS goes live, there will be a 24 month transition period, to allow businesses to register existing security interests that currently are unable to be registered on any existing register. The PPS provides for the protection of privacy with associated penalties for breaches of privacy. You can only search against the name of an individual for which you have an authorised purpose.

One of the major components of the reform is the combining of existing state and Commonwealth registers into a single PPS register, the PPSR.

### The PPS Register

The PPSR is an online noticeboard that will contain information about personal property securities. There are two reasons you would register a security. Firstly, priority... Priority, generally and simply put is 'first in best dressed'. The Act protects the position of the party with the security interest in the property over others who might take an interest in the same property at a later time if it is registered on the PPSR. Secondly, insolvency protection ... A registration on the PPSR of your security interest, will protect your interest in that property in the event someone you transact with becomes insolvent.

Using the PPSR you can also search for an item of personal property that you are considering buying or leasing to see if there is a security interest over that property. Because there is a single national register, you will only have to do one search.

### The PPS Register

The register has two levels of access. As a consumer, who would most likely only use the register every few years, you would use the register as a casual user. You can access the register and perform a search without the need to set up an account. As a business, even if you only expect to use the register on an intermittent basis, it is recommended that you set up an account. Account access will enable you to identify one or more people within your business that can access the PPSR and you will be able to manage the access levels and functions each user may undertake. You will have a record of the activity that has been performed and have access to previous activity and run reports. For those who don't have access to the internet, the PPSR contact centre will be available to provide assistance. As with current registers, activity on the PPSR does incur a small fee. The fees are currently still being finalised and they are being determined through a cost recovery model.

### Business considerations

There are a number of business considerations that you need understand and discuss with your advisor. PPS reform is a new legal framework. One of the biggest impacts for business will be changes to retention of title arrangements. Retention of title is simply where a supplier will supply goods on the basis that they retain title, or ownership, of the goods until they are paid for. Retention of title and other title based arrangements will become security interests. If you supply goods on retention of title or on consignment, you will need to seek advice on whether you have a security interest in the property.

And if you do, you will then need to consider whether to register this security on the PPSR to protect your interest. You also need to keep in mind that the timing of registration affects priority of the security interests.

#### Changes to business practice

Another important point, is that under the reform there are new methods of security. Put simply, there are some interests, such as retention of title arrangements that can be registered on PPSR which could not be previously registered anywhere. The PPS reform gives greater flexibility in that all securities will be in the one place. This allows for greater certainty and clarity for business. While the system is voluntary, it is vital for all businesses with their advisors, to consider how the reform directly affects their business and to consider the risk of not registering security interests.