



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**BILLS**

**Corporations Amendment (Streamlining  
of Future of Financial Advice) Bill 2014**

**Second Reading**

**SPEECH**

**Wednesday, 27 August 2014**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

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<b>Questioner</b>	<b>Responder</b>
<b>Speaker</b> McCormack, Michael, MP	<b>Question No.</b>

**Mr McCORMACK** (Riverina—Parliamentary Secretary to the Minister for Finance) (17:07): I am pleased to add to the second reading debate on the Corporations Amendment (Streamlining of Future and Financial Advice) Bill 2014. In the heat of this debate I think it is easy to lose sight of the fact that there is bipartisan support for the central policy goal of the future of financial advice, or FoFA, reforms. I think we can all agree that it is in the national interest for the quality and affordability of financial advice to improve whilst building trust and confidence in the financial services industry. That is important.

The financial services industry is already Australia's largest industry on gross value-added terms, and its size and importance to the economy will continue to grow as our population ages. The importance of Australians having access to affordable, high-quality financial advice will only grow with an ageing population and a growing pool of retirement savings under management. It is also a fact of modern life that Australians generally want their money to work harder and to stretch further because they are getting more out of life, while living longer than at any point in our history. Therefore, it is of critical importance that we have a financial services industry delivering advice that people can trust, and at a price that they can afford.

Where the government and the opposition differ is in our respective views about what that requires of the government. The member for Banks summed it up well earlier in the debate when he remarked that Labor wants to legislate for every possible, conceivable scenario. In contrast, we recognise that a balance needs to be struck because of the complexity inherent in trying to legislate for every scenario. That comes at a cost, and that cost is going to be, ultimately, borne by consumers. We contended, at the time, that while we agree on its central policy aims, Labor's version of FoFA failed to strike the right balance between consumer protection and the costs those regulations imposed on the financial services sector. And we were right.

Labor likes to pitch this issue as though it was only the bigger institutions that were subject to FoFA—part of Labor's inherent hostility to big business that brought us the ill-fated mining tax and the many other policy failures. But it was also small-to-medium-sized firms, including those operating in regional Australia—indeed, in the Riverina, my electorate—that had to comply with FoFA. For them the costs were, to quote one local company in my electorate, 'just huge'.

So we are getting on with the job of doing what we said we would do: correcting Labor's regulatory overreach to strike a better and fairer balance between important consumer protections and the costs associated with regulation. All important consumer protections in FoFA will remain. I need to stress that. Only those that impose unnecessary red tape and cost are being repealed. The best-interest tests will be retained. Advisers will still be required to provide advice that is in the best interests of their clients but, importantly, advisers will be clearer on what that requires of them. Under the current law, advisers have to satisfy seven steps but the seventh of those steps is a catch-all provision that is so open-ended that it is nearly impossible for advisers to work out what it requires of them in practice. This bill removes that uncertainty from the legislation. There remain a number of other duties that advisers will be bound by, which work in concert with the best-interest test, including that the advice be appropriate for the client and that the adviser must place the client's interests above their own. That is absolutely critical.

Another important change to FoFA will help to better facilitate scaled advice, which is important for improving the affordability of advice. The member for Forde is a good member. He knows finance and he understands entirely what this is all about. He made a really useful contribution to the debate on this point—probably from his business background, but also because he is a very, very good member. He said:

A full financial plan is beyond the reach of some people, and for some people it is not necessary or appropriate, so that the ability of access advice that is limited to a particular area is vital if we want more people to be accessing advice.

We should listen to the member for Forde, certainly in that respect and on so many other things as well. Let us bear in mind, too, that scaled advice provided on a particular topic will still have regard to the client's best interests and be appropriate for that client.

What has the government actually done to improve FoFA? As we promised before the last election—and that would be something new to Labor because they never kept their pre-election promises—and as we first announced as our pre-election policy position in March 2012, we have done the following. We have removed the requirement for investors to keep re-signing contracts with their advisers on a regular basis, opt-in. We have simplified and streamlined the additional annual fee disclosure requirements; we have improved the operation of the best-interest duty; and we have provided certainty around the provision and availability of scaled advice. That is, we have removed unnecessary and costly red tape.

I know the member for Kooyong has been adamant that we need to remove a lot of red tape and green tape, which Labor loved in their six years of government—six years of dysfunction in a chaotic and shambolic government. The member for Kooyong is getting on with the job of removing so much red tape. This particular legislation removes uncertainty to ensure that access to high-quality advice that people can trust can be more affordable—and that is so important. This will reduce costs across the financial advice industry by \$190 million a year. That is a big figure.

We have also dealt with a number of mistakes and unintended consequences that were the result of sloppy drafting by the previous government. For example, we have fixed Labor's grandfathering arrangements, which had the effect of lessening competition by effectively forcing planners to stay with existing licensees. Haven't we heard that so many times about sloppy drafting of legislation because so much of it was rushed, so much of it was done on the back of a beer coaster, and so much of it was done because of a requirement to fit in with the 24-hour news cycle. It was all about spin. It was all about government by media release. There was very little careful consideration, and certainly there was very little considered consultation with industry. The FoFA laws was just one examples of a situation where stakeholders were not consulted. The industry and the sector were not properly consulted prior to Labor's legislation. We need a robust but efficient regulatory system which is competitively neutral so that people saving for their retirement, or managing financial risks through life, can access affordable, high-quality advice.

Labor is pushing the union interest; there are no surprises there. Labor is pushing the union barrow by continuing to want a disallowance for our FoFA regulations even though the Senate clearly supported them. We are focused on the public interest, consumers and small business financial advisers. Those small business people are part of the sector that Labor ignores. Labor just ignores small businesses, particularly in regional Australia.

The government will work in consultation with all relevant stakeholders to establish an enhanced public register of financial advisers, including employee advisers. I might at this point mention Senator Mathias Cormann, the Minister for Finance and acting Assistant Treasurer, who, in *The Australian Financial Review* of 24 March this year, wrote a very enlightening piece called 'FoFA changes cut back on costs of advice' in which he writes:

There has been a lot of misinformation circulating about the government's proposed improvements to our financial advice laws and their impact on people seeking advice as they save for their retirement. Some of it has been deliberate and mischievous while some of it reflects a genuine lack of understanding of what is proposed. It has, however, created a level of unnecessary concern and confusion of those who believe everything that has been written, especially those saving for their retirement.

That group of people is very important because they are increasing in number, and they do not need the unnecessary burden of being worried, or fraught with dismay and despair, about how their nest egg is going to be treated. I will continue with Senator Cormann's contribution to *The Australian Financial Review*:

So let's make a few things clear right up front. Firstly, contrary to what has been said, the Coalition is not appealing the Future of Financial Advice laws. We are improving them in line with our election commitments.

There is something that Labor could learn a lot from—'improving them in line with our election commitments'. Senator Cormann writes:

Secondly, we are not proposing to get rid of the requirement that financial advisers act in the best interest of their clients. We have supported the introduction of such a best interest duty to complement the general common law fiduciary duty from day one and we are absolutely committed to keep it.

There he says it: '... absolutely committed to keep it'.

What we are doing is to provide certainty on how the FoFA best interest duty operates so financial advisers are very clear what their obligations are. Thirdly, we are not proposing to reintroduce commissions or other conflicted remuneration structures for financial advisers providing personal advice. We are, however, committed to restoring a level playing field across the whole financial services market when it comes to the treatment of general product advice to ensure consumers can continue to receive the benefits that come from robust competition among providers and business models.

That was a good article, well written, by Senator Cormann.

It is important that we listen to people with experience who have the interests of the financial sector at heart, not to Labor members running around conducting scare campaigns. That is what Labor is doing in this regard and in so many other regards when it comes to the legislation we need to introduce to fix up their sloppiness, as well as to make ours a better economy and a better financial sector.

This is good legislation. This is necessary legislation. We are getting on with the job of making streamlined processes that help the financial sector, in the best interests of the people. Many pensioners and aged people are coming to that section of their lives when they need to have their money working properly for them, so that they can have a good future with the money they have tucked away and saved. This bill is one way in which we are delivering on our commitment to reduce the regulatory burden on business.

We understand business on this side of the House. Deputy Speaker Kelly, you have been in business. I have and so many others have—our minister at the table, Minister Andrews, certainly understands business. Those on the other side just do not get it.

**Mr Neumann:** I was in business, mate, for 25 years!

**Mr McCORMACK:** Well, you probably were in business too. But certainly you are beholden to your union mates.

It is unfortunate they are going around scaremongering about this particular piece of legislation. This bill is another way in which we are getting on with the job of fixing up the mess we unfortunately inherited after six years of Labor. But it is not we as a coalition who inherited it; the nation inherited it, and we do not need to continue with that mess. That is why we are getting on with the job of fixing up the awful mess we were left with.