

Chapter 1

Introduction

Background

1.1 Global financial markets have come under severe stress in 2008. The problems originated in the United States, which in September effectively nationalised its largest mortgage institutions and one of the world's largest insurance companies. One of its large investment banks filed for bankruptcy, another was taken over and the remaining two announced their conversion to commercial banks. These events have had ramifications around the world, with equity prices falling and credit and liquidity tightening in a climate of unusual volatility in equity prices.

1.2 While Australian regulatory systems have not been found at fault, and Australian banks remain strong, the Australian financial system has not been immune from these pressures. As global commodity prices are particularly important for Australia, their decline has led to Australian equity prices and the exchange rate dropping considerably.

1.3 These global developments have led to governments and their agencies in most countries taking steps to strengthen their financial systems. This has also occurred in Australia with measures such as explicit guarantees being provided for bank deposits.

1.4 A response to the heightened volatility in equity markets has been to restrict short selling. The Government introduced the Corporations Amendment (Short Selling) Bill 2008 into the parliament on 13 November. The bill amends the *Corporations Act 2001* to 'address certain aspects about the regulation of short selling' so as 'to enhance the integrity, fairness and transparency of our markets'.¹ It 'fills a potentially dangerous gap in our corporate laws'.²

1.5 The bill aims to do three things: remove any doubt about the powers of the Australian Securities and Investments Commission to restrict short selling; ban 'naked' short selling; and improve disclosure of short selling. There will be no significant impact on government expenditure or revenue.³

1 Hon Chris Bowen MP, Minister for Competition and Consumer Affairs, Second reading speech, 13 November 2008.

2 Senator the Hon Nick Sherry, Minister for Superannuation and Corporate Law, Press release 081, 25 November 2008.

3 *Explanatory memorandum*, p. 3.

Conduct of the inquiry

1.6 On the recommendation of the Selection of Bills Committee, the Senate referred the provisions of the bill to the Economics committee on 13 November 2008 for inquiry and report by 27 November. Given the urgency of reducing uncertainty in jittery financial markets so as not to further damage the real economy, a long inquiry was not desirable.⁴

1.7 The committee advertised the inquiry in *The Australian* and on its website and wrote to many peak organisations inviting submissions. The committee received 15 submissions (see Appendix 1), which are available on its website; http://www.aph.gov.au/Senate/committee/economics_ctte/short_selling_08/submissions/sublist.htm.

1.8 A public hearing in Canberra on 24 November afforded the committee the chance to hear from the relevant regulatory agencies and some peak industry associations (see Appendix 2). The committee appreciates those who prepared submissions and appeared as witnesses at short notice.

4 The Senate considered a motion on 26 November that would have extended the reporting date of the inquiry to 6 February 2009, but rejected it.