

ADDRESS TO THE FINSIA CONSUMER FINANCE SYMPOSIUM

MELBOURNE

27 AUGUST 2009

Introduction

Good morning.

I'd like to thank the Financial Services Institute of Australia, FINSIA, and in particular Dr Martin Fahey your CEO, for once again inviting me to address your annual symposium, but more importantly for the role FINSIA and Martin have played during the last 20 months.

These have been challenging times and it's more important than ever that Government and industry continue a strong ongoing dialogue. I can attest that FINSIA stands at the forefront of that process.

Forums such as FINSIA's Consumer Finance Symposium today bring together people with a wide range of experiences and viewpoints and are invaluable for maintaining that process of open communication.

In addition, Martin has performed a strong and direct personal advocacy and advisory role for me and my colleagues – he is well respected and people listen to his counsel.

The focus of this morning's Symposium is the introduction of a national framework for credit regulation.

As you would know, while I previously had direct responsibility for the consumer credit reforms, this area is now the responsibility of my Ministerial colleague Chris Bowen.

Chris asked me pass on his best wishes for this morning's event. He can't be here this morning, but I can tell you that this critically important national project is in very good hands – Chris has taken to this issue with gusto and in a matter of only two months has put both Bills into Parliament and released detailed Regulations.

I will come back to these initiatives, along with the equally important work of my other Ministerial colleague, Craig Emerson, in relation to the National Consumer Law, a little later.

But before I do, I'd like to give you an update of where the Government sees the current economic situation in light of the global recession – and the way forward, particularly as we continue on the road to recovery and with strong global cooperation at the G20.

I want to also draw attention to how these important global solutions are buttressed and reinforced by exactly the kind of domestic regulatory reforms we are putting in place in Australia in fields such as consumer credit.

I'm happy to take any questions after that and if you need any further follow up, I can take down the issue and I know Chris and Craig will be able to help with further details.

The Global Recession

Our economic environment has certainly changed since I addressed this FINSIA symposium last August – the collapse of Lehman Brothers was still a month away and while the tremors were beginning to be felt, the earthquake had not yet hit.

What has happened since is well known and I won't seek to recite events this morning.

But the result has been the world experiencing the worst global recession in 75 years – a synchronised downturn with no comparison since the Great Depression.

It was, of course, inevitable that we would feel the flow-on effects of this global recession here in Australia.

And in the area most of interest to you here this morning, the finance and credit sectors, the impact has also been felt.

Our banking, superannuation and insurance sectors have all felt the impact but, for a range of reasons, including decisive Government intervention and good regulatory frameworks, we have certainly fared better than almost anywhere else in the world.

Strength and resilience of Australian economy

Broadly, here in Australia we have seen a series of good economic news in recent weeks, along with optimistic pronouncements from leading economic organisations and economists to suggest Australia is indeed at the head of the pack.

The OECD *Economic Outlook*, released in late June, shows Australia is outperforming every other advanced economy.

This report confirms Australia has the strongest performing economy in the OECD, with lower debt and lower deficits than any major advanced economy.

The OECD forecasts output in its 30 member economies to contract by 4.1 per cent in 2009.

By comparison, the OECD expects the Australian economy to contract by only 0.4 per cent in 2009. This is the mildest forecast contraction of any of the 30 OECD economies.

A modest recovery is expected from late 2009, with the Australian economy forecast to grow by 1.2 per cent in 2010.

One of the reasons we are weathering the storm so well is the set of actions taken by the Rudd Government to stimulate and protect the economy and build on our underlying strengths and resilience.

We have a very strong fiscal position, with lower debt and deficits than any other major advanced economy.

Our banking system is among the best-regulated in the world and has remained stable throughout the crisis, with the strong and direct support of the Government's banking guarantees.

The guarantees were one of several targeted interventions by the Government and, of course, also by the Reserve Bank, that have boosted the underlying strength and resilience of the Australian economy.

These measures include the fiscal stimulus packages and a significant easing of monetary policy.

In October last year, the Government implemented the guarantees for bank deposits and wholesale funding for an initial period of three years.

The guarantees were designed to achieve three things:

- to maintain confidence in our financial sector;
- to continue the flow of credit to households and businesses; and
- to address the wholesale funding disadvantage faced by Australian banks as a result of the policy interventions of other countries.

This strategy has clearly worked.

Australian banks have raised over \$130 billion in long-term funding under the wholesale guarantee scheme.

This money is ensuring banks can continue to lend to businesses and households, keeping the wheels of the economy – and of course consumer credit – turning, whereas in numerous countries the lending cycle has all but ground to a halt or at best, is a weak version of pre-crisis levels.

Without these funds, banks would have faced no other option than to limit lending to households and small businesses, affecting growth and jobs.

These measures were complemented by the Government's economic stimulus strategy.

The three-stage strategy comprises targeted income support to households with direct Tax Bonuses, to support immediate infrastructure investment such as Building the Education Revolution projects in Australian schools, and also for the larger and longer-term nation building infrastructure projects announced in this year's Budget.

And, like our finance sector interventions, this stimulus strategy has also worked.

And our nation building funds are allowing us to invest in the critical infrastructure we need for the future.

Australia's economy grew by 0.4 per cent in the March quarter — the strongest growth of any advanced economy – and we were one of only two advanced economies to grow in that quarter.

Treasury estimates that, without the economic stimulus, our economy would have contracted by 1.1 per cent in the December quarter and a further 0.2 per cent in the March quarter. That would have resulted in an economy about one per cent smaller today and translated into more business closures and 210,000 more Australians out of work.

Instead, these people still have their jobs and the combined effect of the Government's stimulus packages have significantly boosted consumer confidence.

We have managed to avoid the erosion of confidence seen in other economies – unlike the US, the UK, the Euro Area, and indeed the OECD average, Australian consumer confidence has held up well.

Australian consumer sentiment rose a further 3.7 per cent last month, continuing to bounce back from the recent low recorded in July 2008.

Retail sales are now 5.2 per cent higher than they were in November last year, just before the Government's first stimulus payments to households.

In contrast, over the same period, retail sales fell in the United States, Canada, the Euro Area and Japan.

But let's be clear – despite these marked strengths, we are not out of the woods yet.

Just two weeks ago, the Alabama based \$25 billion U.S. Colonial Bank became the largest American bank to fail this year, and the sixth largest bank failure in American history. It's a startling reminder of the still present perils and fragility in the major developed economies.

But overall, Australians can be optimistic about their economic futures – just as we had a clear plan for the crisis, the Government, led by the Prime Minister and the Treasurer, has a clear plan for recovery.

Plan for recovery Productivity and growth

There are those out there that have espoused the immediate withdrawal of our stimulus plans – unfortunately I have to hear this view put forward again and again in the Senate by the Opposition.

But – and I don't want to be too political with this issue this morning – to do this, to withdraw, would be reckless in the extreme.

This is because our stimulus plan is supporting jobs now by investing in the infrastructure for tomorrow. It is for jobs, it is for a recovery based on a new stage in productivity growth for the Australian economy.

The Rudd Government is focused on a package of reforms that will underline Australia's place as a prosperous, flexible and fair economy over the medium to long-term.

Part of this plan involves sustained investment in Australia's economic infrastructure and reform of infrastructure markets that are critical to boosting national productivity. We are bringing our economy into this century through the National Broadband Network and the Education Revolution that will help our kids attain rewarding and higher paying jobs.

We are also removing red tape and impediments to work in our economy through the biggest tax and welfare review in 50 years, through competition and regulation reforms, and the reform of Commonwealth-State relations.

Tomorrow's prosperity and economic security depend crucially on the economic policy choices we make today. This is why a bold plan for the long-term economic future of the nation is more important than ever.

International engagement

Just last week the Treasurer highlighted that international engagement on the pathway to recovery was going to be one of his key priorities in the year ahead.

Australia has done so much to ensure that a global solution is forthcoming for this global recession.

In the next few months, the Prime Minister and the Treasurer will again be working with their global peers at the G20 Finance Ministers meeting in London and the G20 Leaders Summit in Pittsburgh to ensure the G20 continues to deliver on its commitments to reform the global financial system.

The next few months will be critical and I can assure you that at the highest levels, Australia will be at the forefront of dealing with the global recession and its consequences.

Consumer reform agenda

Now to move from the truly global to the domestic – and the no less important work underway in relation to consumer regulation here in Australia.

It may seem to some a challenge to move so quickly from such global macro heights to the level of the individual consumer – but I would remind you of the role played by the individual mortgage buyer in the US.

There, consumer credit flowed in a largely unregulated manner, pushed by distorting incentives such as commission selling. We know the results – the global financial crisis that is now the subject of the G20 deliberations.

So how we deal with consumers and the credit markets in which they purchase finance is deeply critical to the health of the broader national and global economies.

And, as with the global solution, the Rudd Government has been very active since coming to office in ensuring Australia's consumer credit regulatory framework is second to none.

As I mentioned earlier, these changes are now being spearheaded by my Ministerial colleagues Chris Bowen and Craig Emerson, respectively the Minister for Financial Services, Superannuation and Corporate Law and the Minister for Competition Policy and Consumer Affairs.

The collective impact of these changes will create the right conditions for sustainable growth as we come out of the recession.

Credit Reform

On 25 June, Chris Bowen introduced a package of consumer credit legislation into Parliament. These reforms deliver on the COAG agreement that responsibility for the regulation of consumer credit would be transferred from the States and Territories to the Commonwealth.

The package currently before Parliament provides for a series of "firsts" in the Australian consumer credit landscape:

- The first single, standard, and nationally-consistent regime for consumer credit regulation and oversight in this country.
- The first national licensing regime for people engaging in credit activities.
- And the first comprehensive responsible lending conduct requirements.

Under the new requirements, lenders and finance brokers who offer consumer credit will be obliged to, first, assess that the loan is not unsuitable for the consumer.

Second, they must assess that the consumer has the capacity to repay the loan.

These provisions will help consumers to make better-informed choices - and combat over-indebtedness within the Australian credit market.

Since the historic COAG agreement late last year, the Government has undertaken extensive consultation on this package of reforms.

Indeed, this is an ongoing process, with consultation currently underway with regard to the proposed regulations which underlie the bill. I would urge anyone with an interest in this area to be involved in this process.

Based on industry feedback, we have made a number of changes to the package to ensure that the reforms provide a world class consumer protection regime, while not burdening the financial industry with unnecessary red tape.

One of the important changes that has been announced recently was the exemption for point-of-sale retailers who provide credit assistance to

consumers, with a review of the issue of regulatory oversight to occur within 12 months.

Licensing Timetable

To help industry adjust to the new regime, the national licensing requirements will be implemented in a staged process.

Anyone engaging in credit activities will need to be registered with ASIC, and must apply for registration between 1 November 2009 and 31 December 2009. They will then have the six-month period between 1 January 2010 and 30 June 2010 to apply for an Australian Credit Licence.

Anyone who engages in credit activities for the first time on or after 1 January 2010 must apply for, and receive, an Australian Credit Licence before starting business.

RL Timetable

The responsible lending conduct requirements for brokers and some lenders have been brought forward. They will now apply from 1 January 2010, instead of 1 January 2011, as previously proposed.

This move will better protect consumers. Bringing forward the responsible lending requirements will ensure that consumers can be immediately access protection from any predatory and irresponsible lending.

And importantly, under the new timetable for reform, there will be no gap in consumer protection between "turning off" the existing State and Territory credit regimes and "turning on" the new Commonwealth regime which includes these crucial responsible lending requirements.

The responsible lending conduct requirements will commence for the remaining lenders, Authorised Deposit-taking Institutions and Registered Finance Corporations from 1 January 2011. This will give these credit providers enough time to prepare for compliance with the new regime and ensure a smooth transition for industry.

All remaining responsible lending requirements, such as disclosure of fees and commissions, will commence on 1 January 2011.

Of course, the Government recognises that we need to give businesses whose lending and credit-related activities rely on extensive and complex business processes and IT systems enough time to be ready to comply with the new regime.

The revised commencement dates give industry the time they need to make this happen.

In transitioning the existing State and Territory consumer credit regimes into the new National Credit Code, substantial enhancements have been included. These enhancements will require lenders to change important paper and IT based documents related to disclosure and consumer information.

The extension will give all credit providers the time they need to make the changes necessary to operate in this new regulatory environment.

Margin loans

A second piece of legislation, the Corporations Legislation (Financial Services Modernisation) Bill, will introduce national regulation for margin loans. Until now, margin loans have not been subject to any specific regulatory regime at all.

We never again want to see the kind of situation which followed the collapse of Storm Financial. A situation in which hardworking Australians lost hundreds of thousands of dollars — and sometimes their family home — because they invested in sophisticated financial products they didn't fully understand.

The Financial Services Modernisation Bill will change that.

Lenders and advisers who recommend margin loans — like all lenders and finance brokers who offer consumer credit — will need to be licensed and regulated by ASIC.

And under the new responsible lending requirements, they will be required to only provide advice that is appropriate to the client's needs and circumstances.

A further consumer protection measure clarifies which party is responsible for notifying borrowers when a margin call occurs where both a lender and a financial adviser are involved. In the past, delays in margin call notifications due to disagreements between lenders and advisers contributed to the losses suffered by consumers.

Australian Consumer Law

Craig Emerson has also had a busy time since taking on competition and consumer affairs issues.

In June, he introduced into Parliament the Trade Practices Amendment (Australian Consumer Law) Bill 2009.

This legislation will provide consumers with an even greater level of protection by establishing key aspects of the Australian Consumer Law.

One of the features of the new Australian Consumer Law is that it will regulate unfair contract terms, namely, it will render void unfair or prohibited terms in "standard form" consumer contracts.

The Government acknowledges the many benefits that flow from using standard-form contracts in business-to-consumer transactions. They keep costs down and save time. But, they can often be used as a means of shielding a business from risk in a way which is not fair.

The unfair contract terms provisions of the Australian Consumer Law will help to make contracts more transparent by removing unfair terms that are not reasonably necessary to protect legitimate business interests.

The legislation will also enhance competition by allowing consumers to make informed choices based on a clear understanding of their rights and obligations in contracts.

The Senate Economics Committee is currently undertaking a detailed public enquiry. The public hearings were held last week and the Committee is expected to table their report on 7 September.

The Bill is the first step in the COAG's overhaul of consumer regulation in Australia. In early 2010, the Government will introduce a second piece of legislation, which will bring together and rationalise existing consumer protection provisions of the Commonwealth's Trade Practices Act and the States and Territories' fair trading legislation and set out provisions for a new national product safety regulatory framework.

When completed, the introduction of the Australian Consumer Law will be the most significant and far-reaching consumer law reform undertaken in a generation. It will rationalise the current 13 pieces of legislation that exist around Australia to deliver effective protections against inappropriate business practices.

In doing so, it will iron out inconsistencies across jurisdictions, providing savings to businesses and consumers. This will deliver a massive efficiency dividend for the Australian economy. The Productivity Commission estimated that these reform measures could provide gains of up to \$4.5 billion.

Conclusion

To wrap up this morning, I would like to again point to the close connection that exists between the big picture global solutions underway through forums such as the G20, and the domestic regulatory reform

agenda, such as the projects underway in the consumer credit and consumer law arenas.

The work of FINSIA in the consultation processes to now has been highly valued and, in organising events such as this, the Government recognises you and the financial services community continue to play an important role.

As a Government we have taken a range of clear and decisive steps to support our economy and financial system during a period of global economic crisis, and as I've outlined, we have a similarly clear plan to build a road to a productive and sustainable recovery.

The proper regulation of consumer credit is playing an important role in that agenda.

It's been a pleasure to be here this morning, thank you, and I hope you enjoy the rest of the symposium.