



The Parliament of the Commonwealth of Australia

**REPORT ON THE
FINANCIAL SERVICES
REFORM BILL
2001**

**PARLIAMENTARY JOINT STATUTORY
COMMITTEE ON CORPORATIONS
AND SECURITIES**

AUGUST 2001

The Parliament of the Commonwealth of Australia

**REPORT ON THE
FINANCIAL SERVICES
REFORM BILL
2001**

**PARLIAMENTARY JOINT STATUTORY
COMMITTEE ON CORPORATIONS
AND SECURITIES**

AUGUST 2001

© Commonwealth of Australia 2001

ISBN 0 642 71095 3

This document was produced from camera ready copy produced by the Parliamentary Joint Statutory Committee on Corporations and Securities Secretariat and printed by the Senate Printing Unit, Parliament House, Canberra.

MEMBERSHIP OF THE COMMITTEE

Senator Grant Chapman, (Chairman)

Mr Bob Sercombe, MP, (Deputy Chairman)

Senator Stephen Conroy

Senator Barney Cooney

Senator the Hon Brian Gibson

Senator Andrew Murray

Ms Julie Bishop, MP

Mr Ross Cameron, MP

Mr Kevin Rudd, MP

Dr Andrew Southcott, MP

Committee Staff

Mr David Creed, Secretary

Mr Patrick McCormack, Principal Research Officer

Ms Loes Slattery, Senior Research Officer

Ms Judith Wuest, Executive Assistant

Ms Adele Glover, Executive Assistant

DUTIES OF THE COMMITTEE

Section 243 of the *Australian Securities and Investments Commission Act 2001* sets out the duties of the Committee as follows:

The Parliamentary Committee's duties are:

- (a) to inquire into, and report to both Houses on:
 - (i) activities of ASIC or the Panel, or matters connected with such activities, to which, in the Parliamentary Committee's opinion, the Parliament's attention should be directed; or
 - (ii) the operation of the corporations legislation (other than the excluded provisions), or of any other law of the Commonwealth, of a State or Territory or of a foreign country that appears to the Parliamentary Committee to affect significantly the operation of the corporations legislation (other than the excluded provisions); and
- (b) to examine each annual report that is prepared by a body established by this Act and of which a copy has been laid before a House, and to report to both Houses on matters that appear in, or arise out of, that annual report and to which, in the Parliamentary Committee's opinion, the Parliament's attention should be directed; and
- (c) to inquire into any question in connection with its duties that is referred to it by a House, and to report to that House on that question.

TABLE OF CONTENTS

Membership of the Committee	iii
Duties of the Committee	vi
CHAPTER 1	1
THE COMMITTEE’S INQUIRY	1
CHAPTER 2	3
BACKGROUND TO THE BILL	3
Changes to the exposure draft Bill	4
Summary	11
CHAPTER 3	13
OUTLINE OF THE BILL	13
Objects of Part 7	13
Key definitions	13
Definition of financial product	14
Definition of financial service	14
Licensing of financial markets	15
Licensing of clearing and settlement facilities	15
Limits on involvement with licensees	16
Compensation arrangements	16
Licensing of providers of financial services	16
Disclosure and other conduct requirements for licensees	17
Other provisions relating to conduct	18
Financial product disclosure	18
Market misconduct and other prohibited conduct	19
Title to securities and other matters	19
Telephone monitoring during takeover bids	19
Amendments	19
Possible Future Amendments	21
Timing and Transitional Arrangements	22

CHAPTER 4	23
SUPPORT FOR THE BILL AND PROCESS ISSUES	23
Introduction	23
Support for the Bill	23
Concerns about the process	25
ASIC: administrator and regulator of financial reform	26
Timing and consultation	29
Transitional licensing arrangements	31
CHAPTER 5	35
POLICY ISSUES RAISED BY THE BILL	35
Introduction	35
Overview of issues raised	35
Revoking of the media exemption	36
Telephone tape recording proposal	41
Issues relating to Australia as an international financial centre	45
Issues raised by authorised deposit taking institutions (ADI)	48
Issues which affect small business	50
Issues relating to the insurance industry	54
Issues relating to declared professional bodies	58
Consumer protection issues	61
Superannuation	75
CHAPTER 6	85
CONCLUSIONS AND RECOMMENDATIONS	85
Support for the Bill	85
Concerns about the process	85
Revoking of the media exemption	86
Telephone tape recording proposal	87
Issues relating to Australia as an international financial centre	88
Issues raised by authorised deposit taking institutions (ADI)	89
Issues which affect small business	89
Issues relating to the insurance industry	91
Issues relating to declared professional bodies	93

Consumer protection issues	94
Superannuation	94
APPENDIX 1	97
SUBMISSIONS RECEIVED	97
APPENDIX 2	103
WITNESSES AT HEARINGS	103
LABOR MEMBERS MINORITY REPORT	107
AUSTRALIAN DEMOCRATS SUPPLEMENTARY REPORT	117

