

# **ADDRESS TO THE FINANCIAL OMBUDSMAN SERVICE NATIONAL CONFERENCE**

**MELBOURNE**

**12 JUNE 2009**

Good morning

Thank you for that kind introduction.

I'm delighted to have been invited to address the National Conference of the Financial Ombudsman Service.

A great deal has changed since I helped to launch the Financial Ombudsman Service last July, not least of which has been the recent ministerial reshuffle.

This is my first public speech since being appointed by the Prime Minister as the Assistant Treasurer of Australia - and its honour to hold such office.

I am also looking forward to working even more closely with Treasurer Wayne Swan as the Government continues to develop its response to the worst global recession since the Great Depression.

Since the launch of Financial Ombudsman Service in July last year, the Service has expanded to include new mutuals and insurance broking divisions. These divisions were formed by converging the Credit Union Dispute Resolution Centre, and Insurance Brokers Disputes Limited, into the Financial Ombudsman Service - this is a great outcome and I endorse it strongly.

This leaves the Financial Ombudsman Service, the Credit Ombudsman Service Limited, and the Financial Cooperative Dispute Resolution Scheme as stand-alone external dispute resolution schemes.

As I said last year, consolidation can only help the financial services EDR sector and consumers will be the real beneficiaries of any consolidation process.

The merger means that consumers - or for that matter, industry members who are unsure about where they can get information about dispute resolution - can be quickly referred to the service best suited to handle their complaint.

Consolidation will also provide many advantages to the Financial Ombudsman Service.

You will be better able to identify systemic issues, and harmonise processes among the schemes. This will lead to greater parity of treatment for consumers and investors across all sectors of the financial services industry - regardless of whether a financial service provider is a small, medium or large business.

## **Importance of EDR bodies**

The concept of "a fair go" has always been a basic tenet of Australian culture.

It may be difficult to translate into another language, but all Australians know what it means.

It means that whoever you are, and wherever you come from, you are entitled to the same treatment as every other Australian.

The same ethos applies to our financial services regime - the principles of transparency, fairness and consistency.

External dispute resolution schemes like the Financial Ombudsman Service are an important part of that philosophy.

They help to keep the regime on a level playing field.

They provide free, fair and accessible dispute resolution for consumers who are unable to resolve a dispute directly with their financial service provider.

And importantly, they allow consumers to resolve complaints that would not normally be brought before a court, due to the cost or intimidating nature of legal proceedings.

As well, complaints encourage industry to improve its standards and conduct. And in doing so, they foster greater consumer confidence and participation in the market.

This is particularly important in the current economic climate and the shadow of the global recession.

A quick look at the Financial Ombudsman Service's statistics shows a significant increase in the number of consumers raising disputes.

In fact, from March 2007 to March 2009, the number of consumers raising disputes increased by about 44 per cent.

We can expect the number of disputes raised by consumers to increase further, following the transfer of responsibility for regulating consumer credit from the States and Territories to the Commonwealth.

## Economic outlook for Australia and key Budget measures

Ladies and gentlemen, we all know that the global economic outlook has deteriorated sharply toward the end of last year and into this year. We now face the most challenging global economic conditions since the Great Depression.

That's why the 2009 Budget was designed to support jobs today by investing in the infrastructure Australia needs for tomorrow.

The 2009 Budget has at its core a \$22 billion investment in the infrastructure our nation needs to grow and flourish in the years ahead.

It focuses on an unprecedented push for jobs and productivity, built on the roads, rail, ports and broadband that are the building blocks for sustainable growth.

The measures in this Budget build on the decisive action the Government has taken since the extent of the global recession became clear.

And the success of our economic stimulus strategy was confirmed last week with the release of the National Accounts figures.

During the March quarter, Australia's GDP rose by 0.4 percent to be 0.4 percent higher through the year, boosted by the early policy action taken by the Rudd Government and the Reserve Bank.

This positive outcome is a clear demonstration of Australia's resilience amid the global recession, and compares dramatically with nearly all other advanced economies.

Of the other 22 OECD economies that have reported March quarter outcomes, 20 have contracted.

G7 economies contracted by an average of 2.2 percent in the March quarter.

And crucially, Treasury estimates that, without the Government's stimulus payments, the Australian economy would have contracted in the March quarter by about 0.2 per cent.

Despite this positive news, it is clear that we are not yet out of the woods. We can expect the full effect of this global recession to have some way to run.

But it is also clear that the Government's economic stimulus strategy is helping to cushion Australia from the worst impacts of the global recession.

And helping to position us to capitalise on the global recovery which lies ahead.

## **Consumer credit regime**

As many of you would be aware, for the last year I have been working hard, along with the Treasury, with industry bodies and with the Financial Ombudsman Service to bring consumer credit under regulation of the Commonwealth.

As I leave this responsibility to new Minister, I would like to recap on what some of these changes mean for Australians.

After extensive consultation and industry participation, the Government is preparing to introduce the final Bills into Parliament.

As I flagged last Friday at the mortgage brokers conference, the Government is currently examining a range of modifications to the draft laws particularly aimed at ensuring compliance costs for business are kept to their lowest level possible whilst maintaining the core improvements for consumer protection and responsible lending.

Turning to the laws, as you know these Bills will transfer responsibility for the existing State and Territory-based consumer credit laws to the Commonwealth.

The Bills will also provide consumers with a higher level of protection.

It will extend the scope of the laws to cover residential investment properties, providing important protections to "mum-and-dad" property investors.

The Bills will increase the monetary thresholds under which consumers can request a change to certain terms of their credit contract on the grounds of hardship and for postponements to enforcement proceedings to \$500,000. Credit providers will have to respond to such applications within 21 days.

The Bills will prohibit credit providers from using essential household goods as security.

It will require credit providers to give consumers information when a consumer defaults on their contract or a direct debit is dishonoured.

And it will reduce the potential for unscrupulous lenders to avoid the application of the law to consumers.

The new consumer protection arrangements will have important implications for dispute resolution bodies.

Consumers will have greater access to internal dispute resolution, external dispute resolution and the courts. This three-tier model will make it easier and less costly for consumers to resolve disputes.

Lenders, brokers and other credit service providers will be required to provide consumers with access to both internal and external dispute resolution.

Consumers will still have access to the courts. This will include a new "opt-in" streamlined procedure for hardship matters, and compensation matters of less than \$20,000.

This is a robust system designed to provide all Australian consumers with access to justice. In developing the model, care was taken to ensure continuity with the current arrangements, and to allow effective low-cost court options to remain available for consumers.

## **FOS Terms of Reference**

I understand that EDR schemes, including the Financial Ombudsman Service, are currently reviewing their Terms of Reference.

The new Terms of Reference will accommodate the changes to consumer credit laws and will address issues such as hardship variations and compensation caps.

The Government welcomes the consultative approach the Financial Ombudsman Service has adopted in their quest to establish a single set of rules, procedures and definitions for financial services disputes in Australia by 1 January 2010.

This is an important step towards a simpler and more consistent external dispute resolution process for consumers.

Harmonising the processes that apply to different types of financial services complaints will benefit both consumers and financial services providers. Both parties will benefit from clearer procedures, as well as the general improvements to the functionality and coverage of external dispute resolution.

These changes will boost consumer confidence and market integrity.

Of course, a task of this scope is not without its challenges. But I am encouraged by the progress that the Financial Ombudsman Service has already made, and I am confident that you will be able to meet your deadline.

## **Revised ASIC guidance**

In a move to ensure that EDR schemes remain relevant and well-utilised by consumers and retail investors, the Australian Securities and Investment Commission recently updated its Regulatory Guides 139 and 165.

The revised guidance is a positive development that will see more consumer complaints handled in low-cost EDR forums. They will also allow disputes to be resolved more quickly and efficiently, saving time and money for both industry and consumers.

From 1 January 2010, all EDR schemes will be required to deal with claims worth up to \$500,000, the level of the retail client test. However, schemes will be allowed to limit the maximum amount of compensation payable per claim in accordance with their existing rules.

From 1 January 2012, EDR schemes will only be allowed to cap the maximum amount of compensation payable per claim to a minimum of \$280,000, or \$150,000 if the claim relates to an insurance broker. Schemes will also be able to opt for a higher figure in the rules of the scheme.

Some scheme caps haven't been updated for a while, so these reforms are overdue. They will ensure that EDR schemes are brought into the 21st century and reflect the true value and extent of consumer transactions. The increases will also provide consistency of coverage across comparable sectors.

ASIC has also made several other significant changes to its dispute resolution guidance. I will outline these briefly.

EDR schemes will be able to award interest in addition to compensation awards.

EDR schemes will have discretion over whether or not to cancel an agency's membership and whether to continue to handle a complaint where a member ceases to operate. This change is significant, as it will allow complainants to access EDR in the wake of a corporate collapse.

EDR schemes will be required to publish statistics about the number of complaints received and resolved against individual EDR scheme members. As well, financial service providers will be required to adopt a

new definition of "complaint" in their internal dispute resolution processes, based on the 2006 Australian Standard on dispute resolution.

I should add that ASIC Regulatory Guides 139 and 165 set out only minimum standards. EDR schemes are free to set their own detailed rules and operate to higher standards than the broad, minimum settings. In fact, ASIC encourages financial service providers and schemes to adopt higher standards, where possible.

## **Assistant Treasurer**

I want to turn to my new role as Assistant Treasurer.

I am looking forward to the many challenges that this new portfolio will provide me.

I will be tackling major reform agenda in tax with all the enthusiasm and the industry knows I brought to the superannuation and corporate law agendas.

I look forward to taking up this challenge.

One of the key areas of focus for the Rudd Government is the efficiency of regulation.

And the efficiency of our tax laws are no different.

Currently, there are over **5,500** pages of tax law in Australia.

The Rudd Government has always maintained that there is no need for two long, complex tax laws. The process of reforming Australia's taxation law was started in 1997 with the introduction of the Income Tax Assessment Act 1997. However the process was not completed and there remains approximately 1900 pages of out-of-date legislation still in effect today.

The Government will release draft rewrites of several schedules of the 1936 Act and their transfer to the 1997 Act later this year.

This will include schedules 2C, 2D, 2E, 2G, 2J and Divisions 8, 9, and 10 of Part VI of the 1936 Act.

However, the size of the task should not be underestimated - so I do not want to set a definitive timetable for amalgamating the two acts.

## **Henry Review**

In May 2008 the Government also announced the most important taxation review to be undertaken in Australia for generations.

The Australian Future Tax System review, headed by the Secretary of the Department of Treasury, Dr Ken Henry, will report at the end of this calendar year.

The Future Tax System review is looking at a range of issues in tax. This will be a landmark time in taxation in Australia as we have not had a wide ranging review in taxation for many years.

Suffice it to say that this Government - through the Prime Minister, through the Treasurer, and now also through myself as Assistant Treasurer - sees tax reform as a truly critical feature in setting the parameters for the path to economic recovery.

2010 will be an exciting year for our tax system.

## **Conclusion**

Ladies and gentlemen, this afternoon I have outlined quite a few changes in the financial services EDR landscape.

While these reforms are being implemented by a range of bodies, they have one common purpose - to ensure that our financial services regime genuinely provides all participants with "a fair go".

I would like to thank all who have been involved with making these important changes including the Financial Ombudsman Service, the Department of Treasury, ASIC and the industry bodies for their contribution to this work.

Again, thank you for inviting me to speak with you today. I trust that you enjoy the rest of your conference.