20. Debt capital and security

This chapter discusses why companies borrow money, the various sources of debt capital, and the rules relating to secured and unsecured borrowing. An obvious reason why companies borrow is because the company is struggling financially, and so other forms of capital will prove insufficient to meet the company's debts or liabilities. In such a case, debt capital may be the only obtainable form of capital. Like shares, debt securities are tradeable financial instruments that a company can issue in order to raise finance. The principal form of security is a charge, which can be either fixed or floating. When determining whether a charge is fixed or floating, the courts will focus not on how the charge is labelled, but on the rights and obligations which the parties intended to grant each other. A failure to register the charge will render the charge void against a liquidator, administrator, or creditor.
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