Dissenting Report by Australian Greens

1.1 As the Greens made clear in our previous dissenting report on the repeal of the Future of Financial Advice reforms, we are opposed to the passing of this bill which repeals consumer protections in the financial advice industry.[1] The criticisms we made in that report also apply to this iteration.

1.2 The Government has commissioned the Financial Systems Inquiry headed by David Murray to look at, amongst other things, consumer protections in the financial industry. It is due to report by the end of the year. Therefore, it is reasonable that this legislation should not be brought to Parliament until David Murray has delivered his report and this legislation can be reviewed in light of his recommendations.

Conflicted Remuneration

1.3 Through this bill the Government will re-allow conflicted remuneration on general advice.

1.4 In the Government's own explanatory memorandum on page 27 it states:

> The Government intends to introduce a targeted 'general advice provision' that specifies that monetary benefits paid in relation to general advice are not conflicted remuneration as long as certain conditions are met.[2]

The explanatory memorandum adds:

> It is important to note that neither the no commissions limb, nor the general advice provision, prevents the payment of a salary or a performance benefit (such as a performance bonus paid subject to a balanced scorecard).[3]

1.5 In their submission, the consumer advocacy group CHOICE spell it out clearly:

> [The] bill and earlier regulation allow certain types of conflicted remuneration including bonuses linked to sales targes for general advice. These changes will reinvigorate a sales-driven culture and encourage mis-selling, particularly by bank staff.[4]

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1 Inquiry into the Corporations Amendment (Streamlining of Future of Financial Advice) Bill 2014, Dissenting Report by Australian Greens, available at: http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/FOFA/Report/~/media/Committees/Senate/committee/economics_ctte/FOFA/Report/d02.pdf

2 Revised Explanatory Memorandum, *Corporations Amendment (Streamlining of Future of Financial Advice) Bill 2014*, p. 27.

3 Revised Explanatory Memorandum, *Corporations Amendment (Streamlining of Future of Financial Advice) Bill 2014*, p. 34.

4 CHOICE, *Submission 13*, p. 2.

1.6 The Greens cannot support a bill which allows a sales-driven culture to continue to develop around the provision of general advice. Recent revelations about fraud and misconduct in Commonwealth Financial Planning and Macquarie Private Wealth demonstrate how disturbing a sales-driven culture can be. Many parts of the financial advice industry are transitioning to fee-for-service and truly independent advice. This legislation is an impediment to this transition.

Palmer United Party and Motoring Enthusiasts Party Amendments

1.7 Understandably this report deals mainly with the changes to the original legislation which was agreed between the Palmer United Party, the Motoring Enthusiasts Party and the Government. It is clear from the majority report that many of the submissions raised practical issues with the amendments and it was unclear how these amendments would increase consumer protections.

1.8 A number of submissions including those from CHOICE, the Governance Institute of Australia and Industry Super Australia questioned the changes to *Statement of Advice provisions* as the changes have no discernible impact on consumer protections. Submitters such as CPA Australia, Chartered Accountants Australia and New Zealand, and the National Insurance Brokers Association were of the view that in relation to the *New Signature and acknowledgment of receipt requirements* there was little consumer benefit.

1.9 It is clear from the majority report (even if it does recommend the bill be passed) that these amendments add little or no consumer protections. The original bill undermined consumer protections and the new amendments do not improve this. Therefore, the Greens will not be supporting this bill.

Senator Peter Whish-Wilson
Senator for Tasmania