

The Australian financial system is subject to a comprehensive regulatory framework involving a bevy of regulatory institutions. But who is ...

Regulating the Regulators

He's a 52-year-old from a rural background with 18 years' experience in the House. She's a 35-year-old former industrial officer from inner Melbourne in her first term of office. He's Liberal, she's Labor. But David Hawker and Anna Burke are united over the value of the House of Representatives Economics, Finance and Public Administration Committee.

The Committee – known as the House Economics Committee – is responsible for parliamentary oversight of some of Australia's most powerful institutions, including the Reserve Bank and the Australian Competition and Consumer Commission (see below). It also conducts investigations into some of the nation's most far-reaching public policy issues.

The Committee's Chair, David Hawker (Member for Wannon, Vic) is an unabashed advocate of the Committee's role and responsibilities.

"First, you have the opportunity to look at issues in depth," he says. "You also have the resources of a secretariat behind you; you have the authority of the Parliament to bring people before the Committee; and they are obliged to answer those questions that you put before them honestly.

"In terms of public questioning of these very important and powerful bodies, it is a unique role."

Deputy Chair Anna Burke (Member for Chisholm, Vic) agrees. "There is no other forum where we can put questions to them so directly. And it's not just about being critical either. It's also asking them *well, what can we do to help you do your job better?*"

Anna Burke also says the Committee's inquiry process gives backbench MPs the chance to "make a difference". She cites the Committee's regional banks report (March 1999) as an example.

"That report is now having an effect," she says. "We listened, we made recommendations in a bipartisan manner – like the public wants us to – and now those recommendations are being

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House Economics Committee Chair, David Hawker (right) and Deputy Chair, Anna Burke (left). Photo: AUSPIC

Who are the Regulators?

There are three Commonwealth Government bodies primarily responsible for regulating the Australian financial system.

The **Reserve Bank of Australia** (RBA – www.rba.gov.au) is Australia's central bank, responsible for setting monetary policy (official interest rates) and for ensuring the general stability of the financial system. It also has oversight of Australia's payments system – the arrangements which allow consumers, businesses and other organisations to transfer funds between themselves and between financial institutions.

The **Australian Prudential Regulation Authority** (APRA – www.apra.gov.au) is responsible for ensuring individual financial institutions will be able to honour their commitments when they fall due. It promotes the soundness of deposit-taking institutions, life and general insurance companies, and larger superannuation funds. It was 'spun off' to become an independent entity from the Reserve Bank in 1998.

The **Australian Securities and Investments Commission** (ASIC – www.asic.gov.au) regulates the advising, selling and disclosure of all financial products and services to consumers, except credit. It is also the Corporations Law watchdog, promoting honesty and fairness in companies and in the market.

Two other bodies have also become instrumental in Australia's regulatory landscape.

The **Australian Competition and Consumer Commission** (ACCC – www.accc.gov.au) was formed in 1995 by the merger of the Trade Practices Commission and the Prices Surveillance Authority. The Commission aims to protect consumers by preventing anti-competitive and unfair conduct by business. The ACCC has regulatory authority over mergers or acquisitions of companies; aspects of product safety/liability; and issues of third party access to facilities of national significance. It also has extensive powers to monitor and vet prices and pricing practices, a power used extensively during the implementation of the new tax system.

The role of the **National Competition Council** (NCC – www.ncc.gov.au) is to "enable increased competition to be introduced where it will result in greater economic growth, less unemployment, better social outcomes and the better use of resources for all Australians". The NCC's responsibilities include assessing whether States and Territories have made satisfactory progress towards achieving the competition policy reform goals they have set themselves.

The House Economics Committee has parliamentary oversight of all these bodies. More information about the roles of each can be found at their respective web sites.

Regulating the

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picked up. It's a really rewarding and satisfying thing to see that happen. In Opposition on the backbench you're not really going to see that happen too many times."

The most prominent of the Committee's activities is perhaps its six-monthly hearing with the Governor of the Reserve Bank. Attracting enormous media interest, the hearing has become a focus for accountability and transparency for the Bank.

"If the Reserve Bank gets it wrong, then somebody's got to pull them up for it, and we are ultimately the part of the Parliament that does that in a public way," David Hawker says.

"We have the opportunity and the duty to publicly question the Reserve on why it has taken particular actions, and have they got it right or have they got it wrong. And they have to be able to justify their answers."

"And tell us what information they've based their decisions on," adds Anna Burke. "They make decisions which affect all Australians, not just a few. What the Reserve Bank does on interest rates bears down on everybody out there, whether you've got a home loan or not. They have to be able to explain how and why they've made decisions. They have to be accountable. They have to answer questions, not just deliver a text of their choice."

Says David Hawker, "The Reserve is extremely well served by the quality of people who are on it, but having said that it appears they can get it wrong. We've seen the case with interest rate policy in the last six months.

"It's important that they not be allowed to just act in isolation, because what they do – and all the regulators that we talk to – has such a bearing on everybody. And we are demanding a much higher standard of accountability and transparency."

One area where the Committee is having an impact is credit card fees.

"People have been jumping up and down, and rightly so," says Anna Burke. "We've been tracking the issue through and putting pressure on the Reserve and the ACCC to do something. And it's taken time, but something now looks like it's happening" (see separate story, right).

The ACCC is another high-profile organisation which answers to the Committee. Its Chairman, Allan Fels, recently spent three-and-a-half hours being grilled in a public hearing. Professor Fels views

his job as prevention of blatant misuse of market power by powerful groups to the detriment of consumers.

"The whole work of the ACCC has been growing, and the powers have been steadily increasing because there's been a public need," says David Hawker. "But when you do increase the powers of any statutory body it's extremely important that the accountability is also increased, because there's always a risk of the abuse of that power. It's a balancing act."

Anna Burke says, "There's so much happening with the ACCC. With three-and-a-half hours of questioning we just touched on much of it. There are so many questions. What are you looking at, who are you talking to, how are you going about it ...



Professor Allan Fels, Chairman of the Australian Competition and Consumer Commission, recently appeared before the House Economics Committee. Photo: AUSPIC

"Motor smash repairers, for example. We're being told one thing as MPs by constituents and lobby groups, and they are saying 'well we don't have that information, we can't get that information', and we're wondering why not? The same with prices. Do they need more resources, more powers? Are they abusing the powers they've got?"

David Hawker regards oversight of the introduction of the new tax system as a very important aspect of the ACCC's work. It's one the Committee wants to spend more time on. In particular he cites the fuel grants scheme.

"I think the fuel grants scheme is significant in terms of an example of how business can impact on Government policies in the regions. Here we have a Government trying to assist regional areas with a scheme worth \$500 million over four years, and it appears they may be being frustrated by major oil companies. That is very significant, and an area for action."

Plenty of time was spent at the latest hearing talking about the ACCC's approach to the medical profession, with Allan Fels asserting that the Australian Medical Association was out to "get rid of bulk-billing". Mergers and acquisitions is another controversial area.

Anna Burke asks, "What is the thought process that goes with these things? Somebody's got to keep them accountable."

"The interesting thing is working through with them (the ACCC) as to what the public interest is they're looking at, what the bottom line is. And to ensure that if mergers are agreed to and have caveats put on them, that they actually get enforced. For example, I still have big doubts about Westpac-Bank of Melbourne, despite what Professor Fels is telling me. You need to be able to question that. Parliament has to monitor how these powers are being used."

Regulators

One other body being monitored closely is APRA, the Australian Prudential Regulation Authority. It has been in the headlines recently following the collapse of insurer HIH.

"We are seeing a major issue emerging about regulation of the insurance industry, and whether there's been a short-coming," David Hawker says. "Some of the details of that are not yet clear, but they will become clear, and if we find that APRA's role hasn't been as effective as we'd like it to be we'll certainly have something to say about it."

"We've certainly raised with them in the past questions about their staffing levels and how they operate."

Says Anna Burke, "We were very critical of them at first [when they were established in 1998], but to their credit they've been working at improving what they do. Having said that, it's important that these things are right from day one, and we will see, when the full facts come out, whether they are in any way responsible for the circumstances which have emerged."

She goes on to make a telling point.

"People can think this is all very esoteric, but at the end of the day, with APRA – in fact, with all of them – it's about real people's interests and needs."

"For example, if we have a major natural disaster somewhere that is covered by insurance claims, is the money there to pay the claims out? If not, there are a whole lot of people whose lives are traumatised and affected. And who picks it up? Does the Government then rush in with an aid package?"

"And what if a builder goes bust, and its insurer goes bust too, as happened recently. What happens to the person stuck with a mortgage and no house to show for it?"

"And then there's superannuation, that's people's entire future."

Adds David Hawker, "And that's why the Committee is just so important."

International Financial Markets

Australia should share its expertise and take a leading role in reform of world economic institutions and financial practices, according to the House Economics Committee.

The Committee has just completed an investigation into the impact of international financial markets on the Australian economy. The Committee's report – *International Financial Markets: Friends or Foes* – makes seven recommendations aimed at achieving greater transparency, better risk management practices and enhanced regulatory oversight of both domestic and international financial markets.

"The Committee examined closely the performance of the Australian economy during the Asian financial crisis and found that the restructuring process of the last 20 years had provided Australia with an economic structure of sufficient strength and flexibility to withstand the pressures brought by that crisis," said Committee Chair, David Hawker.

"However there is no room for complacency and Australia must seek to achieve world's best-practice in a number of

areas related to monetary policy, risk management and transparency in financial matters. We must also give high priority to achieving success in the World Trade Organisation negotiations on financial services."

The result of a two-year investigation, the report delves extensively into the murky world of hedge funds and derivatives trading, and their role in the Asian financial crisis, and attacks on the Australian currency. It makes several recommendations in each area.

On the domestic front, the report calls for:

- Collection of information on the foreign exchange positions of the public, financial and corporate sectors;
- The Reserve Bank to actively pursue best-practice in monetary policy transparency; and
- Improvements in Australia's risk-management practices and insolvency laws.

For more information:

Visit www.aph.gov/house/committee/efpa/ifm

Call: (02) 6277 4587

Email: efpa.reps@aph.gov.au

— Bank Fees — Changes being forced

Consumers could soon be treated to the unusual experience of a decrease in bank fees, due in part to the persistence of the House Economics Committee.

The fees in question apply whenever customers make transactions using credit cards, debit cards (EFTPOS) and Automatic Teller Machines (ATMs).

The so-called 'interchange fees' – fees that flow between financial institutions whenever customers of one institution are provided with card services by another institution – have been found by the Reserve Bank and the ACCC to be much higher than justified by costs. In the case of ATMs, there is a 175% total mark-up. The ACCC also found that, in the case of credit cards, price-fixing was involved.

The Assistant Governor of the Reserve Bank, Dr John Laker, told the House Economics Committee "we could not understand why the interchange fees were set at their current level. We have the sense that the current fees were handed down on stone tablets... and there was no way of getting a sense of how they were determined".

He said the Reserve was looking for the banks to adopt a transparent pricing policy based on actual costs.

Until recently, in the area of credit cards, this was a matter of negotiation between the banks and the ACCC.

However negotiations broke down in March, and the ACCC is now recommending the Reserve use its regulatory powers to force the banks to lower the fees.

The Reserve Bank Governor, Mr Ian Macfarlane, indicated to the House Economics Committee in December that he would be willing to do this.

The Reserve has the same powers in the area of ATM and EFTPOS fees.