



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

Federation Chamber

BILLS

**Corporations Amendment (Future of
Financial Advice) Bill 2011, Corporations
Amendment (Further Future of
Financial Advice Measures) Bill 2011**

Second Reading

SPEECH

Wednesday, 21 March 2012

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date Wednesday, 21 March 2012
Page 3926
Questioner
Speaker Ley, Sussan, MP

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Ms LEY (Farrer) (19:19): I reiterate that the coalition do not support the Corporations Amendment (Future of Financial Advice) Bill 2011 and cognate bill in their current form. We believe that the financial services industry requires a robust framework. However, as is typical of those opposite, they have proposed a framework overburdened with red tape. This legislation is particularly complex. It demonstrates the regulatory overreach that is now defining the Gillard government, a government so obsessed with regulation and red tape that they fail to recognise the damage they cause to business. Time and again, members in this place stand up and talk about the deadweight loss of compliance, of regulation, of red tape. As a member who has been in this place for 10 years I find it extremely frustrating that over time that burden never seems to reduce, but I am delighted that right here right now the coalition is deadly serious about reducing red tape, and that is one of the problems we have with these bills.

With employment participation as one of my portfolio responsibilities, I have grave concerns regarding the likely job losses that will result from the legislation. Under this government we have seen thousands of Australians lose their jobs since the beginning of this year. Labor's mismanagement of this legislation will further lengthen the unemployment queues, with financial advisers set to join the line. This will result in not only job losses but also a likely increase in the cost of service provision. It is likely to cost about \$700 million to implement the government's proposals and a further \$350 million per annum to comply with them, according to conservative industry estimates.

I do accept that in the wake of the global financial crisis there were a few high-profile cases of financial service providers collapsing, causing serious economic hardship to thousands of Australians. For this very reason parliament undertook an inquiry into the financial services and products on offer in Australia. The resulting Ripoll inquiry reported back to the parliament in November 2009, which is more than two years ago. The inquiry made some pertinent and timely observations. The coalition was supportive of the key recommendations from this inquiry. Regrettably, the government has decided instead to quiver, shake and run a mile from sensible change. The coalition, on the other hand, is supportive of introducing elements that foster greater trust and confidence in our financial services industry. Australians want to know that their hard-earned dollars are being carefully minded by those they do trust to provide their financial advice. Yet looking after taxpayers' money is something this government has failed to do.

This bill is anti consumer, anti adviser and anti small business, and for that reason we will be moving a series of amendments, which are that the government be required by parliament to table a regulatory impact statement on FoFA, assessed as compliant by the government's Office of Best Practice Regulation. I am preparing to speak on a bill about equal opportunity for women in the workplace. It is unrelated to this legislation and it is a pile of bureaucratic nonsense, again burdening employers with extraordinary reporting requirements. The point is that it has a regulation impact statement, and I do not understand why such a trivial bill—I will call it that, and when I talk about it in the House people will see why—has a regulatory impact statement and this legislation does not. We will also propose that the opt-in amendment be removed. That was never proposed by the Ripoll inquiry. We will propose that the retrospective application of the additional annual fee disclosure requirement be removed, that the drafting of the best-interest duty be improved, that the ban of commissions on risk insurance inside super be further refined and that the implementation of these bills be delayed until 1 July 2013 to align with MySuper. That makes perfect sense. Most of the subject matter financial advisers deal with concerns payments and superannuation.

Just to reinforce the opposition that we have to aspects of this bill, and the fact that we are not being entirely negative and we are making sensible proposals, I would like to run through the recommendations made by the dissenting coalition members of the Joint Committee on Corporations and Financial Services and draw from their report. The first recommendation is:

That the Parliament defer consideration of the FoFA legislation until the government has submitted a full Regulatory Impact Statement in relation to the legislation currently before the Parliament which is compliant with the requirements of the government's own Office of Best Practice Regulation.

Recommendation 2 states:

That the commencement date of this legislation be timed to coincide with the commencement date of the government's proposed My Super changes, which are currently scheduled to commence on 1 July 2013. The commencement date should provide at least a 12 month period from the date of finalisation of all legislation and associated regulations to enable an orderly transition and implementation period.

It is not fair to financial advisers, many operating in the small business space, to dump this stuff here and expect them to understand it and to operate perfectly in concert with it in a very short time. The third recommendation is:

That the Opt-in arrangements contained in the Corporations Amendment (Future of Financial Advice) Bill 2011 be removed from the Bill.

As I said, the Ripoll inquiry made no recommendation to introduce an additional annual fee disclosure statement over and above the current regular statements provided by financial service product providers to their clients already. And the committee received a lot of evidence that, based on the various consultation sessions, it was the industry's clear understanding that the government's proposal to impose an additional annual fee disclosure statement would be prospective—that is, it would only apply to new and not existing clients. The committee received evidence that, after more than two years of this long consultation process, the introduction of a retrospective annual fee disclosure statement was something that came completely out of left field when it first popped up in this legislation. Therefore, we really need to remove those opt-in arrangements.

Recommendation 4 states:

That the annual fee disclosure statements contained in the Corporations Amendment (Future of Financial Advice) Bill 2011 be prospective only as per the government's long standing commitment and that they should not apply retrospectively to existing clients on the basis that the increased costs – ultimately borne by consumers – far outweigh the questionable additional consumer protection benefits.

Recommendation 5 states:

That the annual fee disclosure statement requirements be amended from "detailed" prescriptive information and inflexible issue rules to "summary" information only "given" at least annually to the client.

Recommendation 6 states:

That section 961B(2)(g) be removed from the proposed Best Interests Duty to remove uncertainty about the practical operation of the Duty.

Recommendation 7 states:

That the best interests duty in the proposed legislation be amended to explicitly permit clients and advisers to agree to limit the subject matter of advice provided in order to facilitate the provision of 'scalable advice'.

There are a couple more recommendations, which I do not believe I need to read into the *Hansard* of the Federation Chamber because I and other speakers on this bill have given a clear indication of the coalition's approach and our dislike of the direction in which this is going.

Debate adjourned.

Federation Chamber adjourned at 19:27.