

SENATOR THE HON HELEN COONAN

**SHADOW MINISTER FOR FINANCE, COMPETITION POLICY AND
DEREGULATION**

**ADDRESS TO THE FINANCIAL EXECUTIVES INTERNATIONAL OF
AUSTRALIA**

“KILLING US SOFTLY – REGULATORY OVERKILL”

12.30PM, SYDNEY, 26 AUGUST 2009

Referring to signs of economic recovery, the Government is fond of saying “we are not out of the woods yet”.

Whether or not this is a true reflection of the economy, no one wants to stay in the woods for longer than is necessary.

Our economy and our financial institutions have held up pretty well against the onslaught of the Global Financial Crisis.

Recovery in no small measure will depend on the regulatory and supervisory settings that are in place to set up the economy for sustained growth and future prosperity.

My central proposition is that since the Rudd Labor Government came to office, Australia has been subjected to a regulatory blitzkrieg that risks being a drag on the economy, has reduced competition, and which poses a barrier to business recovery. Over zealous regulatory interventions are consuming the attention of regulators and executives alike and heightening the risk that we will stay in the woods for the foreseeable future.

If the Government continues to blame market fundamentalism as the root of all market failure, getting out of the woods and staying out of the woods will require more than balancing the budget and paying down debt.

The Government will soon face the reality that the short term stimulus will not deliver the long term benefits that are critical to recovery and long term productivity that Mr Rudd talks about repeatedly.

The thicket of regulatory reactions and interventions in banking and financial services and in the economy more broadly will cause lasting damage, unless the Government stops congratulating itself over its crisis management and turns its attention to dilemmas and distortions of its own making.

Of course before the election Mr Rudd talked boldly about building upon the largely bipartisan deregulation and competition reforms, commenced under the Hawke / Keating Labor Governments, and developed and implemented by the Howard Government.

But in an Orwellian shift, in his now much criticised second essay on the effects of the Global Financial Crisis, deregulation has now morphed into “sound regulation”, that “encourages competition but protects employees, consumers, small business and economic stability”.¹

In truth, this betrays a political ideology at the heart of winding back modernisation of the labour market and also serves to justify increasing the burden of regulation and intrusion into almost every crevice of corporate life.

In short, regulation has become core business for the Government. Just consider this shopping list of regulatory interventions. I have attached a more comprehensive list to this speech for any masochists wanting more detail.

The list expands exponentially.

¹ K Rudd, “Pain on the road to recovery”, *Sydney Morning Herald*, 25 July 2009

EMPLOYEE SHARE SCHEMES

First on the long list is the ill-conceived crackdown on employee share schemes that had a legitimate objective of stopping high end revenue leakage, but was so poorly designed that it had the government doing cartwheels to try and sort it out.

It took over 50 days from the original budget night announcement for the Government to finally change the income thresholds to more reasonable limits. The uncertainty has brought employee share schemes to a standstill, and there is still no clear guidance for businesses wanting to use a legitimate device and an effective means of providing incentives for workers.

TAX ON FOREIGN INCOME

Next, the tax changes on the earnings of Australian ex-pats working offshore will limit the attractiveness of postings, especially for short term contracts. Business has complained about the lack of consultation and warned that it will likely lead to labour shortages. Stand by for more confusion.

CREEPING ACQUISITIONS

Then there are the proposed changes to creeping acquisitions which have the potential to freeze acquisitions and mergers at a time when our markets need greatest flexibility. The prohibition of creeping acquisitions would make it near impossible for regional businesses, especially small family operated businesses to benefit from potential commercial offers.

The Government is now working on its second consultation paper, and the murky problems of legislating to capture this business activity may be causing a serious rethink by the new Minister Craig Emerson.

UNFAIR CONTRACT LAWS

Next, the proposed changes to the unfair contract laws that originally extended to business to business contracts has caused consternation across the board. While the Government has now backed down and excluded business to business contracts, there are a myriad of concerns being expressed regarding uncertainties in interpretation of the new provisions governing contracts between business and consumers.

Business faces the prospect of consumer challenges to standard form contracts and increased costs of doing business.

CARTEL CRIMINALISATION LAWS

While no-one is defending cartel behaviour, business is now facing the additional challenge of avoiding criminal charges in relation to business activity. The ACCC guidelines suggest that only major infringements and activity will be targeted but this will not relieve the anxiety of business, for example, in pursuing joint venture arrangement that could attract these sanctions. The Government is unsympathetic to business pleas for greater clarity.

GOLDEN HANDSHAKES

The Government's golden handshake legislation requiring shareholder approval for payouts exceeding a year's base salary in lieu of seven years total pay has been described as hitting a policy target "with a wrecking ball".

Business has once again publicly complained of inadequate consultation, poor drafting and legitimate entitlements being caught up in the compliance net. And all of this is before the Productivity Commission reports on executive pay caps due in December this year.

NATIONAL CONSUMER CREDIT LAWS

Complaints about the proposed national consumer credit laws have flooded into the Senate Inquiry into the National Consumer Credit Protection Bill, that contains severe consequences for those falling foul of so called “responsible lending”.

A scheme intended to streamline an industry has now ended up as a one size fits all highly regulated and licenced system that will make it difficult for small operators to survive and that will limit consumer choice.

SHORT SELLING BAN

The Government’s delay in releasing the regulations for the short-selling ban introduced in December last year has triggered a flood of complaints from industry insiders. Differing opinions from various industry sectors over the frequency of reporting have been heard, but no decision has been taken by the Government, which seems content sitting idly by whilst industry struggles to comprehend their reporting obligations and to anticipate which way they will need to jump.

ASIC TAKE OVER OF ASX MARKET MONITORING

The announcement this week of the changes in market supervision between ASIC and the ASX will be a work in progress. There will be yet more regulator’s energy poured into consultation, exposure drafts and timelines until the new show hits town in the third quarter next year.

COMPANY DIRECTOR’S OBLIGATIONS

As if company Directors do not have enough on their plate, the Corporations and Market Advisory Committee has now been tasked with investigating whether they need guidance in how to do their jobs.

Although this coincides with the decision affecting directors’ responsibilities in James Hardie, in Australia it has been tolerably clear what the law expects of Directors, since the landmark decision taken in *AWA v Daniels* 17 years ago².

This additional job lot will require yet more executive time to be devoted to a job description, an exercise that many regard as unnecessary.

FINANCIAL ADVISORS

An all out hue and cry against financial advisors, seen as scapegoats for deficiencies in the marketing of financial services and products, has finally seen ASIC propose bans on certain forms of remuneration and to impose fiduciary obligations on advisors.

Although the complexities surrounding retail investment choices may justify a crack down on commissions, stand by for a slew of regulation that catches the good with the bad, and will probably change the financial advice industry as we know it.

² *AWA Ltd v Daniels & Ors* (1992).

I'll leave the shopping list there but it serves to illustrate that business is facing a barrage of regulation from a Government that sees constant intervention as its core business. And it just keeps coming. The attachment I have referred to lists 31 areas of market intervention from 1 January 2008, that was current as of 25 August 2009, but is already out of date.

Added to this urge to intervene, the Government also expects business to contend with countless regulatory enquiries, reviews and investigations currently underway.

Key for business will be the root and branch Henry Tax Review, with Assistant Treasurer Nick Sherry recently flagging interest in having the Australian Taxation Office take over all taxes, fees and charges imposed by every level of Government to improve the efficiency of Australia's \$350 billion tax system.³

Then of course there is the Cooper Review, into superannuation, one of eight; there is Treasury's review of disclosure on derivative instruments, the Productivity Commission report into executive pay, the guidelines on short selling, whether ratings agencies should be licensed, and of course the regulatory maze that will be required to give effect to any Carbon Pollution Reduction Scheme, just to mention a few.

Then on top of this flourish of activity there are the COAG reforms to supposedly reduce red tape. Everyone agrees that's a good thing, but despite the identification of "hot spots", with regulatory reforms to reduce red tape in 27 priority areas, and lots of rhetoric about a seamless economy, progress is painfully slow.

There is not much in the way of outcomes to show for the so-called new era of State and Federal co-operation. You could be forgiven for thinking the Prime Minister was having a lend of us all in appointing a Minister for Deregulation, Mr Tanner, who jokes about the level of re-regulation that has burgeoned on his watch.

Getting rid of 30 pieces of legislation that are redundant anyway is hardly a hallmark of achievement. Meanwhile the worthy principle of '*one in one out*', - don't introduce a new piece of regulation without repealing another, - seems to have gone by the board.

There can be no argument that amongst this avalanche of market interventions some are necessary.

More broadly the Global Financial Crisis has rightly focused governments and regulators on some egregious conduct occurring in financial institutions and central banks, as well as sheer incompetence and manifold gaps and inadequacies in regulation of capital markets.

Clearly Australian capital markets have to operate globally and where appropriate, regulation has to be aligned with and respond to reforms on the G20 agenda.

Equally, it is appropriate for the regulators to re-examine the adequacy of retail investor protections following the pain of losses sustained in Westpoint, Fincorp, Opes Prime, and Storm Financial.

However, surely by now the black letter tick-a-box approach taken in Sarbane Oxley proves conclusively that no amount of regulation will safeguard against the bad behaviour of a few, and no amount of disclosure can save some people from themselves.

³ Australian Financial Review, 24 August 2009, "Federal grab for State and Council taxes", page 1.

Meanwhile, reputable financial entities are bearing the brunt of what Andrew Griffin, the Chief Executive of Balmain Trilogy (and others), describe as black swan events: “Do you want to build your regulatory system for those black swan events, to carry all the cost of that, or is there a sustainable [alternative]”.⁴

I’ll spare you the “baby out with the bathwater” and “the tail wagging the dog” metaphors, but all of us recognise regulatory overkill when we see it.

These caveats aside, given the impressive performance of the Australian economy to date, it is legitimate to ask whether basically we have got the fundamentals in our regulatory settings right anyway, and whether the scale and scope of this frenetic activity directed at impugning pro-liberal markets, can be justified?

Certainly the business community seems to be showing signs of reform fatigue.

Crying out for better regulation not more, business leaders such as the head of the Business Council of Australia, Greg Gailey⁵ has complained that business, collectively, does not quite understand the need for some government regulation, with changes coming out of the blue, and a marked lack of consultation.

Others have warned against excessive and ill-conceived regulation, and pleaded for a focus on better enforcement of existing rules rather than yet another round of changes.

The potential to cause board paralysis from this cocktail of regulatory reform is not just academic. Reports suggest that small end market companies will have difficulty attracting directors in this regulatory straight jacket and the need to constantly check and get advice will stymie initiative.⁵

Calls by the Australian Compliance Institute for the Government to require ASIC regulated companies to employ a compliance officer only serve to highlight the disproportionate burden that excessive regulation is placing on Australian businesses.⁶

If Australia’s regulatory framework has helped rather than hindered our capacity to weather the Global Financial Crisis, what could be motivating the Government to keep up this relentless onslaught of regulatory intervention?

Could it be that Mr Rudd and the Labor government are guided by the belief that the neo liberal market model of the past will not provide growth for the future, as Mr Rudd asserts in his second essay, “Pain on the road to recovery”.⁷

One difficulty with this view is that Mr Rudd has not said what market model he has in mind as the vehicle for future economic growth in productivity.

The Government’s reticence in explaining what it expects of a re-regulated economy and how in the absence of a pro-market reform agenda it will deliver a “building decade” for Australia’s future prosperity, suggests it is rapidly losing touch with the reality of doing business in a competitive market.

⁴ Australian Financial Review, 8 August 2009, “More reforms could mean tighter credit”, page 30.

⁵ Australian Financial Review, 23 June 2009, “Business leaders lay down the law on red tape burden”, page 12.

⁶ IBID, page 16.

⁷ K Rudd, “Pain on the road to recovery”, *Sydney Morning Herald*, 25 July 2009.

The Government remains resolutely at the centre of the economy micro managing the market, rather than enabling an efficient and productive market to take risks and to invest for the future.

I suggest that for the future no one, not even the Government knows what the new normal will look like, as the effects of re-regulation and market interventions work through the economy.

Already on the Government's plate are the wholly foreseeable problems around re-regulation of industrial relations and award modernisation. Already, the Government has had to back down and carve out industry sectors from compliance, first restaurateurs and caterers, and last week, horticulture. The Government was forced to react to the drumbeat of complaints that penalty rates will force higher wages, higher prices for consumers and jobs being threatened. Who will be next?

As yet there is no clear exit strategy from the massive interventions and unintended consequences wrought by the Government's bank deposit guarantee and the wholesale funding guarantee.

Unintended consequences and distortionary effects range from the impact on the Residential Mortgage Backed Securities market and commercial mortgage backed securities, through to the "crowding out" of State and Territory capacity to raise debt in competition with the Commonwealth.

The Government moved to shore up the Residential Mortgage Backed Securities with an \$8 billion investment and later lent its credit rating to shore up States and Territory borrowings.

Intervention in the Residential Mortgage Backed Securities market came about after a suggestion put forward to the government by the Coalition in order to inject liquidity into the market, at a time of financial chaos and a contraction in liquidity.

But in the case of mortgage backed securities, it seems the government has once again missed the mark when it comes to effective execution of regulatory intervention. Mortgage lending in Australia still faces significant challenges from market restrictions due to the government's policy of charging smaller lenders higher premiums to gain access to funds⁸, sacrificing competition to supposedly "save" the consumer.

Even less fortunate are some 250,000 investors (many of whom are retirees), unable to access \$25 billion of their frozen savings as a result of the government's decision to not include investment funds in the array of institutions who had their deposits guaranteed.

Failure to act has left these Australians, currently unable to access their savings or only part of their savings for the past 11 months, unable to make decisions about their investments and in some cases unable to provide for necessities of life.

So far the Government's claims to have invested in productive infrastructure are meagre, with make work programmes on school halls, and pink batt installations, but nothing to relieve the congestion in ports or improve the skills, pay and job satisfaction of the nation's teachers. Even the \$43 billion NBN network is already suffering from regulatory overkill. Delayed now for over 18 months the structure for the build has not yet been finalised but "winners" are already being picked.

⁸ Media Release, Scott Morrison Shadow Minister for Housing and Local Government, 'Greater Competition needed in mortgage market', 14 August 2009.

On all current indications the country will likely end up with an expensive tax payer funded white elephant. Not due for completion until 2018, we can only guess at what technological advances will have transformed available technology platforms by then.

How many subscribers will be required to achieve a critical mass for profitability of the network, and what will a service cost the consumer? How will rural and regional Australia have access to an equivalent service at an affordable price?

No one really knows, because the Government has wagered \$43 billion on just one technology without a business case or proof of concept and nothing more than a back of the envelope calculation. It is a shaky foundation on which to be banking productivity gains, repeatedly claimed for it by Mr Rudd and his Ministers.

COALITION DIRECTIONS

We can speculate endlessly about what the Coalition would have done differently. I believe that can be a forlorn exercise and our efforts are now better focused in dealing with the economic hand of cards that have already been dealt.

Clearly we do not think executive government should be running business. Rather, bitter experience should warn Governments that they are simply not equipped to be directly involved in commercial business deals.

That is why we resisted the Government's model put forward in Ruddbank. It is why we are wary of the risk of special deals and rent seeking behaviour if Government is not at arms length from business.

But we do agree that from time to time business needs support and there is a role for Government to assist the market temporarily in the face of market failure.

But Governments must resist the temptation to continually tinker where markets are functioning well. This takes some doing as it is always easier to be seen to be "doing something" as a reflex action rather than continuing the hard and often unpopular work of economic reforms to ensure long term productivity growth.

Leaving to one side whether some parts of the massive borrowed stimulus can and should be wound back as the Coalition has advocated, recent revelations of poor governance and waste particularly in the "make work" schools and pink batt installation programmes warrants a refocus on getting value for money.

Better trained, better paid, and highly motivated teachers for example, will trump a Julia Gillard Memorial Hall any day!

It is quite remarkable that given the Government's preference for heavy handed regulation that it resists better accountability in the face of such blatant bungling as has been seen in the second stimulus round, namely the \$42 billion Nation Building and Jobs Plan.

Even Barack Obama has established a board to monitor stimulus spending. The Board is setting up a website that will allow citizens to monitor and match what is slated for local projects and report on spending. The aim is to avoid waste, cronyism, and double dipping on "shovel ready" projects. Head of the Board, Earl Devaney is reported as saying:

“There are a lot of eyeballs following this money. Spending doesn’t get much more political.”

Harnessing citizen power to monitor waste? Now there’s an idea!

The Coalition will continue to champion free markets when they function well. We will provide temporary assistance where there is market failure and we will ensure that regulation is no more onerous than is necessary to promote efficiency, to protect consumers, to encourage productivity and help Australian businesses grow and invest.

We have already committed to OECD best practice in reducing red tape and we have outlined initiatives such as a tax loss carry back as a revenue neutral way for business to pay less tax.

Finally we have the economic credentials and the runs on the board to rebuild for the future. Of one thing you can be sure, if the current government can’t get us out of the woods, the Coalition will be working hard to show how it can be done.

Market interventions from 1 January 2008 to 25 August 2009

Broad topic	Relevant legislation	Status of legislation	Brief description	Subsequent amendments
	07–08			
To improve accountability and transparency arrangements for Commonwealth authorities and Commonwealth companies	Commonwealth Authorities and Companies Amendment Bill 2008	Royal Assent on 26/05/2008	<p>Amends the <i>Commonwealth Authorities and Companies Act 1997</i> to:</p> <ul style="list-style-type: none"> • enable the Finance Minister to make General Policy Orders which are legislative instruments and listed on the Federal Register of Legislative Instruments; align annual reporting requirements for Commonwealth authorities with the <i>Acts Interpretation Act 1901</i> • require all Commonwealth companies to provide annual reports to their responsible minister by specific deadlines and include information as required by Finance Minister Orders • clarify the use of credit cards, numbers and vouchers by Commonwealth authorities and introduce penalties for misuse • introduce a ‘control’ test to determine whether the Commonwealth controls a company • align the Act with the Corporations Act in relation to offences, penalties and terminology • require Commonwealth company subsidiaries to provide audited financial statements and audit reports to the responsible minister and • clarify compliance requirements for officers of Commonwealth companies with statutory and other duties. <p>Also makes consequential amendments to the <i>Australian Broadcasting Corporation Act 1983</i>, <i>Australian Industry Development Corporation Act 1970</i>, <i>Australian National University Act 1991</i>, <i>Legislative Instruments Act 2003</i> and <i>Special Broadcasting Service Act 1991</i>.</p>	

Broad topic	Relevant legislation	Status of legislation	Brief description	Subsequent amendments
To empower the Treasurer to borrow money on behalf of the Commonwealth by issuing stock in Australian currency and to invest public money in authorised investments	Commonwealth Securities and Investment Legislation Amendment Bill 2008	Royal Assent on 12/07/2008	<p>Amends the <i>Commonwealth Inscribed Stock Act 1911</i> to:</p> <ul style="list-style-type: none"> • authorise the Treasurer to borrow money on behalf of the Commonwealth by issuing stock denominated in Australia currency (subject to the total face value amount not exceeding \$75 billion) and • provide for the creation of stock and securities for facilitating securities lending arrangements <p>Amends the <i>Financial Management and Accountability Act 1997</i> to permit the Treasurer to invest public money in authorised investments for purposes other than ‘managing the public debt of the Commonwealth’</p> <p>Amends the <i>Loans Securities Act 1919</i> to allow the Treasurer to enter into securities lending arrangements and specify the collateral that may be accepted in connection with such arrangements.</p>	
To improve the efficiency, transparency and consistency of the process for disqualifying individuals from operating financial sector entities	Financial Sector Legislation Amendment (Review of Prudential Decisions) Bill 2008	Royal Assent on 26/05/2008	<p>Amends the <i>Banking Act 1959</i>, <i>Insurance Act 1973</i>, <i>Life Insurance Act 1995</i>, <i>Superannuation Industry (Supervision) Act 1993</i>, <i>Retirement Savings Accounts Act 1997</i>, <i>Financial Sector Legislation Amendment (Simplifying Regulation and Review) Act 2007</i> and <i>Financial Sector Legislation Amendment (Discretionary Mutual Funds and Direct Offshore Foreign Insurers) Act 2007</i> to introduce a court-based process for disqualifying an individual from operating an Australian Prudential Regulation Authority (APRA) regulated entity</p> <p>Amends the <i>Banking Act 1959</i>, <i>Insurance Act 1973</i> and <i>Life Insurance Act 1995</i> in relation to APRA’s specific direction powers</p> <p>Amends the <i>Superannuation Industry (Supervision) Act 1993</i> to incorporate a materiality test into the trigger for APRA to issue a direction to freeze assets of a superannuation entity</p> <p>Amends the <i>Insurance Act 1973</i>, <i>Life Insurance Act 1995</i> and</p>	

Broad topic	Relevant legislation	Status of legislation	Brief description	Subsequent amendments
			<p><i>Superannuation Industry (Supervision) Act 1993</i> to remove ministerial consent from administrative decisions made by APRA or the Australian Taxation Office (ATO) under those Acts</p> <p>Amends the <i>Banking Act 1959</i>, <i>Financial Sector Collection of Data Act 2001</i>, <i>Insurance Act 1973</i>, <i>Life Insurance Act 1995</i> and <i>Superannuation Industry (Supervision) Act 1993</i> to apply merits review to appropriate decisions made by APRA or the ATO. Also makes consequential amendments to other Acts.</p>	
Introduction of the Government's Bank Deposit Guarantee	<p>Financial System Legislation Amendment (Financial Claims Scheme and Other Measures) Bill 2008</p> <p>and Financial Claims Scheme (ADIs) Levy Bill 2008</p> <p>and Financial Claims Scheme (General Insurers) Levy Bill 2008</p>	Royal Assent on 17/10/2008	<p>Introduced with the Financial Claims Scheme (ADIs) Levy Bill 2008 and Financial Claims Scheme (General Insurers) Levy Bill 2008, the bill makes the following amendments</p> <ul style="list-style-type: none"> • <i>Banking Act 1959</i> to establish the Early Access Facility for Depositors (EAFD) to provide access to deposit funds in a failed authorised deposit-taking institution (ADI) • <i>Insurance Act 1973</i> to establish the Policyholder Compensation Facility (PCF) to provide access to funds from insurance claims when a general insurer fails • <i>Australian Prudential Regulation Authority Act 1998</i> to provide the Australian Prudential Regulation Authority with administration of the Financial Claims Scheme (comprising the EAFD and PCF) • <i>Banking Act</i> to expand the duties, powers and functions of ADI statutory managers • <i>Insurance Act 1973</i>, <i>Corporations Act 2001</i> and <i>Life Insurance Act 1995</i> to provide for judicial management and recapitalisation of general and life insurers • <i>Financial Sector (Business Transfer and Group Restructure) Act 1999</i> to facilitate the transfer of assets and liabilities between institutions. <p>Also makes consequential amendments to six Acts to provide for the usage of tax file numbers for the Scheme.</p>	The Government has stated that they will examine the possibility of capping the guarantee in 3 years (from commencement). Currently the guarantee is uncapped.

Broad topic	Relevant legislation	Status of legislation	Brief description	Subsequent amendments
To provide for the establishment of first home saver accounts	First Home Saver Accounts Bill 2008	Royal Assent on 25/06/2008	Part of a package of three bills, the bill <ul style="list-style-type: none"> establishes and governs the operation of First Home Saver Accounts provides for the payment of Government contributions of 17 per cent on the first \$5,000 of personal contributions made into an account each year provides for the prudential regulation of account providers. 	
To allow the Governor-General instead of the Treasurer to appoint, suspend and terminate the Governor and Deputy Governor of the Reserve Bank.	Reserve Bank Amendment (Enhanced Independence) Bill 2008	Message requesting House immediately consider Senate amendments reported 19/3/09, but no further action taken to date	Amends the <i>Reserve Bank Act 1959</i> to give the Governor-General authority to appoint, suspend and terminate the positions of Governor or Deputy-Governor of the Reserve Bank of Australia. Termination of these positions requires parliamentary approval.	Not applicable
	08-09			
To establish 'Rudd Bank'	Australian Business Investment Partnership Bill 2009 and Australian Business Investment Partnership (Consequential Amendment) Bill 2009	Negated by the Senate on 16/06/2009	The bill establishes the Australian Business Investment Partnership Limited as a public company limited by shares, to provide refinancing for loans relating to commercial property assets where financiers have withdrawn from debt financing arrangements as a result of the global financial crisis.	Not applicable
To provide financial assistance to car dealerships	Car Dealership Financing Guarantee	Royal Assent on 6/07/2009	The bill appropriates a sum out of the Consolidated Revenue Fund for the purposes of paying claims under the Australian Government Guarantee to support interim funding to car dealerships.	Not applicable

Broad topic	Relevant legislation	Status of legislation	Brief description	Subsequent amendments
	Appropriation Bill 2009			
	Corporations Amendment (No. 1) Bill 2008	Royal Assent on 25/02/2009— became <i>Corporations Amendment (No. 1) Act 2009</i>	The bill amends the <i>Corporations Act 2001</i> to provide a mechanism for recognising disqualifications from managing corporations that occur in prescribed foreign jurisdictions.	Not applicable
Stock market regulation in the wake of the Global Financial Crisis	Corporations Amendment (Short Selling) Bill 2008	Royal Assent on 11/12/2008	The bill amends the <i>Corporations Act 2001</i> to: <ul style="list-style-type: none"> clarify the Australian Securities and Investments Commission's powers to regulate short selling of financial products and other similar transactions prohibit naked short selling require the disclosure of covered short sale transactions. 	None.
To provide financial assistance to States and Territories	Federal Financial Relations Bill 2009 and Federal Financial Relations (Consequential Amendments and Transitional Provisions) Bill 2009	Royal Assent on 26/03/2009	The bill appropriates funds to provide financial assistance to the states by implementing COAG's Intergovernmental Agreement on Federal Financial Relations through general revenue assistance (including GST payments), National Specific Purpose Payments and National Partnership payments.	See below
	Financial Assistance Legislation Amendment Bill 2009	Royal Assent on 27/05/2009	The bill makes the following amendments: <ul style="list-style-type: none"> <i>Federal Financial Relations Act 2009</i> to increase the general drawing rights limit for the 2008-09 financial year to \$1,250,000,000 to enable the Commonwealth to provide general purpose financial assistance to the states <i>Local Government (Financial Assistance) Act 1995</i> to enable 	Not applicable

Broad topic	Relevant legislation	Status of legislation	Brief description	Subsequent amendments
			the minister to permit a state to receive an entitlement to financial assistance before the end of the financial year to which that assistance relates.	
	Financial Framework Legislation Amendment Bill 2008	Royal Assent on 30/09/2008	<p>The bill amends the <i>Financial Management and Accountability Act 1997</i> to further simplify the internal government financial management framework and makes consequential amendments to the <i>Albury-Wodonga Development Act 1973</i>, <i>Public Service Act 1999</i>, <i>Reserve Bank Act 1959</i> and <i>Defence Home Ownership Assistance Scheme Act 2008</i></p> <p>The bill also effects a transfer of funding for the Water Smart Australia program from the National Water Commission to the Department of the Environment, Water, Heritage and the Arts.</p>	
	Financial Sector Legislation Amendment (Enhancing Supervision and Enforcement) Bill 2009	Second reading was adjourned in the Senate on 15 June 2009	<p>The bill makes the following amendments:</p> <ul style="list-style-type: none"> • <i>Life Insurance Act 1995</i> to establish a prudential regulation regime for non-operating holding companies of life insurance companies to be administered by the Australian Prudential Regulation Authority (APRA) • 19 other Acts to make consequential amendments • the <i>Banking Act 1959</i>, <i>Insurance Act 1973</i>, <i>Life Insurance Act 1995</i>, <i>Superannuation Industry (Supervision) Act 1993</i> and <i>First Home Saver Accounts Act 2008</i> to provide APRA with power to seek court injunctions against breaches of conditions or directions issued under those Acts. 	
Introducing the Government's guarantee scheme for large deposits and bank wholesale funding	Guarantee Scheme for Large Deposits and Wholesale Funding Appropriation Bill 2008	Royal Assent on 27/11/2008	The bill establishes a standing appropriation to enable claims to be paid under the Australian Government Guarantee Scheme for Large Deposits and Wholesale Funding; and provides a borrowing power, to enable money to be borrowed to pay such claims, should there be insufficient funds in the Consolidated Revenue Fund.	
Amendments to	Trade Practices	Royal Assent on	The bill clarifies the meaning of the term 'take advantage' and	

Broad topic	Relevant legislation	Status of legislation	Brief description	Subsequent amendments
clarify predatory pricing	Legislation Amendment Bill 2008	21/11/2008	address problems in relation to 'predatory pricing' in the context of the prohibition on misuse of market power in section 46 of the <i>Trade Practices Act 1974</i> .	
Introduction of criminal penalties for cartel conduct	Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008	Royal Assent on 26/06/2009	Introduced with the Federal Court of Australia Amendment (Criminal Jurisdiction) Bill 2008, the bill amends the <i>Proceeds of Crime Act 2002</i> , <i>Telecommunications (Interception and Access) Act 1979</i> and <i>Trade Practices Act 1974</i> to establish criminal offences and civil sanctions for serious cartel conduct. The bill also makes minor and technical amendments to the <i>Trade Practices Act 1974</i> .	
To require that a single price is quoted in respect of goods	Trade Practices Amendment (Clarity in Pricing) Bill 2008	Royal Assent on 25/11/2008	The bill amends the <i>Trade Practices Act 1974</i> to: <ul style="list-style-type: none"> • prohibit corporations from advertising a component price (a price as the sum of multiple component parts) of a good or service without also prominently specifying the single figure price (to the extent that it is quantifiable at the time of advertising) • update cross references relating to pyramid selling schemes • clarify that certain breaches of product safety and information standards may be a criminal offence • provide for the concurrent operation of certain state and territory fair trading laws. 	
Introduction of Fuelwatch scheme	National Fuelwatch (Empowering Consumers) Bill 2009 and National Fuelwatch (Empowering Consumers)	Negatived 2/11/2008	Scheme designed to compel service station operators to submit retail petrol price bids to the government prior to the next trading day for publication on a website and also to fix those prices for a 24 hour period.	

Broad topic	Relevant legislation	Status of legislation	Brief description	Subsequent amendments
	(Consequential Amendments) 2008			
Introduction of National Rental Affordability Scheme	National Rental Affordability Scheme Bill 2008 and National Rental Affordability Scheme (Consequential Amendments) Bill 2008	Royal Assent 25/11/2008 and 28/11/2008	The National Rental Affordability Scheme is a program designed to increase the supply of low cost rental housing for eligible low and middle income earners. Mandatory requirements include: <ul style="list-style-type: none"> • Dwellings will be rented to 'eligible tenants' • Dwellings will be rented for a period of 10 years • Dwellings will be rented at a rate that is at least 20 per cent below the market rate • Dwellings must either: <ul style="list-style-type: none"> ○ not have been lived in as a residence or ○ not have been lived in as a residence since having been made fit for occupancy where otherwise the dwelling was recognised as being uninhabitable or ○ if it has been converted to create additional residences, then a part of the dwelling or building that is capable of being lived in as a separate residence must not have been lived in as a separate residence • Dwellings will comply with State, Territory and Local Government planning and building codes and requirements. 	
	09–10			
	Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009	Introduced on 26/06/2009	The bill amends the <i>Corporations Act 2001</i> to: <ul style="list-style-type: none"> • lower the threshold at which termination payments to company executives (including senior executives or key management personnel) must be approved by shareholders • specify the types of benefits which are subject to shareholder approval • require unauthorised termination benefits to be repaid immediately • provide that retiree shareholders cannot participate in a vote on 	Not applicable

Broad topic	Relevant legislation	Status of legislation	Brief description	Subsequent amendments
			<p>their termination benefit (except as a proxy)</p> <ul style="list-style-type: none"> increase the penalties applicable to unauthorised termination benefits. 	
	Corporations Legislation Amendment (Financial Services Modernisation) Bill 2009	Introduced 25/06/2009	<p>The bill amends the: <i>Corporations Act 2001</i> to:</p> <ul style="list-style-type: none"> set a national regulatory regime for margin loans; require that promissory notes valued at \$50,000 or over are subject to the same regulatory regime as debentures require the establishment of a public register of debenture trustees; and provide that Australian Capital Territory courts have jurisdiction for certain offences <p>The bill amends the <i>Australian Securities and Investments Commission Act 2001</i> and <i>Corporations Act 2001</i> to transfer the regulation of trustee companies from the states and territories to the Commonwealth.</p>	Not applicable
Introduction of a national consumer credit regulatory scheme, to replace the current State and Territory UCCC regime. Also introduces regulation of finance brokers.	National Consumer Credit Protection Bill 2009 and National Consumer Credit Protection (Fees) Bill 2009 and National Consumer Credit Protection (Transitional and Consequential) Provisions Bill 2009	Introduced on 25/06/2009	<p>Part of a package of three bills to implement a national consumer credit regime, the bill:</p> <ul style="list-style-type: none"> establishes a licensing regime for persons who engage in credit activities through an Australian Credit Licence to be administered by the Australian Securities and Investments Commission applies conduct obligations on licensees establishes a civil penalty and consumer remedy framework; and provides consumer access to a three-tiered dispute resolution process for credit issues. 	Not applicable
	Personal Property Securities Bill 2009	Introduced 24/06/2009	The bill establishes a single national regime for the registration of security interests in personal property, other than land, supported by a national online register of personal property securities.	Not applicable

Broad topic	Relevant legislation	Status of legislation	Brief description	Subsequent amendments
Introduction of nationally consistent consumer law as well as unfair contracts provisions	Trade Practices Amendment (Australian Consumer Law) Bill 2009	Introduced 24/06/2009	The bill amends: <ul style="list-style-type: none"> the <i>Trade Practices Act 1974</i> to implement a national consumer law regime (the Australian Consumer Law) which will: address unfair contract terms; and include penalties, enforcement powers and consumer redress options the <i>Australian Securities and Investments Commission Act 2001</i> to include corresponding provisions applicable to financial services <i>Administrative Decisions (Judicial Review) Act 1977</i>, <i>Telecommunications (Interception and Access) Act 1979</i>, and <i>Trade Practices Act 1974</i> to make consequential amendments. 	Not applicable
Introduction of Commonwealth guarantee of both existing and new state and territory government debt	Guarantee of State and Territory Borrowing Appropriation Bill 2009	Royal Assent 29/6/2009	The Commonwealth Government has introduced a bill to guarantee both existing and newly-issued state and territory government securities denominated in Australian dollars. The guarantee is for securities of various maturities (up to five years) and is subject to fees that are dependent on whether the debt is existing or newly issued and the credit rating of the state or territory.	
Unit pricing	Trade Practices (Industry Codes— Unit Pricing) Regulations 2009	Date of commencement was 1 July 2009	This regulation made under the Trade Practices Act 1974 requires certain grocery retailers to implement the practice of unit pricing.	
	Expected legislation			
Announcement of National Broadband Network	Not yet introduced		The Government has announced that it will invest, along with the private sector, \$43 billion to create a company to construct and roll out a fibre to the node broadband network capable of 100Mbps connection, covering 90 per cent of the population. The government has announced its intention to hold (at least) a 51 per cent equity stake in the NBN company. The Government also plans to rollout 12 Mbps connections via wireless and satellite technologies to the rest of the country. The project will be funded through funds from the Building Australia Fund and also through	

Broad topic	Relevant legislation	Status of legislation	Brief description	Subsequent amendments
New Car Plan for a Greener Future	Not yet introduced		<p>the sale of Aussie Infrastructure Bonds (AIBs).</p> <p>Announcement of \$6.2 billion worth of funding for the automotive industry over 13 years. New funding of \$3.2 billion was announced, over and above the existing \$3 billion under the Automotive Competitiveness and Investment Scheme (ACIS).</p> <p>Components of funding are:</p> <ul style="list-style-type: none"> • the Automotive Transformation Scheme (ATS), running from 2011 to 2020 and providing \$3.4 billion to the industry – roughly \$2.3 billion is new funding over and above that announced as part of the old ACIS; • an expanded Green Car Innovation Fund of \$1.3 billion (over and above original ALP election commitment of \$500 million) brought forward to 2009 and running over ten years – grants already approved include \$35 million for Toyota to build a hybrid Camry and \$149 million for Holden to build a small fuel efficient car; • changes to the Automotive Competitiveness and Investment Scheme in 2010 to smooth the transition to the ATS (\$79.6 million); • \$116.3 million to promote structural adjustment through mergers and consolidation in the components sector (from 1 January 2009) and facilitate labour market adjustment (from 1 November 2008); • \$20 million from 2009–10 to help suppliers improve their capacity to integrate into complex national and global supply chains; • \$6.3 million from 2009–10 for an enhanced market access program; • a \$10.5 million expansion of the LPG vehicle scheme that doubles payments to purchasers of new private use vehicles that are factory-fitted with LPG technology. 	
Introduction of paid parental leave	Not yet introduced		<p>Announced in the 2009-10 Budget.</p> <p>To be introduced on 1 January 2011, the scheme entails payments for primary carers of newborn children at the federal minimum</p>	

Broad topic	Relevant legislation	Status of legislation	Brief description	Subsequent amendments
			wage for 18 weeks. An income threshold of \$150,000 has been applied. Those not eligible for paid parental leave will continue to receive existing forms of parental assistance.	
Changes to Medicare levy surcharge/Private health rebate	Not yet introduced		2009-10 Budget measure that amends the flat 30 per cent private health rebate to a tiered rebate/Medicare levy surcharge, depending on income and age thresholds.	