

**Subject:** Senator Nick Sherry Media Release - Westpoint regulatory loophole, Coonan contradicts herself  
**From:** "May, Shane (Sen N. Sherry)" <Shane.May@aph.gov.au>  
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**BCC:**

## SENATOR NICK SHERRY

Labor Senator for Tasmania  
Shadow Minister for Superannuation,  
Intergenerational Finance: Banking & Financial Services

### \*\*\* MEDIA RELEASE \*\*\*

21 June 2007

#### **Westpoint regulatory loophole – Coonan contradicts herself**

Answers to questions in the Senate yesterday highlighted contradictions and confusion in the Howard Government on a regulatory loophole that contributed to investors being caught in the Westpoint collapse.

Senator Coonan was asked *"Wasn't the Westpoint collapse in part due to a loophole exempting promissory notes greater than \$50,000 under the Corporations Act?"*, *"Why did the minister, in her answer of 22 June last year, deny time and again that any loophole existed?"* and *"Can the minister now indicate, almost a year after being questioned on the matter, what action has been taken to close the loophole?"*.

Senator Coonan's response, *"I am representing the Assistant Treasurer, and I am advised that there is no gap in the law"*.

She later contradicted herself when she stated *"It appears that those running Westpoint chose to structure their fundraising activities so as to avoid the disclosure requirements of the Corporations Act"*.

The Minister can't have her cake and eat it too, she claims there is no gap in the law but also claim those running Westpoint chose to structure their fundraising activities so as to avoid the disclosure requirements of the Corporations Act".

Given ASIC has written to Treasury on the 24<sup>th</sup> May 2007 advising that a review of the threshold (upwards) is appropriate, last year former chair of ASIC Mr Lucy publicly called for one if not two zeros should be added (to the \$50,000) and four years ago former Senator, Ian Campbell, the then Parliamentary Secretary to the Treasurer wrote *"if there is a vacuum we are making sure it is closed quickly"* it is obvious there is a loophole.

The loophole allows promissory notes greater than \$50,000 to be exempt from certain disclosure requirements in the Corporations Act and the figure was set in 1981.

Given the collapse of Westpoint, Fincorp and Australian Capital Reserve (ACR) with up to 20,000 investors standing to lose up to \$1 billion in savings, much of it superannuation, the time for the

Howard Government to act is way overdue.

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