

Inquiry into Financial Products and Services in Australia

Information about the Inquiry

Terms of reference

On 25 February 2009 the Parliamentary Joint Committee on Corporations and Financial Services resolved to inquire into and report by 23 November 2009 on the issues associated with recent financial product and services provider collapses, such as Storm Financial, Opes Prime and other similar collapses, with particular reference to:

1. the role of financial advisers;
2. the general regulatory environment for these products and services;
3. the role played by commission arrangements relating to product sales and advice, including the potential for conflicts of interest, the need for appropriate disclosure, and remuneration models for financial advisers;
4. the role played by marketing and advertising campaigns;
5. the adequacy of licensing arrangements for those who sold the products and services;
6. the appropriateness of information and advice provided to consumers considering investing in those products and services, and how the interests of consumers can best be served;
7. consumer education and understanding of these financial products and services;
8. the adequacy of professional indemnity insurance arrangements for those who sold the products and services, and the impact on consumers; and
9. the need for any legislative or regulatory change.

In conducting its inquiry, the Committee has made a decision to focus specifically on non-superannuation products and services.

Additional term of reference

On 16 March 2009 the Senate agreed that the following additional matter be referred to the Parliamentary Joint Committee on Corporations and Financial Services as part of that committee's inquiry into financial products and services in Australia, adopted by the committee on 25 February 2009 for inquiry and report by 23 November 2009:

The committee will investigate the involvement of the banking and finance industry in providing finance for investors in and through Storm Financial, Opes Prime and other similar businesses, and the practices of banks and other financial institutions in relation to margin lending associated with those businesses.

Definitions of key inquiry terms

Financial product

Section 763A of the Corporations Act 2001 sets out the general definition of a financial product as follows:

1. ... a **financial product** is a facility through which, or through the acquisition of which, a person does one or more of the following:
 - a. makes a financial investment ...;
 - b. manages financial risk ...;
 - c. makes non-cash payments ...
2. ... a particular facility that is of a kind through which people commonly make financial investments, manage financial risks or make non-cash payments is a **financial**

product even if that facility is acquired by a particular person for some other purpose.

3. A facility does not cease to be a financial product merely because:
 - a. the facility has been acquired by a person other than the person to whom it was originally issued; and
 - b. that person, in acquiring the product, was not making a financial investment or managing a financial risk.

Financial service

Section 766A of the Corporations Act 2001 identifies when a person provides a financial service:

1. ... a person provides a **financial service** if they:
 - a. provide financial product advice...; or
 - b. deal in a financial product...; or
 - c. make a market for a financial product ...; or
 - d. operate a registered scheme; or
 - e. provide a custodial or depository service...; or
 - f. engage in conduct of a kind prescribed by regulations made for the purposes of this paragraph.

Making a submission

The Committee will report its findings to Parliament by 23 November 2009. Written submissions to the inquiry close on **31 July 2009**, but public hearings will commence prior to this date and early submissions are encouraged.

Please send written submissions to corporations.joint@aph.gov.au or by post to:

Committee Secretary, Parliamentary Joint Committee on Corporations and Financial Services
Department of the Senate
PO Box 6100 Parliament House
Canberra ACT 2600

Emailed submissions should include full name, address and phone contact details so we can contact you if necessary. Similarly, please include your full contact details with any hard copy submission that you send in. **It assists the Secretariat greatly if you include these contact details on a separate cover sheet, rather than in the body of the submission which will be published.**

There is no set format for submissions. The only requirement is that your submission is relevant to, and addresses at least one of, the inquiry's terms of reference. The committee may decide not to accept a submission if it does not meet this requirement.

Please do not release your submission elsewhere until you have received a **formal** acknowledgment letter from the Secretariat. Once the Committee accepts your submission, it becomes a Committee document and is protected by Parliamentary privilege. However, if you release your submission without the Committee's permission and/or before the Committee has formally accepted it, you will not be protected by Parliamentary privilege. For more information about Parliamentary privilege, see <http://www.aph.gov.au/senate/pubs/briefs/brief11.htm>

Publication of submissions

The Committee routinely makes submissions public during the inquiry, **including by posting them on the internet**. However, the Committee will consider requests to keep a submission confidential. **Please indicate very clearly on your submission if you want it to be kept confidential**. It is helpful to the Committee's considerations if you also provide a brief reason for this request.

Adverse comment in submissions

Please be aware that, if your submission reflects adversely on another person (for example, accusing them of lying or corrupt behaviour) or organisation, the committee will send the comment to the other person so they can reply. This may apply even if the committee agrees to keep your submission confidential.

Further information about making submissions is at
http://www.aph.gov.au/Senate/committee/wit_sub/index.htm

Public hearings

Information about public hearing dates and venues will be posted on the inquiry web site as it becomes available. Hansard transcripts of completed hearings will also be available after the event.

The committee, through the Secretariat, will issue invitations to prospective witnesses on the basis of written submissions received. Although only invited witnesses will have the opportunity to make verbal presentations to the committee and answer the committee's questions, anyone with an interest in the inquiry can attend and observe the hearings.

The reporting process

As specified in the inquiry terms of reference, the Committee will report to Parliament by 23 November 2009. A written report, including any recommendations that arise out of the committee's inquiry and findings, will be presented ('tabled') in both houses of Parliament. The report will be made available to the public via the inquiry web site on the same day that it is tabled. It will then be a matter for the Government to respond to. Any written response from the Government will be linked to the inquiry web site once it becomes available.

Further information

If you have questions about the inquiry that are not addressed by the above material, please contact the Secretariat:

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