SECOND READING SPEECH

BY

THE HON PETER COSTELLO, MP

TREASURER

ON THE

AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY BILL 1998

I move that the Bill be now read a second time.

Mr Speaker

I rise today to introduce a package of landmark legislation to fundamentally reform the Australian Financial Sector. The reforms follow the policy announced in response to the 1997 Financial Systems Inquiry chaired by Mr Stan Wallis.

This series of bills puts in place a structure designed to improve the efficiency and competitiveness of the Australian financial system while preserving its integrity, security and fairness.

Once implemented, Australia will have a stronger regulatory regime designed to better respond to developments in the finance sector, including globalisation and technological change and the needs of businesses and consumers.

Once implemented, Australia will be a world leader with best practice, leading edge financial sector regulation.

These reforms to the financial system, together with the wide ranging reform of Australia's corporate laws to be delivered under the Corporate Law Economic Reform Program, provide a launching pad for this Government's drive to make Australia a leading business centre in the Asia-Pacific region.

In September last year, the Government announced its response to the Financial System Inquiry which found that Australia's financial system faces rapid change as a result of technological innovation, increasing globalisation and changing business and consumer needs. To ensure that Australia secures the enormous potential benefits of these changes and keeps up with the continuing rapid pace of financial system innovation, our regulatory arrangements must be modernised. By encouraging our financial system to achieve world best practice in an increasingly competitive international market for financial services, we will see the sector contributing strongly to employment and growth prospects of the entire Australian economy. The changes will help provide not just more jobs but better jobs for Australians.

The Government has accepted the Inquiry's recommendations that measures consistent with the basic goals of financial system safety and stability be introduced to better focus regulation on its underlying objectives, to ensure that regulatory arrangements minimise restraints on new entry and competition, and to ensure that

regulation applies in a competitively neutral way across existing and newly emerging market sectors.

A central part of the reform approach is the creation of a new organisational framework for the regulation of the financial system which is objectives based, in place of the current institutionally based structure.

There are three fundamental regulatory objectives for government intervention in the financial system. The first is the maintenance of financial stability, including through ensuring a safe and reliable payments system. This goal, which has close links with the price stability objective of monetary policy, is to be the regulatory focus of the Reserve Bank of Australia.

The second goal is the provision of specialised regulation of conduct, disclosure and dispute resolution for financial service providers and financial markets. This regulatory objective is to be pursued across the financial system by the Australian Securities and Investments Commission (ASIC), which will be based on the Australian Securities Commission.

The third objective is the prudential supervision of those parts of the financial system which require more intense regulation for safety and stability reasons. Australia presently has several agencies providing this form of regulation in a structure that is increasingly outdated and inefficient. To provide more efficient and competitively neutral regulation across all of the prudentially regulated sectors, the Government

will establish a single prudential regulatory authority replacing all of the existing institutionally-based agencies.

This Bill, the first in a series of financial sector legislative reforms, establishes this single agency, the Australian Prudential Regulation Authority, or APRA.

APRA will be the prudential regulator of banks and other deposit-taking institutions, life and general insurance companies, superannuation funds and retirement income accounts. APRA will have comprehensive powers, including for licensing and regulation of the institutions authorised to provide these financial services. In recognition of likely continuing change in the financial system, provision is made for regulations to accommodate future changes in APRA's regulatory coverage.

In the case of superannuation and retirement savings accounts, APRA will also be responsible for regulation designed to achieve retirement income objectives. This reflects the close association between regulation for that purpose and prudential regulation in these sectors. While APRA will initially take regulatory responsibility for all superannuation funds, it is anticipated that this responsibility in respect of most excluded superannuation funds will later pass to the Australian Taxation Office.

Provision is made for APRA to be accountable through an independent Board and to operate under a charter that ensures that the safety objectives of prudential regulation are balanced with efficiency, competition, contestibility and competitive neutrality considerations.

The Bill sets out the framework for APRA's operation. This Bill establishes the powers and functions of APRA while other legislation in this package of bills will provide for the laws and regulations to be administered by APRA in relation to each sector.

APRA will be an independent regulator, but, like the Reserve Bank, will be subject to an overriding policy determination power of the Treasurer in the very rare event of unreconciled disagreement with the Government of the day. As a Commonwealth authority, it will be accountable to the Government and the Parliament, as provided for under the *Commonwealth Authorities and Companies Act 1997*. In addition, the Bill provides for additional reporting requirements in APRA's annual report, including a report on any investigations on prudential matters under section 61 of the *Banking Act 1959*. Any reports presented to Parliament by APRA may, of course, be referred by Parliament to a Committee, such as the House of Representatives Standing Committee on Financial Institutions and Public Administration, for detailed examination. APRA will also be expected to appear before Parliamentary committees on request.

APRA will be governed by a nine member Board, whose terms and conditions of appointment will be subject to determination by the Remuneration Tribunal. To ensure that there is a close relationship between APRA, the Reserve Bank and ASIC, two of APRA's Board members will come from the Reserve Bank and one from ASIC.

The Bill provides for the duties and statutory appointment of the Chief Executive Officer who will also be an APRA board member.

It also provides for the powers of the Board to set terms and conditions of APRA staff. It is envisaged that in the first instance the bulk of APRA's staff will come from the Insurance and Superannuation Commission (ISC) and the Reserve Bank supervision area, together with the staff of State-based regulatory agencies when they join the regulatory scheme.

Provision is made for the funding of APRA from monies appropriated following the collection of levies paid by regulated financial institutions, and from charges for certain services. APRA is to have powers to borrow monies, but these are intended only to facilitate its day-to-day operations.

Secrecy provisions in the Bill will ensure the protection of information and documentation obtained as part of the regulation process but allow for effective information exchange between the financial sector regulatory bodies, including the Reserve Bank and ASIC.

The Government envisages that APRA will become fully operational, at the Commonwealth level, on 1 July 1998 or as soon as possible thereafter. In this context, this Bill provides for the changeover of responsibilities for prudential supervision of the financial sector at the Commonwealth level. Transfers of staff and responsibilities for State-based institutions may require separate legislation at a later date, once final agreement has been reached with the States and Territories.

As I announced on 17 March 1998, the headquarters of APRA will be based in Sydney to ensure that a close relationship is maintained with the Reserve Bank, which will continue to have responsibility for the overall stability of the financial system. This will facilitate close communication and operational cooperation between these two bodies.

In addition, the Government expects a presence to be retained by APRA in the major State capitals and, at least for some considerable time, Canberra, which is the current base of the ISC.

I conclude by noting that this Bill provides a centrepiece of the proposed new regulatory structure, a specialised regulatory agency focused on clear regulatory purposes. As the single prudential regulator, APRA will be able to provide flexible, efficient, coordinated and consistent regulation across the financial sector, particularly for financial service conglomerates which now make up the major part of the financial system. It will be in a position to achieve regulatory excellence, provide broader and more enriching career opportunities for its staff, and develop close and comprehensive links with the whole financial system.

Consistent with the need for regulatory flexibility, APRA is provided with comprehensive powers, including over licensing, and generally will develop financial standards based on its own policy making capacities within the framework of laws established for it.

This should ensure that APRA is adaptable and responsive to the changes occurring in the financial system, and that its regulatory work always balances the objectives of financial safety, efficiency, competition, contestability and competitive neutrality.

I commend the Bill to the House and present the explanatory memorandum.

SECOND READING SPEECH

BY

THE HON PETER COSTELLO, MP

TREASURER

ON THE

AUTHORISED DEPOSIT-TAKING INSTITUTIONS SUPERVISORY LEVY IMPOSITION BILL 1998

I move that the Bill be now read a second time.

The purpose of this Bill, as well as the other Levy Bills which form part of this legislative package, is to impose levies on those industries that will be prudentially regulated by the Australian Prudential Regulation Authority (APRA). These levies will fund both APRA and the cost of additional consumer protection functions in the financial system undertaken by the Australian Securities and Investments Commission (ASIC). Essentially, the levies will ensure that the cost of regulation is met by those who benefit from it.

These Bills allow for a levy to be charged on the entity being supervised according to a percentage of the assets held by the entity, subject to minimum and maximum levy amounts. The rates, thresholds and limits will be determined by the Treasurer.

This will ensure that the levy paid by each class of entity reflects the actual cost of supervising those entities and the benefits to entities and their customers of supervision.

At present, the different regulatory authorities have separate funding mechanisms, which have significant disparities between the nature and level of funding associated with them. These funding disparities can act to create significant cost disadvantages for one category of financial institution vis-à-vis another.

The Government's aim is to establish an administratively simple and uniform scheme based on the principle of full cost recovery from the institutional categories that are regulated. Separate provision is made for charges for direct services provided (such as licenses), but the major part of the cost of supervision will be met by an annual levy sufficient to cover the costs of its operations. It will be broadly similar in nature to the financial charges that building societies, credit unions, insurance companies and superannuation funds already pay. The banks at present are effectively 'charged' through interest forgone on non-callable deposits held by the Reserve Bank.

With the exception of the banks, the net financial effect on the institutions will be small; some institutions may fare better and some worse, and existing cross subsidies favouring some sectors will be removed.

Separate Levy Bills have been drafted for each industry. This will provide the flexibility to determine the levy on each industry according to the actual cost of regulating that particular industry.

This Bill provides for a levy to be paid by the banks for the first time. The banks will, however, no longer forego a much greater amount of income on non-callable deposits. It is envisaged that once the deposit-taking institutions currently regulated by the States and Territories come within APRA's jurisdiction, then they too will transfer from their existing cost recovery regime and be subject to the levy provisions of this Bill.

This Bill will commence on 1 July 1999 or when the supervision of non-bank deposit-taking institutions is transferred from the States. The other Levy Bills will commence on the same day as the Australian Prudential Regulations Authority (APRA).

I commend the Bill to the House. I present the explanatory memorandum to this Bill, which is also the explanatory memorandum to the other Levy Bills and the Financial Institutions Supervisory Levies Collection Bill 1998.

SECOND READING SPEECH

BY

THE HON PETER COSTELLO, MP

TREASURER

ON THE

AUTHORISED NON-OPERATING HOLDING COMPANIES SUPERVISORY LEVY IMPOSITION BILL 1998

I move that the Bill be now read a second time.

The purpose of this Bill is to impose a levy on authorised non-operating holding companies, consistent with the approach I outlined when I introduced the Authorised Deposit-taking Institutions Supervisory Levy Imposition Bill 1998.

I commend the Bill to the House. I have already handed up the explanatory memorandum which covers this Bill.

SECOND READING SPEECH

BY

THE HON PETER COSTELLO, MP

TREASURER

ON THE

SUPERANNUATION SUPERVISORY LEVY IMPOSITION BILL 1998

I move that the Bill be now read a second time.

The purpose of this Bill is to impose a levy on non-excluded superannuation funds, consistent with the approach I outlined when I introduced the Authorised Deposit-taking Institutions Supervisory Levy Imposition Bill 1998.

I commend the Bill to the House. I have already handed up the explanatory memorandum which covers this Bill.

SECOND READING SPEECH

BY

THE HON PETER COSTELLO, MP

TREASURER

ON THE

RETIREMENT SAVINGS ACCOUNT PROVIDERS SUPERVISORY LEVY IMPOSITION BILL 1998

I move that the Bill be now read a second time.

The purpose of this Bill is to impose a levy on providers of Retirement Savings Accounts, consistent with the approach I outlined when I introduced the Authorised Deposit-taking Institutions Supervisory Levy Imposition Bill 1998.

I commend the Bill to the House. I have already handed up the explanatory memorandum which covers this Bill.

SECOND READING SPEECH

BY

THE HON PETER COSTELLO, MP

TREASURER

ON THE

LIFE INSURANCE SUPERVISORY LEVY IMPOSITION BILL 1998

I move that the Bill be now read a second time.

The purpose of this Bill is to impose a levy on the life insurance industry, consistent with the approach I outlined when I introduced the Authorised Deposit-taking Institutions Supervisory Levy Imposition Bill 1998.

I commend the Bill to the House. I have already handed up the explanatory memorandum which covers this Bill.

SECOND READING SPEECH

BY

THE HON PETER COSTELLO, MP

TREASURER

ON THE

GENERAL INSURANCE SUPERVISORY LEVY IMPOSITION BILL 1998

I move that the Bill be now read a second time.

The purpose of this Bill is to impose a levy on the general insurance industry, consistent with the approach I outlined when I introduced the Authorised Deposit-taking Institutions Supervisory Levy Imposition Bill 1998.

I commend the Bill to the House. I have already handed up the explanatory memorandum which covers this Bill.

SECOND READING SPEECH

BY

THE HON PETER COSTELLO, MP

TREASURER

ON THE

FINANCIAL INSTITUTIONS SUPERVISORY LEVIES COLLECTION BILL

1998

I move that the Bill be now read a second time.

The purpose of this Bill is to enable the collection of the levies imposed by each of the separate Levy Bills I have already introduced into the House.

I commend the Bill to the House. I have already handed up the explanatory memorandum which covers this Bill.

SECOND READING SPEECH

BY

THE HON PETER COSTELLO, MP

TREASURER

ON THE

FINANCIAL SECTOR REFORM (AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 1998

I move that the Bill be now read a second time.

This omnibus Bill deals with amendments to a number of Acts to give effect to the new regulatory framework for the financial system being introduced, consistent with the recommendations of the Financial System Inquiry. These include:

- the establishment of the Australian Securities and Investments Commission (ASIC), which is based on the Australian Securities Commission;
- amendments to the Banking Act to establish the new regulatory regime in the banking and deposit-taking sector to be administered by the Australian Prudential Regulation Authority (APRA);
- the establishment of the Payments System Board within the Reserve Bank;

- the splitting of the responsibility for relevant insurance and superannuation legislation between APRA and ASIC; and

- transitional provisions relating to the establishment of the new regulatory bodies and the associated regulatory reforms.

The Australian Securities and Investments Commission

The Bill renames the Australian Securities Commission as the Australian Securities and Investments Commission and will result in ASIC being the pre-eminent consumer protection and market integrity regulator across the financial system. In addition to the current corporate regulatory functions of the Australian Securities Commission, ASIC will in the first instance be taking on consumer protection and market integrity in the areas of insurance, superannuation and aspects of banking and the payments system, and ultimately across the full financial system.

Under the current system, responsibility for consumer protection functions in the financial system is split along institutional lines between a number of Commonwealth and State entities. If this situation is not addressed, globalisation, technological advances and innovations in financial products and distribution mechanisms will result in an increasing incidence of regulatory gaps and inconsistencies which are not conducive to efficient competition in financial markets.

Responsibility for consumer protection and market integrity vested in a single entity will enable ASIC to adopt a functional and objective-based regulatory approach, thereby promoting competitive neutrality and permitting better comparability by consumers of different financial products and services. The amalgamation of consumer protection functions in a single regulator is supported by industry and consumer groups. There will, of course, be close co-operation between ASIC and the Australian Competition and Consumer Commission.

The functions relating to insurance and superannuation were previously exercised by the Insurance and Superannuation Commissioner, a position which will be abolished with the commencement of this Bill. The consumer protection functions relating to aspects of banking and the payments system were previously exercised by the Australian Payments System Council, which is also to be disbanded.

Included in the functions transferred from the Insurance and Superannuation Commissioner to ASIC by this Bill are functions under the *Superannuation (Resolution of Complaints) Act 1993*, the *Insurance Contracts Act 1984* and the *Insurance (Agents and Brokers) Act 1984*.

In addition, there are some Acts currently administered by the Insurance and Superannuation Commission (ISC) which contain both prudential and market integrity and disclosure requirements and as such will need to be split between the two regulators, APRA and ASIC.

ASIC will take on regulatory responsibility for parts of the *Life Insurance Act 1995*, the *Insurance Act 1973*, the *Superannuation Industry (Supervision) Act 1993* and the *Retirement Savings Accounts Act 1997*.

While the Bill effectively transfers responsibility for administration of existing laws from the ISC to ASIC and APRA, it does not, except to a very limited extent, seek to alter the substantive rules applying in this area. In this regard, the task of rationalising and harmonising the financial system regulatory framework with that applying under the Corporations Law will be undertaken as part of the second stage of implementation of the Financial System Reforms in conjunction with the implementation of the Corporate Law Economic Reform Program reforms relating to financial markets and investment products.

In particular, the reforms will introduce a single licensing regime for financial market intermediaries as well as a consistent and comparable disclosure regime for financial instruments.

In accordance with the Corporations Agreement, the Ministerial Council for Corporations has been consulted and has approved the relevant amendments to the *Australian Securities Commission Act 1989* and the Corporations Law.

Banking Act Amendments

The package of amendments to the *Banking Act 1959* will:

- establish a single licensing and prudential regulatory regime for deposit-taking institutions by providing for authorities under the Act to be issued both to banks and non-bank deposit-taking institutions;

- strengthen and clarify depositor protection powers;

- facilitate the regulation and hence use of non-operating holding company structures by financial conglomerates containing a bank or deposit-taking institution; and

- strengthen the regulatory powers of APRA as the prudential regulator, giving it powers to make standards and enforce directions broadly similar to those now provided under the Financial Institutions Code (applying to credit unions and building societies).

The proposed single licensing regime will facilitate increased effective competition, reduce regulatory inconsistencies between institutions conducting essentially the same deposit-taking business and improve efficiency. Over time, consumers should benefit from increased choice, improved quality and lower cost products and services.

Facilitating the use of non-operating holding company structures will allow conglomerates greater commercial freedom in selecting their appropriate business structure, thereby potentially lowering business costs, increasing transparency and reducing barriers to entry, with ongoing benefits both to investors and consumers of financial services. The stability and safety of the financial system will not be compromised by these reforms due to the enhanced powers provided to the prudential regulator.

The three key ingredients to ensuring financial stability and depositor protection are:

- strong prudential regulation to lessen risks;
- effective intervention to prevent or manage a crisis; and
- depositor preference to ensure confidence.

APRA will be able to make standards on prudential matters in relation to banks, deposit-taking institutions and non-operating holding companies of banks or deposit-taking institutions. The standards making power provides APRA with regulatory independence and is flexible, certain and able to be used very quickly in the event of a crisis to prevent contagion effects in the financial system.

The standards themselves will not be directly enforceable.

APRA will, however, have a power to give a direction to any licensed non-operating holding company, deposit-taker, or foreign bank branch, if they fail to comply with a prudential standard, regulation or where this is otherwise necessary in the interests of depositors. Failure to comply with such a direction will be an offence.

The directions power is intended to facilitate early intervention by APRA to prevent a crisis from emerging and is similar to that now provided to State and Territory regulators of credit unions and building societies under the Financial Institutions Code.

Intervention powers to manage a crisis will also be improved. The amendments proposed in this Bill both clarify the mechanisms by which the prudential regulator may take control of a troubled deposit-taking institution, and allow the prudential regulator to appoint an administrator for that purpose. While these statutory management powers provide the means for control in a crisis, they will also enhance APRA's capacity to act in a preventative capacity by using less direct strategies, such as facilitating the takeover of a troubled institution or its business by other sound institutions. In Australia and elsewhere, such action has provided the most common response in practice to financial distress in deposit-taking entities.

These intervention powers are further supplemented by a new power clarifying that APRA may initiate the wind-up of an institution that is insolvent and cannot be restored to solvency within a reasonable period. Such action may prevent further losses from accruing and would therefore be in the best interests of depositors.

Again, State Supervisory Authorities already have the clear power to wind-up building societies and credit unions.

Depositor preference is manifest both in depositor priority on winding-up and in APRA's duty to exercise its powers within Division 2 of the Banking Act in the interests of depositors. These are existing, longstanding provisions in the Act. While depositor preference can mean disadvantage for other creditors, APRA's intervention powers, particularly the proposed new early intervention powers, also lessen the risks faced by such other creditors, both by reducing the likelihood of insolvency and increasing the options for resolution in the event of insolvency.

The Bill also provides for the abolition of the requirement for banks to hold non-callable deposits with the Reserve Bank. These requirements no longer serve a prudential purpose but have been used to impose a form of regulatory charge. In light of the proposed imposition of levies on all industries that will supervised by APRA and consistent with the intention to remove non-neutral treatment of deposit-taking entities, the non-callable deposit requirements will be abolished consequent on the transfer to the Commonwealth of regulatory responsibility for credit unions and building societies.

Payments System Board

This Bill introduces legislation amending the *Reserve Bank Act 1959* to establish the Payments System Board (PSB) within the Reserve Bank.

The PSB will be independent of the Bank's main Board, which will no longer have powers to make payment system policies for the Bank. Rather, the PSB will operate as the policy making Board of the Bank in relation to payments system matters. In particular it will be responsible for ensuring that the Bank's powers are utilised so as to improve the efficiency of the payments system, to promote competition in the market for payment services and to control risk in the financial system.

The PSB will operate on a basis that is very similar to that applying to the main board of the Reserve Bank. For example, similar procedures will apply for the resolution of any disagreement between the policies of the Government and the PSB.

The Governor of the Reserve Bank will chair the PSB. It will also include another Reserve Bank member, one from APRA and up to five others.

The PSB and the Reserve Bank will be given explicit regulatory powers in the payments system. These powers will be conferred under the Payment Systems and Netting Bill and the Payment Systems (Regulation) Bill, the latter of which I will introduce shortly.

Other Amendments

To prevent excessive compliance costs on building societies and credit unions, the Bill also amends the *Financial Corporations Act 1974* to exempt these institutions from the data reporting requirements under that Act when they are regulated under the *Banking Act 1959*.

The Bill also transfers to the Governor of the Reserve Bank the Treasurer's present powers with respect to categorising registered corporations and exempting corporations.

The transitional provisions in the Bill preserve the effect of decisions made before the commencement of APRA, including by preserving existing approvals, transferring work in progress to APRA and facilitating the effective transfer of the prudential regulation of building societies and credit unions to the Commonwealth, subject to agreement.

There are also transitional provisions protecting the accrued entitlements of ISC and Reserve Bank staff transferring across to APRA. The accrued entitlements of the ISC staff will be largely protected through the transfer provisions of section 81C of the *Public Service Act 1922*. The Bill also gives the Treasurer the power to transfer the assets and liabilities of the ISC to APRA or ASIC.

Finally, the Bill provides for the repeal of certain Acts, including *the Banks (Shareholdings) Act 1972* which is replaced by the consolidated Financial Sector (Shareholdings) Bill which I will shortly introduce, and *the Insurance and Superannuation Commissioner Act 1987* consequent on the establishment of APRA.

I commend the Bill to the House and present the explanatory memorandum.

SECOND READING SPEECH

BY

THE HON PETER COSTELLO, MP

TREASURER

ON THE

PAYMENT SYSTEMS (REGULATION) BILL 1998

I move that the Bill be now read a second time.

This Bill details the proposed new regulatory framework for the payments system which is being introduced consistent with the recommendations of the Financial System Inquiry. Amendments to the *Reserve Bank Act 1959*, as provided for in the Financial Sector Reform (Amendments and Transitional Provisions) Bill, provide for the creation of the Payments System Board (PSB) within the Reserve Bank to provide for policy making in relation to the payments system and to increase the accountability of the Reserve Bank in relation to its role in the payments system.

The payments system plays a central role in the financial system. The Government has decided to strengthen, and make more transparent and accountable, the regulation of the payments system undertaken by the Reserve Bank. Until now, the Reserve Bank has played a substantial regulatory role in the payments system as a direct participant and through the use of its banking powers.

Payments system regulation is to be separated from the prudential regulation of banks because an increasing number of non-bank participants in the payments system are emerging to increase competition in the system. More direct means for achieving effective regulation are required for this purpose. Such direct means are also necessary to ensure that the payments system retains its high standard of safety while adapting to the demands of new technologies and globalisation in the payments system.

The Reserve Bank will be the regulator of the system, given the importance of the payments system to the overall stability of the financial system and given the central role of the Reserve Bank itself in the core areas of the payments system, particularly settlement. As with all the other reforms I have announced, this decision highlights the Government's commitment to encouraging innovation and competition while not, in any way, jeopardising the stability and soundness of the financial system.

The payments system covers payment instruments (such as cash, cheques, and smart cards), their delivery, the exchange or clearance of payment messages, and the final settlement of value between intermediaries providing payment services.

This Bill proposes a new regulatory framework for the payments system. While existing industry self-regulatory arrangements will be retained wherever these are performing satisfactorily, the Bill provides powers to the Reserve Bank to enable it to undertake more direct regulation by designating payment systems as subject to the law where it is considered in the public interest to do so.

Once a payment system is designated, the Bill provides that it may be subject to the imposition of rules of access for participants on commercial terms, the determination of standards, the giving of enforceable directions, or the voluntary arbitration of disputes on technical standards. The development of access regimes and standards will be undertaken, as far as possible, in conjunction and consultation with the private sector.

This approach ensures that formal regulation will only be imposed on the payments system to the minimum extent necessary to achieve the public interest.

The Bill also provides for a comprehensive regime of prudential regulation of the store-of-value backing purchased payment facilities. This will apply to all forms of such facilities, including stored value cards, travellers cheques and internet cash facilities. These are all arrangements whereby payment is made for an instrument which can be used for making subsequent payments with the value available recorded or stored on the instrument. Ultimately, the value is redeemable from the holder of the store of value created by the original purchase of the stored value. Confidence in such systems depends on confidence that the store-of-value is safe.

The Bill provides that the holder of the store-of-value must either be an institution regulated by the Australian Prudential Regulation Authority (APRA) under the Banking Act (in which case there is no requirement for further regulation) or otherwise be authorised by the Reserve Bank (in which case further regulation may

be required). The Bill provides powers for the Reserve Bank to impose necessary regulation.

It also enables the Reserve Bank to grant an exemption from the requirement for an authority where it is considered appropriate to do so.

I commend the Bill to the House and present the explanatory memorandum.

SECOND READING SPEECH

BY

THE HON PETER COSTELLO, MP

TREASURER

ON THE

FINANCIAL SECTOR (SHAREHOLDINGS) BILL 1998

I move that the Bill be now read a second time.

This Bill streamlines the existing legislation and rules governing ownership and acquisitions in the financial system, consistent with the recommendations of the Financial System Inquiry. It will replace the *Banks (Shareholdings) Act 1972* and the relevant parts of the *Insurance Acquisitions and Takeovers Act 1991*.

The streamlined provisions will be particularly useful for corporate groups which contain more than one licensed entity. Common rules will apply to each class of licence, simplifying regulatory applications and their assessment. Moreover, provision is made for authorisations applying to the non-operating holding companies of financial conglomerates to flow through to all of the members of the corporate group.

The Bill subjects all prudentially regulated financial sector companies to:

- a 15 per cent shareholding limit by any one person (and their associates); or
- such higher percentage as the Treasurer may determine as being in the national interest.

This provides for simpler procedures than existing laws, a common threshold (which is also that applied under foreign investment policy and law) and harmonises the treatment of different licence classes. The laws are the administrative responsibility of the Treasurer, but provision is made for delegation to APRA. Delegations may be made, for example, in relation to small financial institutions.

At the same time, the effectiveness of the laws is strengthened along the lines adopted in other recent shareholding restriction provisions. Provision is made for the Treasurer to declare a person to have 'practical control', that is, the power to control the policies and operations of the financial institution, regardless of the size of their shareholding. Under such a declaration the person must relinquish practical control.

The Bill also provides for the imposition of conditions on approvals of stakes higher than 15 percent, for the Treasurer to apply to the Federal Court for remedial orders in respect of unacceptable shareholding or practical control situations, for fees to be imposed in respect of applications and for information to be obtained by the Treasurer from applicants.

The law relating to financial sector shareholdings is applied for prudential, competition and other national interest purposes. Acquisitions and mergers in the financial sector, as for other economic sectors, separately and additionally remain subject to competition regulation under the Trade Practices laws and to foreign investment policy and laws.

I commend the Bill to the House and present the explanatory memorandum.