THE SENATE

BILLS

Financial System Legislation Amendment (Resilience and Collateral Protection) Bill 2016

Second Reading

SPEECH

Wednesday, 4 May 2016

BY AUTHORITY OF THE SENATE

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT (Senator Sterle): Senator Dastyari, ignore the interjections.

Senator DASTYARI: They keep interjecting, Mr Acting Deputy President. This is an important bill and I want to have a serious discussion here. I thank the chamber for this opportunity to outline Labor's position on the Financial System Legislation Amendment (Resilience and Collateral Protection) Bill 2016, which we will be supporting.

In a week that will be dominated and has been dominated by some fairly willing and high-profile debates on economic policy, the very technical changes in this bill are unlikely to attract the same attention, but that does not mean that they are not very important for the stability of our financial system. Though we may find much to disagree on in this place and beyond in the final week of parliament and in the next two months if we head into an election campaign, I think it is important to mark that, when it comes to this bill and when it comes to financial resilience and living up to our international obligations, all sides of the chamber do agree in this instance.

The bill makes changes to the regulation of over-the-counter derivatives that come out of international agreements made after the global financial crisis. Clearly the global financial crisis made us rethink a whole host of regulatory measures in our financial system. The legislation being discussed today relating to over-the-counter derivatives is one such example.

Labor has always played a productive role in supporting the development and improvement of Australia's financial regulation. The float of the dollar, the sale of the Commonwealth Bank, deregulation of the banking system, ending centralised wage fixing, and the beginnings of Reserve Bank independence—all were key features of the legacy of the Hawke and Keating governments.

Of course the last Labor government took decisive action to keep Australia on the path of growth during the last financial crisis. It is extraordinary that we have had a quarter century of uninterrupted economic growth in this country when you consider that within that period there was the sharpest synchronised downturn in the global economy since the Great Depression of the 1930s. This is something we should all be proud of. Our decisive action during the global financial crisis included being instrumental in the development and elevation of the G20, which was key to the international responses to the crisis. I got to work on some of these issues in a previous staff role and I think that the part played by Australia is something that Australians should be very proud of. Certainly both sides of the parliament, the business community and all Australians have cause to be proud of what Australians achieved together during the global financial crisis, including the role that this nation played in the big international forums and principally the G20.

We are pleased now to be supporting this bill, which comes out of those international agreements—in this case, the one on margin requirements for derivatives. It was part of a process kicked off by the G20. The effect of this bill will be to improve the stability of the financial system and to bring Australia's derivative-trading sector into line with internationally agreed standards. It is expected that these measures will ease the financial burden of compliance with international standards by $3.9 million annually.

This bill implements the agreement between the Basel Committee on Banking Supervision and the board of the International Organization of Securities Commissions on margin requirements, which are being phased in internationally from 1 September this year. The agreement came out of several major pieces of work by the G20 and goes back to about 2009. With input from the then Treasurer, Mr Swan, the G20 committed to improving transparency, mitigating system risk and protecting against market abuse in derivatives markets.
By 2011 it was recognised that not all derivatives are suitable for central clearing, so the G20 called for uniform margin requirements for over-the-counter derivatives. Australia has already indicated its support for this international agreement, and that is a good thing. In November 2015 our own Council of Financial Regulators announced its intention to implement the Basel and International Organization of Securities Commissions framework for margining. Further, in February this year the Australian Prudential Regulation Authority released its proposed margining requirements, which will become effective by 1 September 2016 and be phased in over several years.

Participants in non-cleared derivatives markets have traditionally transferred margin, otherwise described as collateral or credit support, by way of absolute transfer rather than by way of security. The new requirements will mean that most participants transfer margin by way of security instead. The Australian Prudential Regulation Authority's margin requirements will only apply to institutions with significant activity in over-the-counter derivatives where the institution or the group it is a part of has average month-end notional outstanding over-the-counter derivatives of greater than A$3 billion. The Council of Financial Regulators has indicated that it will consider the approach for non Australian Prudential Regulation Authority regulated institutions this year. Several other developed countries, including the United Kingdom and European Union members, have enacted similar legislation to clarify their own securities laws.

Labor supports measures to improve the stability of the financial system, noting the negative impact that unsecured derivative contracts had on the deepening of the global financial crisis. That is why we support this bill and why we support reasonable steps to bring our derivative trading sector into line with internationally agreed standards.