



Inquiry into Financial Products and Services in Australia

Main Committee

24 November 2009

Sharon Grierson MP

Ms Grierson: (Newcastle) (4:54 PM) — I am very pleased to speak on the report of the Inquiry into Financial Products and Services in Australia by the Joint Committee on Corporations and Financial Services. The report has received a great deal of attention and arises from events that also received a great deal of attention, particularly the recent collapses of, for example, Storm Financial and Opes Prime. The strength of the committee's recommendations rests on over 400 submissions that were received, more than half of which came from people affected by the collapse of Storm Financial. I think everyone knows the reality of the tragedy experienced by people and how devastating the effect was when people made decisions on advice that led to considerable loss. I praise the committee for their patience and sensitivity in dealing with so many individuals who were prepared to come forward and share their personal stories. It was not a case of their always being misled or of their not being aware of the risks—sometimes they were, sometimes they were not—but we have found that honest pricing, analysis or disclosure of risk has been a real issue in terms of the false confidence that preceded the global financial crisis. It certainly distorted behaviours both in the financial sector and by investors, and it certainly had a devastating impact when things went drastically wrong.

My colleagues who have spoken on this have said that we were not a judge or jury, and we were not. We were not there as a court and we were not there to be the final arbiter on these matters, but we certainly were there to expose the issues, to draw attention to the factors that caused these losses and to try to recommend better ways forward, ways that would not just strengthen the financial services industry but also protect the interests of Australian investors and Australians who avail themselves of financial services.

In our final deliberations we said that, for some individuals, there was clearly inappropriate advice and we noted that there was a preference by financial advisors and an acceptance by lenders of a one-size-fits-all approach. That is never the best case for the interests of the individual and, in drawing attention to those sorts of practices, I hope we have perhaps made people scrutinise their responsibility when looking at vulnerable individuals or the customers and clients who come to them,

and their understanding that each of them has individual circumstances and should be assessed individually.

There was a lot of evidence around the shifting of responsibility, perhaps too casually and too carelessly, or around the failure by some to accept that they had a responsibility, whether it was the banks, the financial advisors, the lenders or even the investors. As a result, all those I have mentioned now know that they could have done better. We cannot wind back the clock, nor can we change what did occur for people, and we can never develop or guarantee an absolutely failsafe system. But we can expose the issues and the problems and we can get people to account for their behaviour, which is very hard to do. So I congratulate the Chair, who is sitting beside me, because to have all our banks present in public hearings was quite an achievement. I know that behind the scenes he, and our secretariat, worked very hard to make sure that those who had played a role were there to account for themselves.

The committee's overall recommendations are there to improve the system. They are designed to improve professionalism, behaviour and, hopefully, outcomes. They deal with setting up a better regulatory framework around financial advice and overcoming conflicts of interest. I have been very pleased to listen to the chairman, Bernie Ripoll, speaking in the media today and last night around the area of fiduciary duty. It is not acceptable that conflict of interest exists between investors and financial advisers. There will always be the greatest protection when there is an acceptance that the interests of the investor must go before the interests of the adviser. There cannot be a conflict of interest. If financial advisers and planners are to be taken seriously then they must take seriously their responsibility to their clients' interests and put them first. So our major recommendation is a very appropriate one.

There has been discussion about whether we can make people do things and make the industry do things. There is some problem with standards, and we have encouraged the industry itself to be involved in improving those standards so that there is public confidence in services provided. There has been a lot of discussion about how financial advisers set their fees and the relationship they have with their client around that. I spoke at the Newcastle chapter of the Financial Planning Association, and they shared with me their concerns. Often financial advisers are very small operators. They explained to me some of the complexity around deciding how fees are set. I do praise the committee's report for allowing some flexibility in regard to the choice of fees and some self-regulation in that way. An excellent measure that we also recommended was that there can be no kickbacks—commissions—from a product developer who obviously gives incentives to financial planners and advisers to sell their products to an ordinary investor. That is a very, very strong recommendation, I agree, and I am very pleased that that is there. If you take the conflict of interest measure and the requirement to take no kickbacks or fees, and you commit to that, I think that is a very good way forward.

We have also recommended that the government consider the implications of making the cost of financial advice tax deductible. I have been on previous committees that looked at this issue, and I can only say that one committee I was

on recommended that young people, particularly in their first job or on first joining a superannuation fund, should be given at least one session of tax-free financial advice. But in our report we are looking at it in a more holistic way, and I would very much welcome the study of that by the government.

We have also recommended that ASIC step up. It is really important for ASIC to have a strong role to play, to be resourced, to be the enforcer, to be able to look at competencies and standards for the industry and to be able to effect change and improvement. So we have proposed some more effective regulatory enforcement measures, and I must praise the government for its reforms under the Corporations Act.

We have also recommended around financial literacy. I have strong views that some of the methods we use do not reach the most vulnerable groups, and we know that vulnerable groups are people who perhaps have cash in their hands—be it a lump sum, retirement money, a superannuation payout or a redundancy. They have got money to invest, and I do think that ASIC should do more around that area. But we have also recognised that ASIC understands the problem. We have made recommendations to lower the threshold for ASIC to remove individuals and licensees from the industry.

To protect investors when collapses do occur, we did recommend that some statutory last-resort compensation funds for investors be considered. We have seen that the professional indemnity insurance scheme has a great number of deficiencies when it comes to protecting the interests of investors.

Our work around margin loans and margin calls was noted by the government. Their reform measures in the Corporations Act preceded our report but I think was certainly shaped by our report. That has been the wonderful thing about this inquiry. I think the government was listening, ASIC was listening, consultations were constant and the government were responding. I congratulate all the members. I know that the Queensland members, in particular, were seriously concerned for many of their constituents who suffered losses. I know that the chairman, in his relationships with the sector, and the people who submitted strengthened our reputation and our status and the quality of this report. I hope that that will be recognised by the government when they respond to our recommendations.