

# Chapter 1

## Inquiry into the Provisions of the Financial Sector Legislation Amendment Bill (No. 2) 2002

### Background

1.1 The Financial Sector Legislation Amendment Bill (No. 2) 2002 was presented to the House of Representatives on 26 June 2002 by the Hon. Peter Slipper MP, Parliamentary Secretary to the Minister for Finance and Administration. The Bill was passed in the House of Representatives on 14 November 2002.

### Purpose of the Bill

The Bill amends a number of financial sector Acts.

The most significant amendments are to the *Banking Act 1959* which:

- provide for the application of a ‘fit and proper’ test to directors and senior managers of ADIs (authorised deposit-taking institutions) and authorised NOHCs (Non-operating holding companies);
- provide the Australian Prudential Regulation Authority (APRA) with the means to remove auditors who fail to perform adequately and properly;
- require ADIs, authorised NOHCs of an ADI and their subsidiaries, to notify APRA immediately of any breaches of prudential requirements and any material adverse developments;
- allow APRA to apply prudential standards on a consolidated group basis;
- provide additional grounds for APRA to revoke the authority granted to an ADI or NOHC where the application for the authority contained false or misleading information; and
- correct a discrepancy between the indemnity provisions of the Banking Act and the APRA Act which relates to the extent of protection available to APRA officers under these acts.

The Bill also amends the *Insurance Act 1973*, the *Superannuation (Resolution of Complaints) Act 1993*, the *Superannuation Industry (Supervision) Act 1993*, the *ASIC Act 2001*, the *Corporations Act 2001* and the *Corporations (Repeals, Consequential and Transitional) Act 2001*.

### Reference of the Bill

1.2 On 13 November, on the recommendation of the Senate Selection of Bills Committee, the Senate referred the provisions of the Bill for inquiry to the Economics

Legislation Committee. The Committee was to report by 10 December 2002.<sup>1</sup> The reporting date was subsequently extended to 12 December.

## **Submissions**

1.3 The Committee advertised the inquiry in the *Australian* and the *Australian Financial Review* on 20 November and on its web site. It also wrote to banks, credit unions and building societies, relevant departments and agencies, organisations and individuals interested in the proposed legislation, alerting them to the inquiry and inviting them to make a submission. In all, the Committee contacted over 250 parties about the inquiry and received nine submissions. These are listed in Appendix 1. All but one of the submissions are public documents.

## **Hearing and evidence**

1.4 The Committee held one public hearing on this inquiry in Parliament House, Canberra, on Thursday, 5 December. It took evidence from the APRA and the Department of the Treasury. Witnesses who presented evidence before the Committee are listed in Appendix 2.

1.5 Copies of the Hansard transcript are tabled for the information of the Senate. They are also available through the internet at <http://www.aph.gov.au/hansard>. Additional information provided to the Committee is also tabled with this report.

## **Acknowledgment**

1.6 The Committee is grateful to, and wishes to thank, all those who assisted with its inquiry.

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1 *Report No. 12 of 2002* of the Selection of Bills Committee, 13 November 2002.