

STATEMENT

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The Commonwealth has been working with the States and Territories to address concerns about the constitutional validity of the national scheme of corporate regulation. In August, State Attorneys-General agreed in principle to refer power to the Commonwealth Parliament to make laws regarding the existing Corporations Law scheme and the proposed Financial Services Reform Bill.

Despite this agreement in principle and the Commonwealth's willingness to address the legitimate concerns of the States, last night the States presented to the Commonwealth a proposal that would effectively result in an unworkable package for the Australian business and investment community.

The Commonwealth's objective in overcoming the constitutional uncertainty in relation to the existing Corporations Law has always been to deliver a scheme that is:

- certain in operation;
- national and uniform;
- easy and cost effective to administer;
- responsive to domestic and international policy pressures;
- capable of seamless enforcement and interpretation on a national basis; and
- not hostage to policy driven down to the lowest common denominator.

The package presented by the States last night, which included a revised Corporations Agreement fails to satisfy the Commonwealth's objective.

Each of the States has insisted on the right to unilaterally withdraw the referral as well as the power to amend the referral. In addition, the States have demanded the right to substantially alter the scope, effect and operation of the system of corporate and securities regulation on a State by State basis. This could lead to non-uniform regulation and a lack of certainty for business and investment across Australia.

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The proposal by the States to have majority voting rights in respect of amendments to the Corporations Law means that the system of corporate regulation would be inflexible, time bound and captive to the desires of sectional interests. This effectively puts the Corporations Law in a policy straitjacket.

The potential for uncertainty is exacerbated by the complex arrangements proposed by the States to insert a clause in the referral bill excluding some 20 matters relating to industrial relations and listing approximately 15 matters that are excluded from these exclusions.

The Commonwealth does not seek any referral for the purpose of enacting industrial relations laws.

The Commonwealth is willing to provide the necessary safeguards in the Corporations Agreement and the Prime Minister has recently given a public commitment to Premiers not to use the referred power for industrial relations purposes.

As a consequence of the States' intransigence there is now no way ~~satisfactory~~ referral legislation can be ready in time for the planned 1 July 2001 commencement date.

This also means that the proposed Financial Services Reform Bill (CLERP 6) which the Government planned to introduce to Parliament next week will now be put on hold indefinitely. Further work on the FSR Bill cannot be undertaken until there is a clear way forward to resolve the problems with the Corporations Law.

To agree to the States' demands would be a seriously retrograde step leaving the Australian business and investment community with the prospect of a scheme for corporate and financial regulation that is cumbersome, inflexible, lacking in uniformity and unworkable.

The Commonwealth is left with no choice but to proceed with the development of a new Corporations Law based solely on the Commonwealth's existing constitutional powers and extensive work on this will now commence.

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