

Submission to Senate Inquiry
"Effects of the GFC on the Australian Banking Sector"
Submission by Renaldo Gaiety

29/05/2012

Economics References Committee

PO Box 6100

Parliament House

Canberra, ACT, 2600

Dear Senators,

I will not express my financial woes delivered by a Bank. This issue, goes beyond the individual. With respect, the committee must focus on the balance of convenience (suffering) between the Australian Banking Sector and the many entities it serves, mainly, small business. The largest employer in Australia. The GFC had a positive effect on Australian Banking, their profits increased and with Wane Swan`s rhetoric became the "Darling of the World". To protect Banking, government extended cheap guarantees. The Government offered no relief to small business. Swift bank action lead to their insolvency.

The submissions,(17) that are not confidential, reveals no submissions by the Banking sector. The Banks are either contemptuous of the investigation or their adopting a cloak of opaqueness to keep the insolvent entities in the dark. The term of reference correctly should have been:

"Effects of the GFC on Small to Medium Business at the Hands of the Australian Banks"

Submissions are not an indicator of the extent of insolvencies and receiverships. The committee is invited to consider this available data. Damage to the economy and suffering of small business, under the control of the Banks and not our Government is because our Insolvency Laws, are heavily weighted to the Banks advantage. These laws served us well in good times, but in tough financial times, the strong (Banks) will rush to grab their lions share and leave the crumbs to the weak. It is the prima face duty of Government to protect the weak. Australian Government after the GFC protected the strong and relied on the goodwill of the banks to look after the weak. One cannot control Greed by the will, but by enforceable legislation. Positive results from this committee finding, will not redeem those who lost their life`s reward for their efforts to improve this nation and contribute by taxes, above the average, in our community.

I hastily urge each member of this committee to have the courage, will and energy to push for Laws that will gain Justice against the pressure by the stakeholders. Some of which will be among your own ranks.

The Way Forward.

Changes needed:

1. ASIC responsibility to manage Insolvency Laws.must be withdrawn.
2. **Remove Receivers and replace with Administrators appointed by Government to impartially oversee workouts.**
3. Mortgagors must be offered the opportunity to plead before a court against actions of unfair practices by a Mortgagee. To promote this, Mortgagees can`t control assets until the court so directs.(refer to Canadian law).....

4. Mortgage duty charged by states could be used to fund \$150,000.00 legal allowance so that Mortgagors can achieve justice, refundable after Court action. (The banks now "Take mortgagors bank deposits and assets" An entity financially strapped cannot defend itself. This "defending fund" will deter the urgency by which Banks foreclose and I hope encourage a "Workout" strategy among the Banks. Of the G 20 nations Australia has the privilege as having the easiest Laws to foreclose.
5. Setup an accessible protectorate (face- to- face) for small to medium business as a" first port of call" to council and educate this business on their rights, as the courts are reluctant to interfere between business to business affairs. We need to strengthen "Procedural Unfairness" in Mortgage Law.
6. Banks restricted in withdrawing funding when no arrears exist on Interest payment.
7. Combining unrelated loans while the original term of agreement has not expired to be outlawed.
8. Deed of Forbearance outlawed as a means of duress to strengthen the Banks position in future litigation.
9. Damage due to diminishing Values Accepted by Mortgagee and Mortgagor as a condition of approval to be shared by all parties to the transaction including the Valuer.
10. Mortgagor allowed to buy back their security above Valuation to lessen liability even though there is a shortfall.

To close, it is enough to observe on this occasion that many Senate committees have gone down this path before without fixing Laws, if obeyed, would ensure justice and moral fairness.

I wish the committee guidance and good will from a power greater than me .

Renaldo Gaiety.